

CHAPTER 8835
DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSIT

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8835.0100 [Repealed, 8 SR 2113]
Published Electronically: *October 2, 2007*

8835.0110 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 1a. **Applicant.** "Applicant" means an entity that is eligible under Minnesota Statutes, section 174.24, subdivision 2, for financial assistance for a new or existing public transit system.

Subp. 2. [Repealed, 25 SR 61]

Subp. 3. [Repealed, 25 SR 61]

Subp. 4. [Repealed, 25 SR 61]

Subp. 5. [Repealed, 25 SR 61]

Subp. 6. **Cost reimbursement contract.** "Cost reimbursement contract" means a contract providing for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract.

Subp. 7. **Department.** "Department" means the Department of Transportation.

Subp. 8. [Repealed, 25 SR 61]

Subp. 9. [Repealed, 25 SR 61]

Subp. 10. **Financial assistance.** "Financial assistance" means state funds paid to a recipient in accordance with the public transit participation program established under Minnesota Statutes, section 174.24.

Subp. 11. [Repealed, 25 SR 61]

Subp. 11a. **Greater Minnesota.** "Greater Minnesota" has the meaning given in Minnesota Statutes, section 116O.02, subdivision 5.

Subp. 12. [Repealed, 25 SR 61]

Subp. 12a. **Local share.** "Local share" means the percentage of total operating costs paid by a recipient according to the distribution classifications in Minnesota Statutes, section 174.24, subdivision 3b, and the percentage of capital costs paid by a recipient according to part 8835.0320.

Subp. 12b. **Local source.** "Local source" has the meaning given it in Minnesota Statutes, section 174.24, subdivision 3b.

Subp. 13. [Repealed, 25 SR 61]

Subp. 13a. **Management plan.** "Management plan" means a description of all the elements of a proposed public transit system, as required by part 8835.0260.

Subp. 14. [Repealed, 25 SR 61]

Subp. 14a. **Passenger trip.** "Passenger trip" means a one-way movement of a person between two points. Each time a passenger boards a transit vehicle counts as one passenger trip.

Subp. 15. **Public transit or transit.** "Public transit" or "transit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 7.

Subp. 15a. **Public transit participation program.** "Public transit participation program" means the department's program for providing financial assistance for public transit services in greater Minnesota under Minnesota Statutes, section 174.24.

Subp. 16. **Reasonable cost.** "Reasonable cost" means a price for a commodity or service which, in its nature or amount, does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business.

Subp. 17. **Regional Development Commission.** "Regional Development Commission" has the meaning given it in Minnesota Statutes, section 462.384, subdivision 4.

Subp. 18. **Revenue.** "Revenue" means sources of income.

Subp. 19. **Total operating cost.** "Total operating cost" means the categories of allowable expenses provided in part 8835.0280.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0200 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0210 STATUTORY AUTHORITY.

This chapter is adopted pursuant to Minnesota Statutes, section 174.23, subdivisions 2 and 7.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0220 PURPOSE.

The purpose of this chapter is to establish the procedures and standards for review and approval of applications for financial assistance under the public transit participation program in Minnesota Statutes, section 174.24, and to define "total operating cost" as the term is used in carrying out the public transit participation program.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0230 SCOPE.

This chapter applies to applicants for financial assistance under the public transit participation program established by Minnesota Statutes, section 174.24.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0240 ADMINISTRATION OF PUBLIC TRANSIT PARTICIPATION PROGRAM.

The Office of Transit shall administer the public transit participation program as provided by Minnesota Statutes, section 174.23, subdivision 8. The Office of Transit shall allocate:

A. operating assistance to public transit systems according to the distribution classifications in Minnesota Statutes, section 174.24, subdivision 3b; and

B. nonoperating or capital assistance to public transit systems according to the discretion provided to the commissioner by Minnesota Statutes, section 174.24, subdivision 3c, and according to part 8835.0320.

The Office of Transit shall make payments of financial assistance by a contract between the department and a recipient as required by Minnesota Statutes, section 174.24, subdivision 3.

Statutory Authority: *MS s 174.23*

History: *25 SR 61*

Published Electronically: *October 2, 2007*

8835.0250 APPLICATION FOR FINANCIAL ASSISTANCE.

Subpart 1. **Who may apply.** An applicant may apply for financial assistance under the public transit participation program to provide public transit in greater Minnesota.

Subp. 2. **Public transit.** Public transit includes a single service or a combination of services, such as route deviations, fixed route, flexible fixed route, demand-response/dial-a-ride, rideshare, subscription, volunteer driver services, and other services that meet the needs of individual transit systems to the extent they are consistent with Minnesota Statutes, section 174.21. A public transit system must be available and accessible to the general public.

Subp. 3. **Submission; deadline.** An applicant shall request financial assistance using an application prescribed by the department. The department shall establish a deadline for submission of applications for financial assistance and shall provide adequate notice of the deadline to applicants. A complete application contains a management plan, a resolution from the applicant's governing body, and other forms and certifications required by federal or state law or regulation.

Subp. 4. **Additional review.** In addition to submitting an application to the department, an applicant shall submit an application for review and approval as provided in Minnesota Statutes, section 174.23, subdivision 2.

Subp. 5. **Resolution.** An applicant shall submit with the application a resolution by the governing body that:

- A. resolves to provide public transit;
- B. indicates the person or persons authorized by title to execute a contract with the department and all amendments to the contract; and
- C. authorizes funds for the local share of financial assistance, if applicable.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61; 44 SR 332*

Published Electronically: *September 3, 2019*

8835.0260 MANAGEMENT PLAN.

Subpart 1. **Submission in application.** An applicant shall submit a management plan as part of its application for financial assistance.

Subp. 2. **Contents.** The management plan must include the following information:

- A. a service plan that describes the levels of service to be provided during the contract period, including a discussion of service area and general population, type or types of service, vehicle descriptions, days and hours of service, service schedules, contract services, and route maps;
- B. a description of unmet service needs;
- C. a financial plan, including:
 - (1) a general narrative that supports and explains the budget;
 - (2) a detailed narrative for each line item in the budget, including increases;
 - (3) actual statistics on operating expenses and operating revenues for the most recent calendar years;
 - (4) anticipated statistics on operating expenses and operating revenues for the new contract period;
 - (5) actual statistics on miles and hours of service and passenger trips for the most recent calendar year; and
 - (6) anticipated statistics on miles and hours of service and passenger trips for the new contract period;
- D. a coordination and marketing plan, including costs and benefits of major elements;
- E. a capital plan that describes the major capital assets of the transit system with an outline of how they will be maintained, improved, or replaced;
- F. a description of revenue-producing contracts relating to the transit services provided by or for the applicant;
- G. a description of expense contracts for services and goods procured by the transit system;
- H. a description of the participating public transit system's vehicle maintenance program for the period of financial assistance;
- I. a description of the organizational structure established to direct, control, review, and implement the management plan;
- J. a description of measurable goals and objectives for the transit system, illustrating the benefits expected to be realized by the investment of state financial assistance;
- K. a description of the fare structure of the public transit system;
- L. a listing of transit and paratransit systems and their union affiliations currently operating in the applicant's area, and a description of existing or potential coordination with these systems;
- M. a description of the transit system's safety and training policies, including its driver selection process;
- N. a description of the proposed insurance carrier and the limits of coverage;

- O. a description of the internal controls policy for the collection and deposit of fares;
- P. a copy of the transit system's most recent drug and alcohol policy as approved by the local recipient's governing body;
- Q. all third party contracts relating to transit operations; and
- R. a copy of the governing body's third-party contract procurement policy.

Subp. 3. **Incorporation into contract.** The department shall incorporate an approved management plan into the financial assistance contract between the department and the recipient, as provided in part 8835.0330. The department shall approve a management plan after it determines the financial assistance according to part 8835.0270.

Statutory Authority: *MS s 174.23; 174.24; 174.25*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0265 THIRD-PARTY CONTRACT FOR OPERATING SERVICES.

A recipient shall include a copy of the third-party contract procurement policy of its governing body in the management plan required in part 8835.0260. A third-party contract for operating services must contain all relevant terms contained in the financial assistance contract between the recipient and the department. The recipient is responsible for third-party contractor compliance with local, state, and federal laws, rules, and regulations. A third-party contract must be available for audit according to part 8835.0350, subpart 3. Before a recipient awards a third-party contract for operating services, the department shall review the third-party contract for compliance with the terms of the financial assistance contract between the department and the recipient.

Statutory Authority: *MS s 174.23*

History: *25 SR 61*

Published Electronically: *October 2, 2007*

8835.0270 FINANCIAL ASSISTANCE.

Subpart 1. **Allocation priorities.** The department shall allocate financial assistance to recipients for purposes of the public transit participation program according to the following order of priority:

- A. first priority: operating costs for existing public transit systems;
- B. second priority: capital costs for existing public transit systems; and
- C. third priority: operating and capital costs for the provision of public transit services in a community or area not currently served by public transit.

Subp. 2. **Determination of financial assistance.** To determine financial assistance, the department shall review an applicant's management plan and evaluate the proposed public transit system by considering:

- A. the degree to which the proposed system meets the objectives of the public transit participation program;
- B. the accessibility of the proposed system to the general public, including persons with disabilities;
- C. the amount of local government and community support for the proposed system;
- D. the plan for continuation of the proposed system after the first year; and
- E. the plan for coordination of transit services in the geographical area.

The department shall evaluate the budget, service delivery and design, and administration of a public transit system. The department shall compare the past performance of a transit system to its current performance and to the performance of other similar transit systems. To measure the performance of a public transit system, the department shall consider cost efficiency, cost-effectiveness, service effectiveness, and quality.

Subp. 3. **Approval of management plan.** The department shall approve a management plan for incorporation into a financial assistance contract after determining the reasonable costs of the proposed public transit system.

Statutory Authority: *MS s 174.23*

History: *25 SR 61*

Published Electronically: *August 8, 2013*

8835.0275 DETERMINING FINANCIAL ASSISTANCE; EXPENSE CATEGORIES.

In determining the total operating costs of a public transit system, upon which financial assistance is based, part 8835.0290 and the definitions of expense categories in part 8835.0280 apply and have the meanings given them.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0280 TOTAL OPERATING COST.

Subpart 1. **Definition.** "Total operating cost" means the categories of allowable expenses provided in subparts 2 to 7. The total operating cost is subject to the audit provisions of part 8835.0350, subpart 3.

Subp. 2. **Personnel services expense.** The "personnel services" expense category includes:

- A. administrative, management, and supervisory services, which are the amount paid to transit system employees classified as managers, supervisors, coordinators, or administrators and for which the amounts claimed by employees must be supported by daily time distribution records

or a cost allocation plan that is supported by the applicant and approved by the department as part of the management plan;

B. operators' wages, which are the total amount paid to transit system employees classified as vehicle operators and for which the amounts claimed by employees must be supported by daily time distribution records;

C. maintenance and repair wages, which are the labor charges incurred in the performance of maintenance and repair of vehicles and other property required for the operation of the transit system, including only wages of maintenance personnel employed by the transit system, and for which the amounts claimed by employees must be supported by daily time distribution records;

D. other direct wages, which are the amount paid to transit system employees not classified as operators, maintenance, or administrative personnel, such as dispatchers, bookkeepers, clerical personnel, janitors, and security personnel, and for which the amounts claimed by employees must be supported by daily time distribution records;

E. indirect labor charges, which are the amount to be allocated to the transit contract for labor that is not traceable to a specific transit activity but which benefits the transit operation and which must be based on a cost allocation plan approved by the department; and

F. fringe benefits, which are the cost of providing fringe benefits for active and retired transit system employees, including pension benefits, vacation and sick leave benefits, social security taxes, workers' compensation insurance, unemployment insurance, life insurance, and first party medical coverage, and which may be allocated indirectly based on a cost allocation plan approved by the department.

Subp. 3. **Administrative charges expense.** The "administrative charges" expense category includes:

A. management fees, which are the amount paid for professional services provided by a management service company engaged contractually to provide operating management to the transit system;

B. tariffs and traffic expenses, which are any necessary tariff filing fees and costs for the procurement of tickets, tokens, and transfers;

C. advertising, marketing, and promotional charges, including the necessary cost of advertising and promoting the transit system;

D. legal, auditing, and other professional fees rendered by individuals or firms, other than transit system employees, for the purpose of maintaining continuing operations of the transit system, including:

(1) attorney fees and expenses, court costs, witness fees, and fees for accounting and auditing services, such as accident claims, defending workers' compensation claims, or other items directly related to the management plan and approved by the department; and

(2) fees paid for planning, engineering, or other consultant services that are directly related to the management plan approved by the department;

E. security costs, which are the costs necessary to provide armored car services, patrol services, and electronic surveillance for vehicles, stations, yards, and buildings to detect and prevent criminal activity, fires, and unsafe conditions, when the patrolling is performed by an outside security agency and not by transit system employees;

F. office supplies expense, which is the cost of office supplies and materials and printing and photocopying charges solely attributable to and necessary for the operation of the transit system;

G. lease and rental costs of administrative facilities used for performing the general administrative functions of the transit system, including leases and rentals of such items as land, buildings, office equipment, and furnishings;

H. utilities expense, which is the cost of utilities such as gas, electricity, water, telephone and other communications services, and trash collection;

I. other direct administrative charges, including administrative charges necessary for the continuing operation of the transit system, such as mileage reimbursement for transit support vehicles, approved conference fees, employee travel expenses, employee development, driver's training, approved membership fees for transit associations if the cost of membership is reasonably related to the value of the services or benefits received, and subscriptions to transit publications; and

J. indirect administrative charges, which are the amount allocated to the transit contract for administrative services not traceable to a specific transit activity but which benefit the transit operation and which must be based on a cost allocation plan approved by the department.

For purposes of item I, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

Subp. 4. **Vehicle charges expense.** The "vehicle charges" expense category applies to vehicles owned or leased by the public transit system and includes:

A. fuel and lubricants expense, including net costs of gasoline, diesel, and alternative fuels and costs of antifreeze, propane, lubricating oil, transmission fluid, and grease used by revenue and service vehicles;

B. maintenance and repair material expense, including costs of parts, materials, and supplies used in the maintenance and repair of revenue and service equipment;

C. contract service maintenance labor expense, which is the cost of labor for maintenance and repair service provided by persons other than transit system employees;

D. tire expense, which is the cost of tires and tubes used on revenue and service equipment including the cost of recapping or regrooving and the rental costs for tires and tubes; and

E. other vehicle charges, including the costs of:

(1) first aid equipment, fire extinguishers, and other emergency equipment required for vehicles; and

(2) noncapitalized vehicle improvements that do not remake a vehicle or appreciably extend its useful life and that have received approval from the department.

Subp. 5. **Operations charges expense.** The "operations charges" expense category includes:

A. purchase of service, which is the cost of having a subcontractor operate the project service, with cost established:

(1) through competitive bidding procedures, except for those recipients covered under Minnesota Statutes, chapter 221;

(2) through a negotiated contract with the prime contractor in bid situations when only one bid is received; or

(3) through a negotiated subcontract in a nonbid situation;

B. depreciation, which is the amount of depreciation or use allowance on depreciable items such as structures, revenue equipment, service vehicles and equipment, and office furniture and equipment and is the amount allowed based on a company's existing depreciation schedule or, if a schedule does not already exist, a depreciation schedule submitted to and approved by the department, but which may not be charged for items purchased, totally or in part, with state or federal funds;

C. mileage reimbursement for passenger service, including the cost of volunteer driver reimbursement for projects incorporating this type of service, as well as mileage reimbursement for transit personnel using private vehicles for emergency replacement passenger transport in the event of mechanical breakdown of transit vehicles;

D. repair and maintenance of other property, including material costs associated with the upkeep and repair of buildings and stations, grounds, nonrevenue equipment owned or leased by the transit company, and miscellaneous expenses such as small tool replacement, and supplies used for cleaning and for general shop and garage purposes;

E. leases and rentals of facilities or equipment used in the operation of the transit system, including leases and rentals of garages, depots, passenger vehicles, service vehicles, passenger stations, communication equipment, and computers, with allowability based on the reasonableness of rates and the presence of evidence that the lease will not give rise to material equity in the property; and

F. other operations charges, including the cost of such things as the purchase or rental and cleaning of uniforms, tools and equipment, sanding and snowplow operations, passenger amenities, and station agents and which may be allocated indirectly based on a cost allocation plan approved by the department.

For purposes of item C, mileage reimbursement must be based on a rate approved by the local governing body, as long as the rate is reasonable and consistent with similar rates approved by the local governing body.

Subp. 6. **Insurance charges expense.** The "insurance charges" expense category includes:

A. public liability and property damage insurance expense on vehicles, including premiums paid to insure the transit system against loss through damage to its own property and to indemnify the transit system and all financial and operational participants against loss from liability for its acts that cause damage to the person or property of others; and

B. public liability and property damage insurance charges other than on vehicles, including excess liability insurance, baggage and express insurance, and fire and theft insurance.

Subp. 7. **Taxes and fees expense.** The "taxes and fees" expense category includes:

A. vehicle registration and permit fees on vehicles; and

B. other taxes and fees, including applicable real estate, property, and sales taxes.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0290 UNALLOWABLE EXPENSES.

Subpart 1. **Scope.** In determining the total operating costs of a public transit system, upon which financial assistance is based, the definitions of unallowable expenses in subparts 2 to 8 apply and have the meanings given them.

Subp. 2. **General purpose equipment.** Expenditures for general purpose equipment are unallowable as operating costs. "General purpose equipment" means equipment that is used for other than transit contract purposes, such as communications equipment, office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, and computers and related equipment.

Subp. 3. **Interest and other financial costs.** Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection with these costs are unallowable.

Subp. 4. **Fines and penalties.** Costs resulting from violations of, or failure to comply with federal, state, or local laws and regulations are unallowable.

Subp. 5. **Contingencies.** Contributions to a contingency reserve or any similar provision for unseen events are unallowable.

Subp. 6. **Bad debts.** Any losses arising from uncollectible accounts, other claims, and related costs are unallowable.

Subp. 7. **Donations and entertainment expense.** Contributions and donations are unallowable as are any entertainment expenses.

Subp. 8. **Unrelated costs.** Costs that are not directly related to the provision of public transit are unallowable.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0300 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0310 REVENUE CATEGORIES.

Subpart 1. **Operating revenue categories; local sources.** In determining the local sources of funds that may comprise the fixed percentage of total operating costs to be paid by a recipient in accordance with the distribution classifications in Minnesota Statutes, sections 174.24, subdivision 3b, the definitions of revenue categories in subparts 2 to 7 apply and have the meanings given them.

Subp. 2. **Passenger fare.** "Passenger fare" means revenue earned from transporting passengers on the public transit system, including a cash fare, a donation received instead of a set fare, and an advance fare received from the sale of a coupon, token, or pass.

Subp. 3. **Contract revenue.** "Contract revenue" means revenue received from a contract with a beneficiary of a specific transit service. Contract revenue includes:

A. an amount paid by an organization for a special route guarantee; and

B. revenue earned for a ride given in regular transit service but paid for by an organization, including a state or local social service agency or a private social service organization, for the benefit of the rider.

Subp. 4. **School revenue.** "School revenue" means revenue earned from service provided under a contract with a school district, including an amount paid for transporting school children on regularly scheduled service, and an amount paid by a college or university for operating a transit vehicle on or between campuses.

Subp. 5. **Charter revenue.** "Charter revenue" includes reimbursement for charter service received in association with publicly funded transit service, providing that charter service rates are developed so that cost recovery equals or exceeds the full cost of providing the charter service.

Subp. 6. **Auxiliary revenue.** "Auxiliary revenue" means revenue earned from an activity closely associated with the transit operation, including revenue received from an advertising service, delivery, a lease, and station and vehicle concessions.

Subp. 7. **Other financial assistance.** "Other financial assistance" includes revenue earned from an activity not associated with the provision of the recipient's transit service but which is

applied to help cover the system's costs, including tax levies, a federal cash grant, senior citizen fare assistance, investment income, and any general donation.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0320 CAPITAL ASSISTANCE.

Subpart 1. **Budget.** An applicant seeking financial assistance for capital costs shall include in its budget a description of the vehicle, facility, or equipment desired, its cost and the reason for the request.

Subp. 2. **Criteria.** The department shall use the following criteria to evaluate requests for capital assistance:

A. the extent to which the request maintains public transit services, promotes safety, and promotes efficient operations;

B. the extent to which accessibility is enhanced; and

C. the availability of local share money.

Subp. 3. **Allocation formula.** The department shall determine the amount of capital assistance for the public transit participation program according to the discretion provided to the commissioner in Minnesota Statutes, section 174.24, subdivision 3c. Except as provided in subparts 4 and 5, the department shall fund 80 percent of the capital costs approved by the department under the public transit participation program. The recipient shall provide the remaining 20 percent of the approved capital costs from local sources.

Subp. 4. **Program deviation from allocation formula.** Under the discretion provided to the commissioner in Minnesota Statutes, section 174.24, subdivision 3c, the department may establish a capital assistance allocation formula that deviates from the formula established in subpart 3. In setting this formula, the department must consider all relevant conditions relating to funding the public transit participation program.

Subp. 5. **Individual exception to allocation formula.** The department may deviate from the capital assistance allocation formula for an exceptional circumstance. A recipient that seeks capital assistance from the public transit participation program in an amount greater than the allocation formula, established under subpart 3 or 4, must make a written request to the department that includes:

A. a detailed description of the exceptional circumstance that is the basis of the written request; and

B. a resolution from the governing body that the request is due to an exceptional circumstance.

The department shall consider a request for an individual exception to the allocation formula after assessing the nature of the exceptional circumstance, balancing the request against other requests from recipients for capital assistance, and considering the assurance provided by the governing body that the circumstance that gave rise to the request is exceptional.

Subp. 6. **Vehicle replacement or disposition.** The department shall determine financial assistance to a public transit system to replace, refurbish, or dispose of a vehicle based on the condition of the vehicle and the availability of funds.

Subp. 7. **Contract.** The financial assistance contract between the department and the recipient must specify the maximum amount of capital assistance to be allocated to the recipient and the terms and conditions of assistance. The department shall determine the actual amount of capital assistance based on the availability of funds.

Statutory Authority: *MS s 174.23*

History: *25 SR 61; 44 SR 332*

Published Electronically: *September 3, 2019*

8835.0330 CONTRACT FOR FINANCIAL ASSISTANCE.

Subpart 1. **Content.** The financial assistance contract is a cost reimbursement contract that is based on the total operating cost in part 8835.0280. The contract must specify the maximum amount of financial assistance to be awarded to the recipient by the department and state the terms and conditions of assistance. The management plan must be incorporated into the contract as a legal part of the contract document. A resolution by the governing body, as provided in part 8835.0250, subpart 5, must be included with the contract.

Subp. 2. [Repealed, L 2013 c 127 s 71]

Subp. 3. **Penalties.** If a recipient fails to comply with the terms and conditions of the contract, the department may withhold payment at any time or may terminate the financial assistance contract upon 30 days' written notice.

Subp. 4. **Amendments.** A recipient or the department may initiate an amendment to the contract. Before implementation, an amendment must be fully executed by the parties to the original contract, or their successors.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61; L 2013 c 127 s 71; 44 SR 332*

Published Electronically: *September 3, 2019*

8835.0350 FINANCIAL RECORDS.

Subpart 1. **Records.** A recipient and any third party contractor shall maintain their financial records in accordance with generally accepted accounting principles. The records must permit audit verification of transit cost allocations claimed during the contract period. The recipient and any third party contractor also shall keep records on miles and hours of service and passenger trips.

Records must be kept available for a period of six years from the date of final payment or the expiration date of the contract, whichever occurs first.

Subp. 2. **Reports.** At the end of each month of operation, a recipient shall provide the department with a report summarizing cost allocations and operating statistics for the period. Reports must be completed on forms provided or approved by the department and must be submitted no later than the last day of the month following the reporting period. The recipient shall submit to the department the final report for the contract period no later than 90 days after the contract period ends.

Subp. 3. **Audits.** The financial records of the recipient must be audited. They may be audited by the department or the department may accept all or part of the audit of an independent auditor instead of a departmental audit if the audit meets department standards. In addition to chapter 8835, department audits must be based on the contract cost principles and procedures in Code of Federal Regulations, title 48, chapter 1, part 31, and Office of Management and Budget Circular, Number A-87 and Number A-122, as amended. The financial records of a subcontractor may be audited at the department's discretion. The department shall submit year-end financial statements to the department auditor by April 15 of the year following the period covered by the financial assistance contract. Audits at the end of a contract period must establish approved total operating costs. New recipients are subject to a preaward audit before contract execution and fund encumbrance. As provided by Minnesota Statutes, section 16C.05, subdivision 5, the records, books, documents, and accounting practices of the recipient and of any third party contractor relating to the contract are subject to audit and examination by the department and the legislative auditor during working hours. If the department determines it has overpaid a recipient on a previous contract, the department may reduce payments under the current contract by the amount of overpayment.

Subp. 4. **Project monitoring.** The department shall use the management plan required under part 8835.0260 as a basis for monitoring and evaluating the performance of the public transit system during the contract period. Public transit policy decisions made by the recipient and actions taken during the contract period must conform with the management plan. A proposed deviation from the management plan must be reported to the department and approval secured in writing before implementation. Approval will be granted if it is clearly documented that the proposed deviation will not increase overall project costs. Failure to secure approval jeopardizes continued financial assistance.

Subp. 5. **Reserve account.** If a public transit system generates operating revenue in excess of the recipient's local share amount, the recipient shall deposit the excess into a reserve account to be used for approved operating expenses that are not covered by the contract or for part of the local share of capital expenses of the transit system. The recipient shall report this revenue and expenses charged against it to the department on reporting forms provided by the department.

Statutory Authority: *MS s 174.23; 174.24; 174.245*

History: *8 SR 2113; 25 SR 61*

Published Electronically: *October 2, 2007*

8835.0400 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0500 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0600 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0610 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.0700 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0710 [Renumbered 8835.0250]

Published Electronically: *October 2, 2007*

8835.0720 [Renumbered 8835.0260]

Published Electronically: *October 2, 2007*

8835.0730 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.0740 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.0800 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0810 [Renumbered 8835.0275]

Published Electronically: *October 2, 2007*

8835.0820 [Renumbered 8835.0280, subparts 1 and 2]

Published Electronically: *October 2, 2007*

8835.0830 [Renumbered 8835.0280, subp. 3]

Published Electronically: *October 2, 2007*

8835.0840 [Renumbered 8835.0280, subp. 4]

Published Electronically: *October 2, 2007*

8835.0850 [Renumbered 8835.0280, subp. 5]

Published Electronically: *October 2, 2007*

8835.0860 [Renumbered 8835.0280, subp. 6]

Published Electronically: *October 2, 2007*

8835.0870 [Renumbered 8835.0280, subp. 7]

Published Electronically: *October 2, 2007*

8835.0900 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.0910 [Renumbered 8835.0330]

Published Electronically: *October 2, 2007*

8835.1000 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.1100 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.1200 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.1300 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.1400 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.1500 [Renumbered 8835.0290]

Published Electronically: *October 2, 2007*

8835.1600 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.1700 [Renumbered 8835.0310, subpart 1]

Published Electronically: *October 2, 2007*

8835.1710 [Renumbered 8835.0310, subp. 2]

Published Electronically: *October 2, 2007*

8835.1720 [Renumbered 8835.0310, subp. 3]

Published Electronically: *October 2, 2007*

8835.1730 [Renumbered 8835.0310, subp. 4]

Published Electronically: *October 2, 2007*

8835.1740 [Renumbered 8835.0310, subp. 5]

Published Electronically: *October 2, 2007*

8835.1750 [Renumbered 8835.0310, subp. 6]

Published Electronically: *October 2, 2007*

8835.1760 [Renumbered 8835.0310, subp. 7]

Published Electronically: *October 2, 2007*

8835.1800 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.1900 [Renumbered 8835.0350]

Published Electronically: *October 2, 2007*

8835.2200 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.2300 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.2400 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.2500 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.2600 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.2700 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.5100 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5200 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5300 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5400 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5500 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5600 [Repealed, 8 SR 2113]

Published Electronically: *October 2, 2007*

8835.5700 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*

8835.5800 [Repealed, 25 SR 61]

Published Electronically: *October 2, 2007*