457A.04 ASSISTANCE AGREEMENTS.

Subdivision 1. **Agreements required.** The commissioner may not provide any assistance to a project under this chapter unless the commissioner has signed an assistance agreement with the recipient of the assistance.

Subd. 2. **Costs.** (a) An assistance agreement must specify those project costs which may be paid in whole or in part with assistance from the commissioner. Assistance agreements may provide that only the following costs may be so paid:

(1) final engineering costs on a commercial navigation facility project;

(2) capital improvements to a commercial navigation facility; and

(3) costs of dredging necessary to open a new commercial navigation facility project, to provide access to onshore facilities from existing channels, to provide for fleeting operations, and for disposal of dredged material.

(b) The following costs may not be paid with assistance from the commissioner:

(1) the applicant's administrative, insurance, and legal costs;

(2) costs of acquiring project permits;

(3) costs of preparing environmental documents, feasibility studies, or project designs;

(4) interest on money borrowed by the applicant or charged to the applicant for late payment of project costs;

(5) any costs related to the routine maintenance, repair, or operation of a commercial navigation facility; and

(6) costs of dredging to maintain an existing channel.

Subd. 3. **Insurance; liability.** An assistance agreement must require the applicant to:

(1) provide a comprehensive general liability insurance policy, complying with minimum amount prescribed by the commissioner by rule, naming the commissioner and officers, employees, and agents of the Department of Transportation as additional insureds; and

(2) save and hold the commissioner harmless from and against all liability, damage, loss, claims, demands, and actions related to the project being assisted.

Subd. 4. **Performance and payment bonds.** An assistance agreement must require an assistance recipient to provide evidence of performance and payment bonds, satisfying all applicable legal requirements for the full amount of any and all construction contracts let by the applicant in connection with the project.

Subd. 5. **Repayment.** An assistance agreement must require the recipient to repay all or part of any assistance received, in an amount determined by the commissioner, if the project for which the assistance is provided:

(1) is not completed according to the terms of the assistance agreement, or

(2) is converted, during the period of time specified in the assistance agreement, to a use that is (i) inconsistent with the purposes of this chapter, or (ii) inconsistent with the terms of the assistance agreement, or (iii) not approved in writing by the commissioner.

Subd. 6. **Use agreements.** Notwithstanding section 16A.695, for leases or management contracts entered into with respect to property acquired or bettered with the proceeds of state general obligations bonds, (1) a port authority may meet its obligations and expenses of operating and reinvesting capital improvements by retaining revenues received under leases or management contracts and is not required to pay lease or management contract revenues to the commissioner of management and budget; and (2) the lease or management contract entered into by a port authority must not be canceled or terminated as a result of changes or termination by the state in the governmental program of the port authority unless compensation is paid as provided by law.

History: *1991 c 298 art 3 s 4; 1997 c 159 art 2 s 48; 1999 c 114 s 1; 2009 c 101 art 2 s 109*