



# PARTNERSHIP AGREEMENTS

POLICY FM015, EFFECTIVE 2014-06-19

## POLICY STATEMENT

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The Minnesota Department of Transportation (MnDOT) may enter into partnership agreements with governmental or nongovernmental entities to facilitate transportation-related efficiencies, effectiveness, and cooperation, and to promote and encourage economic and technological development in transportation matters.

The Commissioner of Transportation may enter into partnership agreements as stated in [Minnesota Statutes §174.02, Subd. 6](#) for:

- Research and experimentation,
- Shared facilities, equipment, staff, data or other services,
- Cooperative programs that promote efficiencies providing governmental services or that further the development of innovation in transportation for the benefit of the citizens of Minnesota.

## REASON FOR POLICY

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[Minnesota Statutes §174.02, Subd 6](#) allows MnDOT to establish special revenue accounts for the partnerships which are associated with the office/district that will be providing the services to outside entities. The policy establishes the procedures for creating partnerships, preparing necessary agreements, receiving partner contributions and spending the funds received.

## WHO NEEDS TO KNOW THIS POLICY?

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- Employees who are responsible for negotiating, preparing, or managing partnerships agreements
- All engineers, maintenance superintendents, maintenance area supervisors, administrative managers and division business managers and employees who charge time to partnerships or agreements

## DEFINITIONS

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### Agreements

- **Formal** – a formal agreement is a written agreement documented on a form approved by the MnDOT Contract Management section, assigned a MnDOT Agreement Number, and which is signed by MnDOT, the partner and other necessary State of Minnesota officials in accordance with [Minnesota Statutes §16C.05](#).

## POLICY OWNER

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### **Robin Sylvester**

*Director, Office of Financial Management*

## POLICY CONTACT

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### **Mary Ann Frasczak**

*Deputy Director  
Office of Financial Management  
[Maryann.Frasczak@state.mn.us](mailto:Maryann.Frasczak@state.mn.us)  
651-366-4151*

## POLICY HISTORY

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*2014-06-19, Established*

[MnDOT Policy Website](#)

- **Less Formal** – a less formal agreement is an agreement memorialized in writing that is something other than a formal agreement. This includes any documentation showing a written request or confirming an oral request. Examples of less formal agreements include:
  - Accepted purchase order;
  - Email exchange;
  - Request for a lab or other services; and
  - Straightforward, or are for standardized services (such as lab services) not requiring an agreement on a detailed scope of work.

### **In-Kind Services**

In-kind services are staff time and other non-commodity resources incidental to carrying out a partnership program. Examples of in-kind services include:

- Providing meeting rooms;
- Providing administrative support to arrange meetings; or
- Providing administrative support to procure the services of a consultant or contractor for a partnership project

In-kind services are generally not susceptible to being precisely qualified without an undue administrative burden, but such services should be reasonably proportional over the course of a partnering relationship. In-kind services **do not** include providing goods and commodities, because the cost of goods and commodities can be readily determined.

### **Joint Powers Agreement**

Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those that are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units. The agreement may also provide for one governmental unit to exercise one of its powers on behalf of another governmental unit even in the absence of a commonality of powers.

### **Master (Blanket) Partnership**

A Master Partnership (Blanket) is entered into when a party wants to procure routine services from the other party, which the parties agree will enhance the efficiency of delivering governmental services at all levels. Master partnerships provide a framework for the efficient handling of such requests. Master partnerships contain terms generally governing the relationship between the parties. Master partnerships allow MnDOT to enter into partnerships with local governments, pursuant to Minnesota Statutes, "[Commissioner's Powers and Duties, §174.02](#)", "[Aid to Other Road Authorities and State Departments, §161.39](#)," and "[General Power of Commissioner, §161.20](#)." The partnerships allow MnDOT to pay local governments or local governments pay MnDOT to perform certain work.

[Minnesota Statutes §174.02, Subd 6](#) authorizes the Commissioner of Transportation to enter into agreements with other governmental entities for services such as:

- Research and experimentation;
- Shared facilities, equipment, staff, data and other services; or
- Cooperative programs that promote efficiencies or innovation in providing governmental services or that further development of innovation in transportation for the benefit of the citizens of Minnesota.

[Minnesota Statute, §161.39, Subd 1 "Assistance Allowed,"](#) authorizes a road authority to perform work for another road authority. Such work may include providing technical and engineering advice, assistance and supervision, surveying, preparing plans for the construction or reconstruction of roadways, and performing roadway maintenance.

[Minnesota Statute 161.20, Subd 2 "Property acquisition; agreements and contracts,"](#) authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

### **Partnership**

A Partnership is a collaborative relationship between MnDOT and another entity, either governmental or non-governmental, with both parties contributing goods, services, or money. Partnership in this context denotes collaboration, which is different from the legal definition of partnership, which is an agreement to share profits and losses from an undertaking. Most

partnership agreements are with governmental entities, such as cities and counties, however MnDOT may enter into partnership agreements with non-governmental entities as well.

MnDOT may enter into agreements with partners for such services as:

- Research and experimentation;
- Shared facilities, equipment, staff, data and other services; or
- Other cooperative programs that promote efficiencies or innovation in transportation related areas.

While partnership agreements may be either “payable” or “receivable,” the main use is for receivable agreements that enable MnDOT to create a dedicated receivables account. If the agreement is payable, the district/office should first contact Contract Management Section to determine if there is another type of contract that may work better.

### **Trunk Highway Fund**

This fund is the principal operating fund for MnDOT and to some extent for the Minnesota State Patrol at the Department of Public Safety. It is a governmental fund that accounts for public monies used to construct, improve, and maintain Minnesota’s trunk highway transportation infrastructure. Annual transfers of funds to Minnesota Management & Budget (MMB) for Trunk Highway-related debt service are also made from this fund.

## **PROCEDURES**

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- The value of a receivable partnership agreement must be \$5,000 or more, due to the administrative costs for managing partnerships.
- Partnership agreements must describe what all parties will cooperatively provide, the agreed-upon scope of work, and the financial responsibility of each party.
- Work done for outside entities using Trunk Highway funds must be billed to the partner and collected.
- If there is an exchange of goods or services over \$5,000, a formal agreement must be written. If there is an exchange of goods or services under \$5,000, a formal agreement should be used in some circumstances, while a less formal agreement may suffice in others.
- Partnership agreements must establish a beginning and ending date. If the partnership agreement will continue past the anticipated ending date, an amendment to the partnership must be written and signed before the partnership expires.
- Costs must be tracked for goods and services rendered.
- [MnDOT overhead rates](#) must be charged on all agreements except for agreements that are reimbursed with federal funds or as noted for specific agreement types. MnDOT overhead rates change each fiscal year. Refer to the [Financial Management Office webpage](#).
- If a lump sum partnership agreement is written and fully executed, the financial terms can only be amended with approval of the Director of Financial Management. Offices and districts cannot change how much is owed or when the payments are to be made.
- Funds not expended by the quarter following the partnership expiration date will be returned to the partner or cancelled to the fund balance.
- The Office of Financial Management reserves the right to deduct a pre-determined percentage to cover the costs of managing billing and collections for partnership agreements that may be adjusted annually.
- For partnerships involving the hiring of a consultant, Consultant Services Unit must be notified that the consultant contract is to be encumbered using the appropriate partnership appropriation and fund. Failure to notify Consultant Services Unit will result in the office’s or district’s consultant allocation being utilized and in the possible cancellation of the partnership funds. Cancellation of the partnership agreement will direct reimbursements to the fund balance where the expenditures occurred.

### **ADDITIONAL PROCEDURES FOR SPECIFIC PARTNERSHIP TYPES**

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#### ***Partnerships***

- A partnership proposal must be completed and approved before the partnership agreement is written. The proposal must indicate if the partnership is for payment of goods and services rendered or if it is for an exchange of goods and services. If the partnership will exceed five years in length an explanation as to why must be included with the proposal.

- [MnDOT overhead rates](#) must be used in determining the amount that will be charged to the partner for the work being requested. MnDOT's overhead rates must be taken into account when determining the amount of the lump sum agreement.
- Excess funds will be reimbursed to the partner when the actual costs are less than the anticipated amount. The reimbursed amount would be the entirety of the eligible expenditures and overhead charges cancelled to the appropriate fund balance, less a pre-determined Office of Financial Management administrative fee for its management of the partnership agreement.
- Funds must be collected from the partner before expenditures are made or materials are released to the partner. Exceptions to collecting funds upfront need to be approved by the Director of Financial Management.
- Expenditures must be for the work that the partnership was written for. Expenditures must be moved to the partnership account in the year the expenditures occurred except in the last quarter of the fiscal year. Costs that occur in the last quarter of the fiscal year must be moved by September 30<sup>th</sup>. Expenditures that are being moved in a future fiscal year beyond one quarter from when they occurred are to be cancelled to the appropriate fund balance and unavailable.
- If the partnership agreement is for an exchange of goods or commodities, each partner must report in writing the costs of what was provided. The partner that provides the lessor amount must pay the other partner for the difference. This reconciliation should be done by the end date of the partnership.
- By the end of the 1<sup>st</sup> quarter after fiscal year end, the Office of Financial Management will review all partnership agreements from the prior year and will make any necessary changes or cancellations to the appropriate fund balance for expenditures that occurred in the last fiscal year.
- Offices and Districts will report annually by August 15<sup>th</sup> to the Office of Financial Management for each partnership that identifies:
  - The date when expenditures occurred or the date when materials were transferred.
  - The account that was used for the expenditure.

#### ***Right of Way Partnerships***

- Right of Way partnerships may be for a term longer than five years if the scope of the agreement includes the purchase of property through condemnation.
- MnDOT provides a range of property acquisition services including but not limited to surveying, mapping, title work, Environmental Due Diligence (EDD), appraisals, direct purchase, relocation, and condemnation.
- MnDOT typically acquires property through partnerships in two ways:
  - MnDOT acts as a consultant and purchases property in the name of the partner. The partner is responsible for using their authority for eminent domain and acquiring legal assistance for condemnation.
  - MnDOT acquires the property in its name using its own public purpose. MnDOT uses its authority for eminent domain and uses the Attorney General (AG) to condemn. The EDD process must be performed upon any property that MnDOT will bring into its system or which MnDOT's contractor is performing work. Property purchases for the partner are conveyed to them once the acquisition process is complete.
- These partnership agreements are not typically lump sum, as MnDOT and AG staff will charge their actual time spent on the work included in the agreement. Other costs will include but not be limited the following kinds of fees: filing, recording, service, condemnation commissioner, title, appraisal, expert witness, publication costs, relocation costs, interest costs, and landowner payments. MnDOT often hires consultants in property acquisition and their use should be described in the agreement.
- The AG hourly rate is set yearly and a request by the Office of Land Management is made to the AG for separate project numbers to be provided such that the cost of working on the agreement is shown separately on the AG's monthly billing to MnDOT.

#### ***Agreements under \$5,000***

- Agreement with the partner must be documented in writing. A formal agreement must be written for work that requires mutual agreement on a scope of work. The Joint Powers Agreement will generally be the appropriate template for formal agreements. For "standardized" work, written agreement may be documented informally (for example by exchange of emails or acceptance of a purchase order). Standardized work means, for example, work performed according to industry standards (such as ASTM standards), or other simple straightforward transactions that do not require mutual agreement of a scope of work. The value of in-kind services will not be counted when

determining if an agreement is over or under \$5,000 (see the “Definitions” section for in-kind services). In-kind services must be reasonably proportional over the life of the partner relationship.

- [MnDOT overhead rates](#) must be used in determining the amount that will be charged to the partner for the work being requested. MnDOT’s overhead rates must be taken into account when determining the amount of the lump sum agreement.
- Funds must be collected from the partner before expenditures are made or materials are released to the partner. Exceptions to collecting funds up-front need to be approved by the Director of Financial Management.

#### ***Shared Construction Agreements and Cooperative Construction Agreements***

- Shared construction agreements (Cooperative Construction Agreements) that are written as a partnership also require processing of a construction contract. The partnership agreement should be executed and approved before the project can be let.
- Construction engineering charges included in the cooperative construction agreement will be at a rate of 8%. Construction engineering includes the cost of inspection, materials testing, surveying, staking and construction administration required for the cooperative construction project.
- Funds must be collected from the partner before expenditures are made or materials are released to the partner. Exceptions to collecting funds up-front need to be approved by the Director of Financial Management.
- The Office of Financial Management will use project reports to determine the construction costs and the construction engineering costs at the end of the project. A billing or a refund will be made to the partner based on the money received and the cost of the project.

#### ***Building Agreements***

- Joint-use building agreements will be written for the normal useful life of the building and can exceed five years.
- [MnDOT overhead rates](#) must be used in determining the amount that will be charged to the partner for the work being requested. [MnDOT overhead rates](#) must be taken into account when determining the amount of the lump sum agreement.
- Expenditures must be for the work that the partnership was written for. Expenditures must be moved to the partnership account in the year the expenditures occurred. Expenditures that are being moved in a future fiscal year beyond one quarter from when they occurred are to be cancelled to the appropriate fund balance and made unavailable.
- By the end of the 1<sup>st</sup> quarter each fiscal year the Office of Financial Management will review each partnership from the prior year and will make any necessary changes or cancellations to the appropriate fund balance for expenditures that occurred in the last fiscal year.

#### ***Master Contracts (Blanket Partnerships)***

- A Master Partnership Contract must be completed and signed by appropriate parties before work can be done under the Master Contract.
- Partners will be billed monthly for all work completed during the month.
- [MnDOT overhead rates](#) will be added to labor, equipment usage and issues from inventory centers.
- Expenditures must be moved to the partnership account in the year the expenditures occurred. Expenditures that are being moved in a future fiscal year beyond one quarter from when they occurred are to be cancelled to the appropriate fund balance and made unavailable.
- By the end of the 1<sup>st</sup> quarter each fiscal year the Office of Financial Management will review each partnership from the prior year and will make any necessary changes or cancellations to the appropriate fund balance for expenditures that occurred in the last fiscal year.
- If a master partnership agreement does not exist with the customer, a [TA99 Partnership Letter](#) needs to be completed. [MnDOT overhead rates](#) are included in the [TA99 Partnership Letter](#). Funds received are returned to the Trunk Highway Fund, *not to the district or office budget*.

#### ***Sale of Inventory Materials***

- Inventory materials include such items as salt, sand and fuel.
- A partnership proposal must be completed and approved before the partnership agreement is written. If the partnership will exceed five years in length an explanation as to why must be included with the proposal.

- MnDOT's materials handling rate and shipping costs of the materials purchased by the partner must be used in determining the amount that will be charged to the partner. Districts can use a standard partnership agreement or the master contract (blanket partnership) to bill the partner for sale of the inventory items.
- The partner must be billed at least once during the year for the items purchased.

### **Research Partnerships**

- A partnership proposal must be completed and approved before the partnership agreement is written. If the partnership will exceed five years in length an explanation as to why must be included with the proposal.
- [MnDOT overhead rates](#) must be used in determining the amount that will be charged to the partner for the work being requested. MnDOT's overhead rates must be taken into account when determining the amount of the lump sum agreement. If the research project is funded using federal funds only the Labor Additive needs to be applied to the labor portion of the agreement.
- Funds may be collected from the partner at the beginning of the project, after the partner has received their federal funds or at the completion of a task. The reimbursement patterns should be included as part of the written agreement.
- If excess funds have been collected from the partner, these funds will be returned to the partner after the project has been closed out.
- Expenditures do not need to be moved until after the receipts of the funds from the partner.
- Offices and Districts will prepare and submit a report annually by August 15<sup>th</sup> to the Office of Financial Management for each partnership that identifies:
  - The date when expenditures occurred or the date when materials were transferred.
  - The account that was used for the expenditure.

### **Federal Emergency Agreements and Natural Disasters**

- In emergencies MnDOT can agree to assist the partner and bill the partner for the services provided.
- A project number must be established to collect the costs for the emergency.
- An invoice must be sent to the requesting partner after the work has been completed.

## **RESPONSIBILITIES**

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### **Chief Financial Officer (or Delegate)**

- Approves and signs partnership proposals and agreements

### **Contract Management Section (Office of Chief Counsel)**

- Provides guidance on using partnerships and drafting partnership agreements
- Coordinates processing of partnership proposals
- Approves and sign partnership proposals and partnership agreements
- Approves partnership agreements, sign partnership agreements for the Department of Administration when permitted under an applicable delegation of authority
- Assists with resolving disputes involving partnership agreements

### **Building Services Section (Office of Maintenance)**

- Approves partnership proposals involving the construction of a building
- Notify Office of Financial Management, Budget Section of expenditure transfers that need to be moved to the partnership appropriation

### **Office of Financial Management**

- Requests appropriation establishment
- Provides code block to contract manager and Financial Operations
- Bills partners according to partnership language
- End of the first quarter reviews on all partnerships for changes or cancellations

### **Offices and Districts**

- Submits partnership proposals and partnership agreements
- Tracks costs for partnership agreements

- Transfers expenditures to partnership appropriation
- Prepares annual report for each partnership showing expenditures and transfers

## FREQUENTLY ASKED QUESTIONS

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**Q. *Can the partnership funds be transferred directly into an office operating budget?***

A. No, the funds cannot be transferred into an office operating budget. Expenditures need to be transferred from the office operating budget into the account for the partnership.

**Q: *Can a partner pay in arrears rather than in advance?***

A: Yes, but only in limited circumstances and only when pre-approved by the Office of Financial Management. In this case, the partner must pay MnDOT before MnDOT can pay an obligation to a third party.

**Q: *Can MnDOT do anything it wants to do under a partnership agreement?***

A: No, MnDOT must still have the statutory authority to perform the project or undertaking covered by the partnership agreement.

**Q: *Is there a limit to the amount of a partnership agreement?***

A: No

**Q. *How can an office charge payroll time directly to the partnership account?***

A. An employee who is working on the partnership needs to change the funding on their time sheet. The fund, appropriation, Department ID and project number need to be changed on the funding tab in RCA (Resource Consumption Application).

**Q. *Can an office create an encumbrance before the funds are received from the partner?***

A. Yes, money can be encumbered but expenditures cannot be made from this account until the funds are deposited.

**Q. *How can I track how much has been spent on the partnership?***

A: A project ID number must be established in SWIFT (Statewide Integrated Financial Tools) at the start of the partnership and all expenditures should be charged to the project ID number. A project report can be created to show all of the expenditures charged to the partnership.

**Q: *Can a partnership agreement be “payable” by MnDOT?***

A: Yes, though there may be alternative contracting methods that will work better. Contact the Contract Management Section for further details.

**Q. *Who transfers the expenditures to the partnership account?***

A. In Central Office, the Business Service Representative who handles the office’s budget can transfer the expenditures. In the District, the Business Office is responsible for transferring the expenditures. A journal voucher should be used for transferring expenditures.

## FORMS/INSTRUCTIONS

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- [Partnership Proposal](#)
- [Partnership Agreement](#)
- [Form 16A.15-16C.05](#)
- [TA99 Partnership Letter](#)
- [MnDOT Office of Financial Management](#)
- [Receivable - Partnership Proposal and Contract Process](#)

## RELATED INFORMATION

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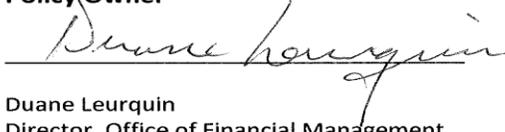
The [Minnesota Statute, Chapter 13 \(Minnesota Government Data Practices Act\)](#), (MGDPA), “all government data, collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or

temporary classification pursuant to section 13.06, or federal law, as nonpublic-or protected nonpublic, or with respect to data on individuals, as private or confidential.”

# POLICY OWNERSHIP AND AUTHORIZATION

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**Policy Owner**



Duane Leurquin  
Director, Office of Financial Management

Date Signed May 6, 2014

**Governance Council** has reviewed this policy and recommends approval



Sue Stein *(on behalf of the Council)*  
Division Director, Corporate Services Division

Date Signed 6-19-14

**Responsible Senior Officer**



Tracy Hatch  
Deputy Commissioner/COO/CFO

Date Signed 6.19.14