



REFERENCE GUIDE FOR **STATE EXPENDITURES**



DIVISION OF ACCOUNTING AND AUDITING
BUREAU OF AUDITING



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INTRODUCTION

AUTHORITY

Article IV, Section 4(c), of the Constitution of the State of Florida states, “The Chief Financial Officer shall serve as the Chief Fiscal Officer of the State, and shall settle and approve accounts against the State.”

The powers and duties of the Chief Financial Officer (CFO) are set forth in Chapter 17, Florida Statutes (F.S.). Section 17.03(1), F.S., requires that the CFO of this State, using generally accepted auditing procedures for testing or sampling shall examine, audit, and settle all accounts, claims, and demands against the State.

Section 17.29, F.S., gives the CFO the authority to prescribe rules he or she considers necessary to fulfill his or her constitutional and statutory duties, which include but are not limited to, procedures or policies related to the processing of payments from any applicable appropriation.

OVERVIEW

MISSION OF THE BUREAU OF AUDITING

The mission of the Bureau within the Department of Financial Services (DFS) is to provide reasonable assurance to the taxpayers of Florida that funds disbursed from the State Treasury are valid obligations of the State and are in general compliance with applicable laws and rules.

PURPOSE

The purpose of this manual is to provide state agencies guidance regarding the requirements applicable to the disbursement of funds from the State Treasury, regardless of the payment methods (warrant, EFT, P-card). This reference guide does not cover all possible situations; some will need to be addressed on a case-by-case basis through consultation with the Bureau of Auditing.

DEFINITIONS



Account Holder - an employee filling an FTE or OPS position within a state agency for whom an account is established by the Card Provider upon request by the Scoped Administrator through WORKS. An Account Holder is designated and authorized by the state agency to be the sole user of an assigned Purchasing Card to make purchases within preset limits, on behalf of the state agency; appointed officers and others not on an entity's payroll, are non-employees, and not considered an Account Holder.

Accountable Plan - an arrangement that reimburses an employee for business expenses.

Actual Point of Origin - the geographic location where the travel begins.

Agency Head - with respect to an agency headed by a collegial body, the executive director or chief administrative officer of the agency.

Agreements - for the purpose of this document, agreements include Purchase Orders, Memorandums of Understanding (MOU), Memorandums of Agreement (MOA), Contracts, Grants, etc.

Appropriation - a legal authorization to make expenditures for specific purposes within the amounts authorized in the appropriations act.

Approved Operating Budget or Approved Budget - the plan of operations consisting of the original approved operating budget and statement of intent.

Artist - an individual or group of individuals who profess and practice a demonstrated creative talent and skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio, or tape and sound recording, or in any other related field.

Authorized Person (Section 112.061 Travel):

- 1) A person other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.
- 2) A person who is called upon by an agency to contribute time and services as consultant or adviser.
- 3) A person who is a candidate for an executive or professional position

Best Value - the highest overall value to the State based on objective factors that include, but are not limited to, price, quality, design, and workmanship.

Bureau - the Bureau of Auditing within the Department of Financial Services (DFS).

Carry forwards - the undisbursed release balance of any authorized appropriation, except an appropriation for fixed capital outlay, for any given fiscal year remaining on June 30 of the fiscal year shall be carried forward in an amount equal to the incurred obligations. Any such incurred obligations remaining undisbursed on September 30 shall revert to the fund from which appropriated and shall be available for re-appropriation by the Legislature.

Commodity - any of the various supplies, materials, goods, merchandise, food, equipment and other personal property, including a mobile home, trailer or other portable structure with floor space of less than 5,000 square feet, purchased, leased or otherwise contracted for by the State and its agencies. "Commodity" also includes interest on deferred-payment commodity contracts approved pursuant to s. 287.063, F.S., entered into by an agency for the purchase of other commodities. However, commodities purchased for resale are excluded from this definition. Further, a prescribed drug, medical supply or device required by a licensed health care provider as a part of providing health services involving examination, diagnosis, treatment, prevention, medical consultation or administration for clients at the time the service is provided is not considered to be a "commodity." Printing of publications shall be considered a commodity if procured pursuant to s. 283.33, F.S., whether purchased for resale or not.

Common Carrier - train, bus, commercial airline operating scheduled flights or rental car of an established rental car firm.

Compensation - the total amount paid for professional services.

Competitive Sealed Bids, Competitive Sealed Proposals, or Competitive Sealed Replies - the process of receiving two or more sealed bids, proposals or replies submitted by responsive vendors and includes bids, proposals or replies transmitted by electronic means in lieu of or in addition to written bids, proposals, or replies.

Competitive Solicitation or Solicitation - an invitation to bid (ITB), a request for proposals (RFP), or an invitation to negotiate (ITN).

Chief Financial Officer or Department - the State of Florida, Department of Financial Services or its head, the Chief Financial Officer, and the terms shall have the same meaning and be used interchangeably.

Conference - the coming together of persons with a common interest or interests for the purpose of deliberation, interchange of views or for the removal of differences or disputes and for discussion of their common problems and interests. The term also includes similar meetings such as seminars and workshops, which are large formal group meetings that are programmed and supervised to accomplish intensive research, study, discussion and work in some specific field or on a governmental problem or problems. A conference does not mean the coming together of agency or interagency personnel.

Continuing Appropriation - an appropriation automatically renewed without further legislative action, period after period, until altered or revoked by the Legislature.

Contractor - a person who contracts to sell commodities or contractual services.

Contractual Service - the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to: evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged there under; and professional, technical, and social services. "Contractual service" does not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification or demolition of any facility, building, portion of building, utility, park, parking lot or structure or other improvement to real property entered into pursuant to Chapter 255, F.S., and rules adopted there under.

Convention - an assembly of a group of persons representing persons and groups, coming together for the accomplishment of a purpose of interest to a larger group or groups. A convention does not mean the coming together of agency or interagency personnel.

Cost Analysis – an agency's documented review in accordance with s. 216.3475, F.S., of a provider's detailed budget to determine that all costs are reasonable, necessary and allowable by state law. A cost analysis is to be completed for service agreements in excess of Category Two, which are awarded on a non-competitive basis.

Digital Signature – a type of electronic signature that encrypts documents with electronic codes that are difficult to duplicate the approval of payments.

Disbursement - the payment for an expenditure.

Emergency Notice - notification of less than twenty-four (24) hours prior to scheduled departure.

Emergency Situation - circumstances in which there is an immediate danger or a threat of immediate danger to the public health, safety, or welfare or of other substantial loss to the State requiring emergency action.

Exceptional Purchase - any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation including, but not limited to, purchases from a single source; purchases upon receipt of less than two responsive bids, proposals, or replies; purchases made by an agency, after receiving approval from the department, from a contract procured, pursuant to s. 287.057(1), (2), or (3), F.S., by another agency; and purchases made without advertisement in the manner required by s. 287.042(3)(b), F.S.

Expenditure - the creation or incurring of a legal obligation to disburse money.

Expense - the appropriation category used to fund the usual, ordinary, and incidental expenditures by an agency or the judicial branch, including such items as commodities, supplies of a consumable nature, current obligations, and fixed charges, and excluding expenditures classified as operating capital outlay. Payments to other funds or local, state, or federal agencies may be included in this category.

Extension - an increase in the time allowed for a contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with or without a proportional increase in the total dollar amount, with any increase to be based on the method and rate previously established in the contract.

FACTS Contract Summary Form – A DFS Summary of Contractual Services Agreement/ Purchase Order Form that is used to summarize the terms and conditions of a contract, grant agreement or purchase order.

Florida Accountability Contract Tracking System (FACTS) – Section 215.985, Florida Statutes requires the Department of Financial Services to provide the capability for State Agencies to report their contracts to the public in one central location. FACTS is the application that provides this function.

Firm - any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice architecture, engineering or surveying and mapping in the State.

Fixed Capital Outlay (FCO) - an appropriation category for the purchase of real property (land, buildings, including appurtenances, fixtures and fixed equipment, structures, etc.), including additions, replacements, major repairs and renovations to real property which materially extend its useful life or materially improve or change its functional use and including furniture and equipment necessary to furnish and operate a new or improved facility, when appropriated by the Legislature in the fixed capital outlay appropriation category.

Foreign Travel - travel outside the United States.

Invitation to Bid (ITB) - a written solicitation for competitive sealed bids. The ITB is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is electronically posted.

Invitation to Negotiate (ITN) - a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual service. The ITN is used when the agency determines that negotiations may be necessary for the State to receive the best value. A written solicitation includes a solicitation that is electronically posted.

Invoice - a written document submitted to a purchaser showing the quantity, price, terms, nature of delivery and other particulars of goods or services sold or services rendered.

Legislative Budget Request (LBR) - a request to the Legislature, filed pursuant to s. 216.023, F.S., or supplemental detailed requests filed with the Legislature, for the amounts of money such agency or branch believes will be needed in the performance of the functions that it is authorized, or which it is requesting authorization by law, to perform.

Meal Allowance - the amount authorized by s. 112.061 (6)(b), F.S., for each meal during the travel period.

Merchant - a vendor who accepts the State of Florida Purchasing Card.

Most Economical Class of Transportation - the class having the lowest fare available.

Most Economical Method of Travel - the mode of transportation (state-owned vehicle, privately-owned vehicle, common carrier, etc.) designated by an agency head in accordance with criteria prescribed by s. 112.061 (7), F.S.

My Florida Market Place (MFMP) - the State of Florida's centralized electronic procurement system which interchanges payment data with FLAIR daily.

Non-Business Day - for a public officer or employee, a weekend or an authorized state holiday; for an authorized person, it means a day on which such person was not scheduled to be performing service or contributing time to an agency.

Officer or Public Officer - an individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people or commissioned by the Governor and has jurisdiction extending throughout the State, or any person lawfully serving instead of either of the foregoing two classes of individuals as initial designee or successor.

Official Headquarters - the geographic location specified by s. 112.061 (4), F.S.

Operating Capital Outlay (OCO) - an appropriation category for the purchase of equipment, fixtures and other tangible personal property of a non-consumable and nonexpendable nature, the value or cost of which is \$1,000 or more and the normal expected life of which is one (1) year or more, and hardback bound books that are circulated to students or the public, the value or cost of which is \$25 or more, and hardback-covered bound books, the value or cost of which is \$250 or more.

Pay and Charge - a transaction which is vouchered in favor of a vendor for payment and in FLAIR lists the individual(s) to whom the expenses are being attributed as a sub-vendor.

Per Diem Rate - the amount authorized by s. 112.061 (6)(a), F.S.

Personal Time - the time outside the regular work hours of a business day, a non-business day or a day for which the officer or employee had prior approval for a leave of absence.

Person with Disabilities - any person diagnosed as having a physical disability, including but not limited to blindness, or the loss of one or more life functions leaving that person mobility impaired (or sensory impaired) requiring the use of trained animal companions or prosthetic equipment including, but not limited to, crutches, walkers, canes, or wheelchairs.

Perquisites - those things, or the use thereof, or services that confer on the officers or employees receiving them a benefit that is in the nature of additional compensation, or that reduce to some extent the normal personal expenses of the officer or employee receiving the same. The term includes, but is not limited to, such things as quarters, subsistence, utilities, laundry services, medical service, and the use of state-owned vehicles for other than state purposes.

Point of Origin - the geographic location of a traveler's official headquarters or the geographic location where travel begins, whichever is lesser distance from the destination. (Refer to Attorney General Opinion 75 275)

Professional Services - pursuant to s. 287.055, F.S., those services within the scope of the practice of architecture, professional engineering, landscape architecture or registered surveying and mapping, as defined by the laws of the State, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

Purchasing Card (PCard) - restricted use, non-revolving credit card that is issued to an Account Holder by the Contractor, is controlled by the Card Account created by the Scoped Administrator and which creates a liability against an Agency's Corporate Account.

Purchasing Card Charge - a purchase, credit, accounting correction, or other activity associated with any Card Account which creates a liability against an Agency's Corporate Account.

Renewal - contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.

Request for Information (RFI) - a written request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the agency to form a bidding contract.

Request for Proposals (RFP) - a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the agency to specifically define the scope of work for which the commodity, group of commodities or contractual service is required and when the agency is requesting that a responsible vendor propose a commodity, group of commodities or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is electronically posted.

Responsible Vendor - a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good-faith performance.

Responsive Bid, Responsive Proposal or Responsive Reply - a bid, or proposal or reply submitted by a responsive and responsible vendor, which conforms in all material respects to the solicitation.

Responsive Vendor - a vendor that has submitted a bid, proposal or reply that conforms in all material respects to the solicitation.

State Term Contract - a term contract that is negotiated and executed by the Department of Management Services and that is used by agencies and eligible users pursuant to s. 287.056, F.S.

Term Contract - an indefinite quantity contract to furnish commodities or contractual services during a defined period.

Travel Day - a period of 24 hours consisting of four quarters of 6 hours each.

Travel Period - a period of time between the time of departure and time of return.

Voucher - a standard Florida Accounting Information Resource (FLAIR) voucher schedule as prescribed by the Chief Financial Officer, complete with invoices and such other supporting documentation necessary to authenticate the recording of a transaction into the accounting records of an agency which will also serve as an official request by an agency to the Bureau of Auditing for a payment in satisfaction of an obligation incurred by an agency.

WORKS – an internet based application hosted and maintained by Bank of America (the State of Florida purchasing card provider). The application will be used by State agencies to administer card maintenance and transaction approval with daily file interchanges to FLAIR.



ADVANCE PAYMENTS

ADVANCES PURSUANT TO SECTION 215.422(15), F.S.

Advance payments may be made under s. 215.422(15), F.S., and Rule 69I-40.120(3), F.A.C., in accordance with the following:

- 1) Advance payment may be made for **maintenance agreements, software license agreements, and subscriptions** that meet one of the following criteria:
 - Advance payment will result in a savings to the State that is equal to or greater than the amount the State would earn by investing the funds and paying in arrears.
 - The goods or services are essential to the operation of a state agency and are available only if advance payment is made.

Prior approval of the Bureau of Auditing is not required for advance payments made for maintenance agreements, software license agreements, and subscriptions that are equal to or less than the threshold of Category Two as defined in s. 287.017, F.S., and meets one of the above criteria. The payment request must document that the payment meets one of the above criteria.

Prior approval of the Bureau of Auditing is required for advance payments made for **maintenance agreements, software license agreements, and subscriptions** that exceed the threshold of Category Two as defined by s. 287.017, F.S.

Requests for advance payment approval must include information indicating that the payment meets one of the above criteria and that the agency has complied with applicable procurement requirements.



2) Advance payment may be made for **all other goods and services if approved in advance by the Bureau of Auditing.** Criteria for approval includes:

Advance payment will result in a savings to the State that is equal to or greater than the amount the State would earn by investing the funds and paying in arrears.

OR

The goods or services are essential to the operation of a state agency and are available only if advance payment is made.

Requests for advance payment approval must include information indicating that the payment meets one of the above criteria and that the agency has complied with applicable procurement requirements.



Purchasing Card Transactions – Advances

Purchasing cards may be used for advance payments in accordance with the above criteria.

ADVANCES PURSUANT TO SECTION 216.181(16), F.S.

Section 216.181(16), F.S., provides for advances for program startup or advances for contracted services to governmental entities and not-for-profit organizations. The amount that may be advanced shall not exceed the expected cash needs of the contractor or recipient within the initial three months. Thereafter, disbursements shall only be on a reimbursement basis. Advance payments may be made for cost-reimbursement and fixed-price contracts.

Agencies specifically authorized by the General Appropriations Act to make advance payments and wishing to advance beyond the initial three months expected cash needs must request a waiver from the Bureau of Auditing. The request for waiver must include:

- 1) The appropriation line item number.
- 2) Justification for advancing funds beyond the three months' expected cash needs.

The waiver request should be sent to Bureau of Auditing, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0355 for approval prior to submitting for payment. The waiver request will then be forwarded to the appropriations committees of both houses of the Legislature for consultation and comments. The Legislature has fourteen days to respond to the request. The agency will be notified in writing of the approval or disapproval of the request. If approved, a copy of the approval must be submitted with the payment request.

Purchasing Card Transactions – Advances

Purchasing cards may not be used to make advance payments allowed under s. 216.181(16) (b), F.S.



AGREEMENTS



AMENDMENTS

Agreements (Purchase Order, two-party written agreement) may be amended by executing a written amendment issued prior to the expiration of the agreement. Amendments are effective on the date of execution.

Pursuant to s. 215.425, F.S., additional compensation is prohibited after the services are rendered or the contract is made. If the total amount of a fixed unit rate agreement is being increased and the unit rate remains the same, then it can be assumed that the provider will be performing additional units of service. All other agreements must clearly show the additional services that will be provided. **The method of procurement for additional services in excess of Category Two must be documented and provided to the Bureau upon request.**

RENEWALS

Renewals must be executed prior to the expiration date of the agreement, and must have all the same terms and conditions of the original agreement. Renewals are contingent on **satisfactory performance evaluation** and may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer.

If the goods or services are purchased as a result of a competitive solicitation, the renewal price must be specified in the bid, proposal or reply.



Note: Agreements procured as an emergency or single source may not be renewed.

EXTENSIONS

Extensions can be for up to six months with all the same terms and conditions of the original agreement. The extension must be signed prior to the expiration date of the agreement. There can be only one extension of an agreement unless the failure to meet the terms of the agreement is due to events beyond the control of the provider of the goods or services.



AGREEMENTS FOR SERVICES

Agreements for services are used to purchase time and effort rather than commodities. These agreements may be in the form of: Purchase orders, Memorandums of Understanding (MOU), Memorandums of Agreement (MOA), Contracts, Grants, etc.

- Contractual service agreements are between the State and a **vendor**. For more information, see “Agreements for Services – Vendor.”
- Grant agreements are between the State and a **recipient or sub-recipient** and are funded with an award of Federal or State Financial Assistance. For more information, see “Agreements for Services - Recipient/Sub-recipient.”
 - » When Federal Financial Assistance is involved, State agencies use the criteria established in the Code of Federal Regulations Title 2, Part 200 to determine whether the agreement is with a vendor or a sub-recipient.
 - » When State Financial Assistance is involved, State agencies use the Florida Single Audit Checklist for Non-State Organizations - Recipient/Sub-recipient vs. Vendor Determination form to determine whether the agreement is with a vendor or recipient. The checklist is available at <https://apps.fldfs.com/fscap/links.aspx>.

AGREEMENTS FOR SERVICES – FEDERAL AND STATE FINANCIAL ASSISTANCE RECIPIENT/SUB-RECIPIENT

Recipient/Sub-recipient agreements must contain the following:

Scope of Work - A scope of work that clearly establishes the tasks that the recipient or sub-recipient is required to perform.

Deliverables - Specific quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and must specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.



NOT ALWAYS A DELIVERABLE

Status or Progress Reports are sometimes confused with deliverables. Reports alone may not necessarily be a deliverable, but the means of attesting to the minimal level of service provided during the reporting period (payment period). On the contrary, a report could be a deliverable. For example, reports that provide conclusions on research, engineering, auditing, or consulting could be a deliverable.

Documentation Requirements - the documentation required to evidence the completion of all required tasks specified in the agreement.

Financial Consequences – Financial consequences that apply if the recipient or sub-recipient fails to perform the minimum level of service required by the agreement. The provision can be excluded from the agreement only if financial consequences are prohibited.

Allowable Costs – funds may only be expended by the recipient or sub-recipient for allowable costs resulting from obligations incurred during the specified agreement period.

Unobligated funds – the balance of any unobligated funds which have been advanced or paid by the State Agency that must be refunded.

Excess Funds – the balance of any excess funds where the recipient or sub-recipient was not entitled to that must be refunded to the State Agency.

ADDITIONAL PROVISIONS

As s. 216.311, F.S., provides that an agency may not enter into an agreement to spend funds in excess of appropriations, the language required in s. 287.0582, F.S., must be included in agreements funded by federal and/or state financial assistance, where applicable.

The standard audit language specified in Rule 69I-5.006(3), F.A.C., must be included in the agreement. This language is available at: <https://apps.fldfs.com/fsaa/links.aspx>.

If the recipient agreement is procured under s. 287.057, F.S., then the requirements under "Agreements for Services - Vendors" will also apply.

FEDERAL FINANCIAL ASSISTANCE

Agreements with recipients and sub recipients of Federal Financial Assistance must require:

- a. Compliance with the Code of Federal Regulations Title 2, Part 200
- b. A grant may be charged only allowable costs resulting from obligations incurred during the specified funding period.
- c. Any balance of unobligated cash that has been advanced or paid that is not authorized to be retained for other projects must be refunded to the federal government.
- d. Any funds paid in excess of the amount to which the recipient is finally determined to be entitled, under the terms and conditions of the award, constitutes a debt to the Federal government.

STATE FINANCIAL ASSISTANCE

Agreements with recipients and sub recipients of state financial assistance, even if awarded on a fixed price basis, must require:

- a. Compliance with s. 215.971, F.S.
- b. Expenditures of state financial assistance be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures.

AGREEMENTS FOR SERVICES – VENDORS

Vendor agreements in excess of Category Two must meet the requirements of s. 287.058, F.S., including but not limited to the following:

Scope of Work - A scope of work that clearly establishes the tasks that the vendor is required to perform.

Deliverables - Specific quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and must specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.



NOT ALWAYS A DELIVERABLE

Progress and Status reports are sometimes confused as being deliverables. Reports alone may not necessarily be a deliverable, but the means of attesting to the level of services provided during the reporting period (payment period).

In some instances, a report could be a deliverable. These would include auditing, consulting and research reports that are used to provide conclusions to interested parties.

Documentation Requirements - the documentation required to evidence the completion of all required tasks specified in the agreement.

Financial Consequences - An agreement must contain financial consequences in the event that the vendor fails to perform in accordance with the agreement.

Section 287.058 (1), F.S., authorizes the use of a purchase order for contractual services, if the provisions of paragraphs (a)-(i) are included in the purchase order or solicitation. The purchase order must include an adequate description of the services, the contract period, and the method of payment.

In lieu of printing the provisions of paragraphs (a)(c) and (g) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(c) and (g) by reference.

VENDOR AGREEMENT LESS THAN CATEGORY TWO

Contractual services agreements for Category Two or less must be evidenced by a written agreement or a purchase order. The written agreement or purchase order must contain sufficient detail for a proper audit, must be signed by purchasing or contracting personnel acting on behalf of the agency, and may contain the provisions and conditions provided in s. 287.058 (1), F.S.

ADDITIONAL REQUIREMENTS FOR AGREEMENTS CROSSING FISCAL YEARS

Provision of s. 287.0582, F.S. - Contingency Provision "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature" - This provision is required for any agreement that crosses fiscal years. If an agreement is to be paid from a continuing appropriation (such as FCO), this provision is not applicable. However, it is the agency's responsibility to identify the payment as coming from a continuing appropriation.

ADDITIONAL REQUIREMENTS FOR AGREEMENTS SIGNED AFTER START OF SERVICES

Section 287.058 (2), F.S., requires that both parties shall sign a written agreement or contract prior to the rendering of the services for contractual service agreements costing in excess of Category Two threshold except in the case of a valid emergency as certified by the agency head. The certification of an emergency must be prepared within thirty (30) days after the contractor begins rendering the service and must state the particular facts and circumstances which precluded the execution of the written agreement prior to the rendering of the service.



If the agency fails to have the contract signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head must, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to DMS as well as describe actions taken to prevent recurrence of such noncompliance.

Noncompliance with these requirements will necessitate that the agency and the contractor enter into a settlement agreement. See "Settlement of Claims against the State."

PURCHASING CARD TRANSACTIONS – SERVICES

Agencies may use the purchasing card for service direct billings that do not exceed \$75,000 in a State fiscal year. The provisions of ss. 287.057 and 287.058, F.S., must be documented in the agency's files. The purchasing card system cannot be used to sub-divide purchases to circumvent State purchasing laws.

Section 287.058(4), F.S., stipulates that procurement of contractual services of the value of the threshold amount included in s. 287.017, F.S., for Category Two or less shall be supported by a written agreement or purchase order. Signed and dated purchasing card receipts meet this requirement for purchases of contractual services for Category Two amounts or less. Purchases exceeding Category Two must be preceded by a contract document, whether by written agreement or purchase order.

AGREEMENTS— CONTRACT REVIEW PROCESS



All executed agreements must be uploaded to FACTS and are subject to review by the Bureau.

The Bureau will focus its review on the scope of work, deliverables, financial consequences, compliance with the state term contract (if applicable) and payment terms as well as the compliance requirements for state and federal financial assistance established by Chief Financial Officer Memorandum No. 1 (2019-20). The Bureau will complete the review and provide its conclusions to the submitting agency. Payments related to an agreement pending review will not be held pending completion of that review.

The Bureau will complete the review and provide its conclusions to the submitting agency through DFS's Contract Audit System (CAS). Agencies will have fourteen (14) days to provide a response to the review. DFS will review agency responses and update the review results accordingly. Failure to respond within the timeline will result in a system finalization of the review. Payments may be delayed on agreements that do not meet the statutory requirements (scope of work, deliverables, financial consequences, etc.). The Bureau may work with the agency in implementing corrective action for those agreements that are deficient.



AMERICANS WITH DISABILITIES ACT



The Americans with Disabilities Act (ADA), PL 101-336, requires that agencies, as employers, make several determinations when an applicant or employee requests "reasonable accommodation" for a disability and provide the "reasonable accommodation." The ADA provides that records related to an individual's disability must be kept confidential. In order to comply with the requirements of the ADA and still maintain some measure of accountability for State funds expended, the need

for purchasing items necessary for an agency to comply with the ADA should be documented in the following manner.

When a payment is requested pursuant to the American with Disabilities Act (ADA), the payment request shall include a signed statement from the agency head or designee certifying that:

1. An employee of the agency, an applicant for a position or other covered person has requested a "reasonable accommodation" pursuant to ADA to assist him/her in performing his/her duties, applying for a position or other covered activity.
2. The agency has determined that the individual is a "qualified individual with a disability" as defined in the ADA.
3. The agency has determined that the purchase of the item in question is a "reasonable accommodation" pursuant to ADA for that employee, applicant or person.
4. The agency will maintain all records related to this purchase for seven years and make those records available for review to those persons authorized to review such records.

The ADA provides that records related to an individual's disability must be kept confidential; therefore, payment information related to providing a "reasonable accommodation" shall contain a file number or other code by which the voucher can be readily traced to the confidential records maintained by the agency.

ARTWORK IN STATE BUILDINGS



Section 255.043, F.S., allows for the purchase of artwork for state buildings when included in the appropriation for the original construction of such building in an amount of 0.5 percent of the total appropriations, not to exceed \$100,000. Evidence of notification by the agencies receiving original appropriations for construction to the Florida Arts Council must be included with invoices submitted for payment pursuant to this section.



ASSIGNMENT OF PAYMENTS



Pursuant to s. 215.965, F.S., payments due to vendors or employees cannot be assigned by changing the payee's name from ultimate beneficiary to an assignee. However, subject to approval of each individual agency, state warrants may be issued in favor of an employee or a vendor and be delivered to the assignee. Authorization from the payee and agency should be on file prior to payment.

For the majority of vendor contracts the ultimate beneficiary is the vendor supplying the service, but on some contracts, the ultimate beneficiary may be a third party that the vendor owes a legal monetary obligation. In these situations, the contract may be amended to correctly state the party who is the ultimate beneficiary of state funds and the party who will be supplying the services to the State. These cases must be analyzed on a case-by-case basis. Such a contract would have all parties in agreement, especially between the vendor and the third party. The liability of the State should be addressed in the contract by the vendor supplying the service and the ultimate beneficiary. Nevertheless, the best way to handle these situations will be to have the vendor and the third party settle their financial matters between themselves and the State pay the vendor supplying the service.



AWARDS



Awards

Awards When requesting payment for individual awards, each voucher for payment must identify the name(s) of each award recipient.

SATISFACTORY SERVICE AWARDS

Pursuant to s. 110.1245, F.S., each department head is authorized to incur expenditures for giving awards in the following situations:

1. Retiring state employees whose service has been satisfactory may be awarded suitable framed certificates, pins and other tokens of appreciation and recognition. Awards may not exceed \$100 each, plus applicable taxes and shipping/handling.
2. Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who demonstrate satisfactory service in the agency or to the State, in appreciation and recognition of such service. Such awards may not cost in excess of \$100 each, plus applicable taxes and shipping/handling.
3. Any appointed member of a state board or commission, whose service to the State has been satisfactory, upon the expiration of the board or commission member's final term in the position may be awarded suitable framed certificates, plaques or other tokens of appreciation and recognition not to exceed \$100 each, plus applicable taxes and shipping/handling.

EMPLOYEE GATHERING FOR AWARDS PRESENTATION – STATE OWNED SPACE



While there may be benefits in bringing employees together to witness the presentation of awards, in terms of improved employee motivation and morale, such benefits are often difficult to measure. Agencies are encouraged to consider the full costs of such events against the benefits derived from such costs, and reevaluate the decision to hold such events at taxpayer expense. The cost of such a

gathering can be calculated in terms of the time involved in such an event and the salaries of the employees participating.

This includes not only the time of those actually attending the event (time spent going to the location of the event, at the event and returning to their workstations), but also the time spent by employees in arranging such events and in notifying employees of the time and location of the event. In addition to the salary (including overtime and compensatory time), there may be costs associated with travel that must be included.

RENTAL SPACE AND TRAVEL COSTS

The cost of renting space for the purpose of gathering employees together for the sole purpose of witnessing the presentation of awards or the travel costs incurred for the sole purpose of attending an awards presentation event are **not allowable state expenditures**. However, travel expenses for award winners to travel to an awards presentation event may be paid by state funds.

VOLUNTEER RECOGNITION

Pursuant to s. 110.503(5), F.S., each department or agency using the services of volunteers is authorized to incur expenditures not to exceed \$100 each, plus applicable taxes for suitable framed certificates, plaques or other tokens of recognition to honor, reward or encourage volunteers for their service.

Pursuant to s. 110.504(6), F.S., incidental recognition benefits or incidental non-monetary awards may be furnished to volunteers serving in state departments to award, recognize or encourage volunteers for their service. The awards may not cost in excess of \$100 each plus applicable tax.



BAR DUES

If specifically authorized by law, each state agency, at the discretion of the agency head, may expend funds for bar dues and for legal education courses for attorneys employed by the State as legal staff. Attorneys are defined as individuals employed by the State of Florida as a general counsel, deputy general counsel, assistant general counsel, or attorney performing work as legal staff.

Payment for bar dues is limited to The Florida Bar basic annual dues found under the membership fees section of the annual membership form. Payment will not be made for:

- Section or division dues.
- Local bar dues.
- Bar dues applicable to another state or jurisdiction unless the agency can demonstrate that the legal staff's membership is essential to the performance of his or her duties.

See “Membership” for additional information.



BUILDING LEASES — PRIVATE SECTOR

Pursuant to ss. 255.25 and 255.254, F.S., any agency requiring lease space must obtain approval from the Department of Management Services (DMS). Agreements for leases should be uploaded in FACTS.

Vouchers for the payment of building leases must include the approved lease number from DMS, if applicable. Leases may not be paid in advance; however, vouchers may be submitted for payment after the 20th of the month for which payment is required.



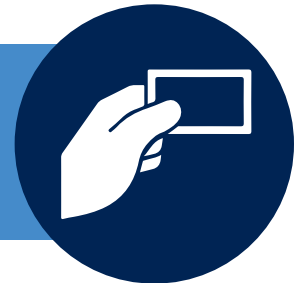


Prior to leasing buildings that require renovation at state expense, agencies should determine if it is in the best interest of the State to lease the building rather than leasing space that meets the agency's needs. Justification must be maintained by the agency and furnished to the Bureau of Auditing upon request.

PURCHASING CARD TRANSACTIONS – LEASES OF BUILDINGS

Agencies may use purchasing cards for leasing buildings in accordance with the above guidelines.

BUSINESS CARDS



State agencies should review the necessity of business cards for its employees and limit the purchase of business cards to those employees who actually need the cards to carry out their official duties and responsibilities. Gold sealed cards may be purchased for employees filling Selected Exempt, Senior Management and equivalent or higher positions. The more economical one-color cards may be purchased for other employees who need cards.



Payment request for business cards other than the most economical one-color cards must include information showing that the employee for whom the cards are being purchased is filling a Selected Exempt, Senior Management, or equivalent position.



CASH AND BUDGET RELEASE BALANCES

Sufficient cash and release balances must be available prior to posting of vouchers submitted through the Voucher Audit System. Additionally, agencies must ensure that sufficient cash and release balances are available in each appropriate account prior to submission of each payroll.



CELL PHONES AND OTHER MOBILE COMMUNICATION DEVICES

GENERAL

Charges for Universal Service Support (also known as Universal Community Charges or Federal Universal Service Fees) may be paid from state funds. These are NOT taxes, therefore the State of Florida is not exempt.

The State of Florida and its political subdivisions are exempt from federal communication tax on communications services defined as local telephone services, toll telephone services and teletypewriter exchange services. Federal communication tax included on invoices for such services should be deleted from the invoices prior to processing of payment.

CELLULAR TELEPHONES AND MOBILE COMMUNICATION DEVICES – STATE OWNED

Cellular telephones and other mobile communication devices such as tablets should only be used for conducting official state business when a conventional telephone is not readily available. State agencies should have established internal controls over the use of state-owned or leased cellular telephones and mobile devices to ensure that payments relating to the telephone or device usage serve a specific authorized public purpose. Billing options should be reviewed to determine that the most economical option is selected considering the specific usage requirements of the user.

Personal use of state-owned or leased cellular telephones and mobile devices should be discouraged. State agencies should have established policies and procedures to ensure cellular telephones and other mobile communication devices are being used for state business and not for personal use.

CELLULAR TELEPHONES OR MOBILE DEVICES – PERSONAL

Reimbursement to employees for occasional use of personal cellular telephones or mobile devices to conduct official state business will be made only when substantiated by documentation showing that the call was necessarily made for the official state business of the agency. If the business call or data usage made on the employee's personal cellular telephone or mobile device **does not** result in additional charges to the employee, reimbursement for the business call or data usage is disallowed. However, if the state business call results in additional charges, the employee may be reimbursed up to the per-minute or data usage rate charged, plus applicable taxes, for the excess minutes or data incurred as a result of usage for official state business. Employees will be required to provide a statement certifying that the calls or data usage was necessary and were for official state business. No payment will be made for any portion of the employee's personal monthly charges, taxes on the basic monthly fee, or charges related to obtaining documentation listing individual telephone calls or data usage.

If it is necessary for an employee to consistently use his or her personal cellular telephone or mobile device to conduct the duties and responsibilities of a state agency, then the agency should consider providing these devices.



PURCHASING CARD TRANSACTIONS – MOBILE DEVICES AND CELLULAR TELEPHONES

Agencies may use purchasing cards to pay the monthly usage and airtime fees for state-owned or leased cellular telephones and mobile devices.

If agencies elect to use purchasing cards to pay cellular telephone or mobile device vendors, the payments to the card provider must be paid in full. Reimbursement of personal calls or data usage should be documented with the purchasing card reconciliation report.