

STATE OF COLORADO FISCAL RULES

State of Colorado FISCAL RULES

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Department of Personnel & Administration

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STATE OF COLORADO FISCAL RULES

The purpose, statutory authority, definitions, applicability, responsibility and administrative hardship that are contained on page vi of these rules are applicable to each of the State Fiscal Rules and should be attached to any rule that is separated from the State of Colorado Fiscal Rules.



STATE OF COLORADO FISCAL RULES

PURPOSE

The purpose of these fiscal rules is to set forth policies for state agencies and institutions of higher education and institutions of higher education concerning internal controls, accounting policies, and financial reporting for the State of Colorado.

STATUTORY AUTHORITY

Colorado Revised Statutes created the State Controller's Office. Part 2, Title 24, Article 30, C.R.S. lists the powers and duties of the State Controller and is incorporated as a reference into each of these state fiscal rules.

DEFINITIONS

The following definitions are incorporated into each of these state fiscal rules:

State agency or institution of higher education - A department, division, section, unit, commission, board, bureau, college, university, or institution in Colorado state government created by law, executive order, or any other authority.

State Financial System - The official financial system for the State of Colorado as prescribed by the State Controller.

APPLICABILITY

These fiscal rules are applicable to all state agencies and institutions of higher education, to all employees of the state, and to all funds in the executive branch of state government.

RESPONSIBILITY

It is the responsibility of the chief executive officer of each state agency or institution of higher education or institution of higher education to ensure compliance with these fiscal rules.

ADMINISTRATIVE HARDSHIP

Should any of these fiscal rules create undue administrative or financial hardship on a state agency or institution of higher education or institution of higher education, a written request for exemption and/or alternative policy may be submitted by the state agency or institution of higher education or institution of higher education's chief fiscal officer to the State Controller with notification to the state agency or institution of higher education or institution of higher education's chief executive officer.

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CHAPTER 1: ACCOUNTING

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Rule 1-1 ACCOUNTING PRINCIPLES AND STANDARDS

AUTHORITY:

24-17-102(1), C.R.S. (Internal Controls)
24-17-103, C.R.S. (Annual Internal Control Report)

RULE:

The accounting principles of the state shall be based on generally accepted accounting principles (GAAP) as adopted by the Governmental Accounting Standards Board (GASB). In addition, all applicable statutory provisions shall be met.

When a conflict between statutory provisions and generally accepted accounting principles exists, generally accepted accounting principles take precedence in financial reporting.

When it is necessary to report compliance of financial transactions with statutory requirements, supplemental schedules may be used. Preparation of separate statutory based reports may also be necessary.

The chief executive officer and chief fiscal officer of each state agency or institution of higher education shall annually certify to the State Controller as to the adequacy of its systems of internal accounting and administrative controls. The certification form, content and due date shall be determined by the State Controller.

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Rule 1-2 USE OF THE STATE FINANCIAL SYSTEM

AUTHORITY:

24-30-202 (12), C.R.S.

RULE:

All state agencies and institutions of higher education are required to use the state financial system to record their financial transactions and financial information, develop their financial reports and prepare their financial statements.

The state financial system is composed of various systems and sub-systems in the Colorado Financial Reporting System and the state payroll system.

EXCEPTIONS TO RULE:

An exemption is granted by the State Controller to the governing boards and institutions of higher education to transmit summary financial information to the state financial system. This exemption is granted only to those governing boards and institutions of higher education that have an internal accounting system and an electronic interface that have been approved by the State Controller. The electronic interface shall provide timely updates to the state financial system as directed by the State Controller. The governing boards and institutions of higher education are also exempt from the requirement to use the state payroll system.

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Rule 1-3 ACCESS TO THE STATE FINANCIAL SYSTEM

AUTHORITY:

2-3-107, C.R.S. (State Auditor)
2-3-203(1), C.R.S. (Joint Budget Committee)
24-30-202(11), C.R.S. (State Controller Authority)

RULE:

The State Controller is the official custodian of the financial portion of the database included within the state's financial system. The official custodian prescribes the rules and regulations with reference to query, use, or inspection of the financial records.

The State Controller, as official custodian of the financial portion of the state financial system database, shall approve access and resolve all disputes regarding access to financial information contained in the database.

Each state agency or institution of higher education is delegated custodial authority for its portion of the financial database on the state financial system.

Electronic Read Only (Query) Access to the State Financial System Data Base

State financial system records contain both public and confidential information; therefore access to financial data contained on the state financial system shall not be granted to anyone for general perusal of a state agency or institution of higher education's financial records.

Specific request for query access to the financial database of the state financial system shall state what information is requested and when the information is desired. The state agency or institution of higher custodian shall have the discretion of requiring that the request for financial information be in writing.

.01 Query access by a citizen or private entity:

Information requested by a citizen or entity other than a state agency or institution of higher education shall be furnished in a timely manner, as provided by statute. The information shall be provided in the form of a copy or printout, or a computer tape or disc. Actual costs, not to exceed the statutory maximum, may be charged by the state agency or institution of higher education for providing the information requested.

.02 Query access to a state agency or institution of higher education's own financial database:

Each state agency or institution of higher education shall be given query access to its portion of the financial database on the state financial system. Each state agency or institution of higher education shall be given query access to the centrally controlled tables maintained on the state financial system.

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- .03 Query access to another state agency or institution of higher education's financial database:

When a state agency or institution of higher education desires information from another state agency or institution of higher education, the state agency or institution of higher education making the request shall obtain approval from the chief executive officer of the state agency or institution of higher education possessing the information. Once approval has been granted, the information shall be furnished in a timely manner, as provided by statute. No charge shall be made for the information provided. Disputes shall be referred to the State Controller.

- .04 Query access to multiple state agencies and institutions of higher education's financial databases:

All requests for financial information concerning multiple state agencies and/or institutions of higher education shall be referred to the State Controller. The State Controller shall have query access to all state agencies and institutions of higher education's financial databases and shall respond to all requests for information requiring multiple accesses.

The State Controller shall notify each state agency or institution of higher education of the request for information and furnish each state agency or institution of higher education a copy of the information provided, as necessary.

- .05 Query access by the Office of the State Auditor:

The Office of the State Auditor shall have query access to the financial databases of all state agencies and institutions of higher education on the state financial system.

- .06 Query access by the Office of State Planning and Budgeting:

Unless otherwise provided by agreement, the Office of State Planning and Budgeting shall have query access to the financial databases of all state agencies and institutions of higher education on the state financial system only for the purpose of carrying out its statutory responsibilities.

- .07 Query access by the legislative Joint Budget Committee:

Unless otherwise provided by agreement, the legislative Joint Budget Committee shall have query access to the financial databases of all state agencies and institutions of higher education on the state financial system only for the purpose of carrying out its statutory responsibilities.

- .08 Query access by the state Department of Treasury:

Unless otherwise provided by agreement, the Department of Treasury shall have query access to the state financial system for the purpose of carrying out its statutory responsibilities.

- .09 Query access by the Colorado Commission on Higher Education:

The Colorado Commission on Higher Education shall have query access to all financial data contained on the state financial system for all institutions, agencies, and boards within the Department of Higher Education.

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Rule 1-4 AUTOMATED INTERFACES WITH THE STATE FINANCIAL SYSTEM

AUTHORITY:

24-30-202 (12), C.R.S.

RULE:

Only electronic interfaces approved by the State Controller shall be allowed to feed data into the state financial system.

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Rule 1-5 STATE FINANCIAL SYSTEM SECURITY

AUTHORITY:

24-30-201 (1)(f), C.R.S.

RULE:

The State Controller is responsible for the overall security of the state financial system. The State Controller may delegate security responsibility to state agencies and institutions of higher education for their portion of the financial database on the state financial system.

If it is determined that a state agency or institution of higher education is not complying with the responsibilities delegated to its state financial system security administrator, the State Controller may withdraw the delegation and assume responsibility of the state financial system security administration for that state agency or institution of higher education.

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Rule 1-6 STATE AGENCY OR INSTITUTION OF HIGHER EDUCATION ACCOUNTING SYSTEMS

AUTHORITY:

24-30-202 (12), C.R.S.

DEFINITIONS:

Financial System - All data processing software systems applied to general ledgers and subsidiary ledgers, debt collection, accounts payable, accounts receivable, cost distribution, fixed assets, inventory, payroll, purchasing, and time collection.

RULE:

All financial systems that are used to record state financial information and transactions, or develop financial reports and prepare financial statements for the state shall be approved by the State Controller.

State agencies and institutions of higher education shall strive to improve their efficiency in the collection, maintenance, and reporting of financial information throughout state government. To achieve this goal, state agencies and institutions of higher education shall use the state financial system, unless exempted by the State Controller. Redundancies between state agency or institution of higher education financial systems and the state financial system should be eliminated in order to prevent duplication in the development of financial systems, to improve the compatibility of financial systems, to facilitate inter-system communications and to timely access information, and to improve the efficiency of the collection, maintenance, and reporting of financial information throughout state government.

To accomplish the desired objectives, the State Controller:

- .01 Shall approve the development or acquisition of new or replacement financial systems based upon:
 - a. The compatibility of the proposed financial system with the state financial system or with other approved state agency or institution of higher education financial systems.
 - b. The uniformity of accounting procedures, account structures, object, revenue, and other classifying code definitions.
 - c. The potential benefit and use by other state agencies and institutions of higher education with similar needs.
- .02 May require a state agency or institution of higher education to exclusively use the state financial system.

If the state financial system cannot meet the needs of a state agency or institution of higher education, the chief fiscal officer of the state agency or institution of higher education shall notify the State Controller.

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Rule 1-7 DELEGATED SIGNATURE AUTHORITY OF THE STATE CONTROLLER

AUTHORITY:

24-30-202 (1), (2), (3), and (4) C.R.S.

RULE:

State agencies and institutions of higher education shall, upon request of the State Controller, identify and submit a listing of persons authorized to sign or approve specific documents for the State Controller. Such listing shall contain the name, and manual signature of those persons delegated signature authority and be approved by the chief executive officer of the state agency or institution of higher education. Any change to the approved listing must be submitted to the State Controller.

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Rule 1-8 PREAUDIT RESPONSIBILITY FOR ACCOUNTING DOCUMENTS AND FINANCIAL TRANSACTIONS

AUTHORITY:

24-30-201 (1)(h), C.R.S.

DEFINITIONS:

Preaudit - A review for compliance with applicable statutes, fiscal rules, and other regulations, and an adherence to accepted business practices.

RULE:

All accounting documents and financial transactions shall be subjected to a preaudit prior to recording the documents on the state financial system or on an approved state agency or institution of higher education accounting system, and prior to making payment. State agencies and institutions of higher education shall implement internal accounting and administrative controls that reasonably ensure that financial transactions are accurate, reliable, and conform to state fiscal rules. The factors of risk, cost, and business requirements shall be considered when establishing these internal controls.

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Rule 1-9 FRAUD, THEFT AND EMBEZZLEMENT

AUTHORITY:

18-4-401, C.R.S. (Theft)
18-5-102, C.R.S. (Forgery)
18-8-407, C.R.S. (Embezzlement of Public Property)
24-17-101, C.R.S. (State Department Financial Responsibility and Accountability Act)

DEFINITIONS:

Fraud includes misstatements arising from fraudulent financial reporting, misstatements arising from intentional misappropriation of assets, and theft or embezzlement of public property.

Misstatements arising from fraudulent financial reporting are intentional misstatements, or omissions of amounts or disclosures in financial statements with the intent to deceive financial statement users.

Misstatements arising from misappropriation of assets involve the theft of an entity's assets where the effect of the theft causes the basic financial statements not to be presented in conformity with accounting principles generally accepted in the United States of America.

RULE:

Departments, agencies, and institutions of higher education have the responsibility for the design and implementation of programs and controls to prevent, deter and detect fraud.

Any suspected fraudulent misstatements of the financial statements should be reported to the State Controller.

Any suspected theft or embezzlement of state funds or assets should be immediately reported to the chief executive officer, or delegate, and the chief financial officer of the state agency or institution of higher education and appropriate action taken. A suspected theft or embezzlement of state funds or assets totaling \$5,000 or more, or such amount as designated by the State Controller for a given agency, per incident shall be reported in writing to the State Controller. Also, the results of any investigation or follow-up including corrective measures implemented to prevent or reduce the likelihood of future occurrences must be reported in writing to the State Controller in a timely manner.

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Rule 1-10 ACCOUNTABILITY AND CAPITALIZATION OF EQUIPMENT

AUTHORITY:

24-30-201 (1)(k), C.R.S.

DEFINITIONS:

Equipment - Tangible personal property that has a useful life of more than one year and an acquisition cost of more than \$5,000, which is not a permanent part of a building and does not lose its identity through incorporation into a more complex unit.

RULE:

Each state agency or institution of higher education is responsible for ensuring that all equipment acquired by the state is properly accounted for when acquired, inventoried and safeguarded throughout its useful life, and properly accounted for at the time of disposal.

Tangible personal property purchased by the state shall be either capitalized or expensed in the fiscal year in which it was acquired. Equipment purchased by the state shall be capitalized. For control purposes a state agency or institution of higher education may select a minimum acquisition cost or useful life that is less than the stated criteria for capitalization.

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CHAPTER 2: DISBURSEMENT

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Receiving Reports	2-3
Purchase Discounts	2-4
Interest Payment on Delinquent Payables	2-5
Interagency Purchases and Payments	2-6
Official Functions and Training Functions	2-7
Miscellaneous Compensation and Other Benefits (Perquisites)	2-8
Moving and Relocation	2-9
Procurement Card	2-10

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Rule 2-1 PROPRIETY OF EXPENDITURES

AUTHORITY:

24-30-202 (2) and (5)(a), C.R.S.

RULE:

All expenditures by state agencies and institutions of higher education shall meet the following standards of propriety:

- .01 Are for official state business purposes only.
- .02 Are reasonable and necessary under the circumstances.

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Rule 2-2 COMMITMENT VOUCHERS

AUTHORITY:

24-30-202 (1) and (3), C.R.S. (State Controller Authority)

DEFINITIONS:

Advance Payment – A payment that is made prior to the receipt of goods or services.

Commitment Voucher - A purchase order, a state contract, an approved travel authorization, an advice of employment, or any other document appropriate to the transaction prescribed by the State Controller, which provides support that an obligation of the state is being charged to the appropriate account and purchasing requirements have been satisfied. Commitment vouchers also include by way of illustration: grant contracts, license agreements, parking license agreements, and any other contract involving the payment of state funds.

Vendor Agreement - A form provided by a vendor containing contractual terms and conditions relating to the goods and/or services to be provided.

Encumbrance - An amount reserved on the state financial system or an approved state agency or institution of higher education accounting system to meet a formal obligation of the state, which should precede the recording of the expenditure and the actual disbursement of funds.

RULE:

No disbursement of funds shall be made by any state agency or institution of higher education unless it is supported by a commitment voucher. Agencies and institutions of higher education are responsible for ensuring that commitment vouchers adequately define the requirements and respective performance obligations and pricing; prices or rates are fair and reasonable; terms and conditions represent a commercially reasonable allocation of risks between the parties; the commitment voucher complies with applicable statutes, executive orders, rules and policies; approvals have been received.

The following commitment vouchers are provided for by statute and shall be used as support for the indicated disbursements: A state contract shall be used as defined below. Purchase orders shall be used as defined below. Advices of employment are to be used to pay the salaries of state employees. Travel authorizations and travel expense reports are to be used for any travel, lodging, or meal expenses incurred by state employees while traveling.

All purchase orders and contracts required to be written in accordance with this Fiscal Rule 2-2 shall be encumbered. Agreements between state agencies and institutions of higher education that are charged to a special line item appropriation dedicated to that commitment need not be encumbered.

Contracts shall be used as commitment vouchers when purchasing or leasing goods and services as required by fiscal rule 3-1. If a contract is not required, a purchase order shall be used as a commitment voucher to support disbursement of funds for goods or services costing more than \$5,000 except that purchase orders need not be written for the following disbursements:

- Payroll related disbursements (withholding, authorized benefits, etc.).
- Disbursements for financial aid or tuition assistance programs.

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- Disbursements for usual water, gas, electric, and customary local and long-distance telephone service including pagers and cell phones.
- Disbursements for dues, membership fees, subscriptions, and conference registration fees.
- Disbursements for postal and other delivery charges including messenger fees.
- Disbursements for routine internal services provided by a state agency or institution of higher education (e.g., printing services and materials ordered from the Division of Central Services, Capitol Complex lease payments, or legal services provided to state agencies and institutions of higher education by the Department of Law.).
- Disbursements for intra-agency or intra-institution purchases.
- Payments from a state program to individuals qualified for those program benefits.
- Payments calculated by a state agency or institution of higher education for obligations to be paid as required by a program within that state agency or institution of higher education. (E.g., formula distributions, other distributions required by regulatory or statutory formulas.)
- Payments made by a state agency or institution of higher education to reimburse state employees for moving expenses.
- Disbursements for rental agreements on copiers where the payment is based on cost per copy.
- Disbursements for the purchase of insurance.
- Other disbursements as approved in writing by the State Controller.

A state agency or institution of higher education may establish more restrictive thresholds for requiring purchase orders and contracts if they believe it is in the best interest of the state.

The following commitment vouchers, as are appropriate to the transaction, are authorized by the State Controller and shall be used as support for state agency or institution of higher education obligations that are not required to be supported by a state contract, purchase order, advice of employment, or a travel authorization or expense form: Invoice, billing, receipt, statement, court order or other written authorization for disbursement that describes goods or services being purchased or other reason for the disbursement and the amount to be paid.

Accepted business practices generally do not allow for any advance payments of financial obligations. State contracts and other commitment vouchers shall not provide for advance payment of goods and or services, unless it is an established industry standard or unless the advance payment provides a benefit to the state at least equal to the cost and risk of the payment. Any advance payment made pursuant to the terms of a state contract requires the written approval of the state controller, or a delegate, authorized by the state controller, to approve advance payments, except in the following instances:

- Annual payments for maintenance of office equipment or for IT maintenance (software and hardware), IT service agreements (including internet access, systems and database access), software licenses;
- Federal grants awarded by the state to a subgrantee;

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- Payments for entertainers, speakers, training, class tuition and fees, conference registrations or seminars;
- Payments included in inter-agency contracts;
- Payments for construction permits;
- Post office box rentals;
- Membership dues;
- Easements in perpetuity if the complete rights are transferred upon payment;
- Insurance premiums;
- Licenses;
- Subscriptions;
- Maintenance agreements;
- Payments to expert witnesses;
- Payments to a court appointed mediator;
- Advertising;
- The department controller can approve advance payments up to \$10,000 after determining that the advance payment provides a benefit to the state at least equal to the cost and risk of the payment.

Emergencies

For purposes of this rule, an "emergency" is a situation that creates an immediate threat to public health, welfare, or safety, the functioning of state government, or preservation or protection of property. There is insufficient time to obtain a written waiver of the requirements for issuance of a commitment voucher pursuant to this fiscal rule before acquiring required goods or services to respond to the emergency.

In an emergency, the head of an agency or institution, or his/her designee, may acquire goods and services necessary to respond to an emergency without execution of a state contract or purchase order, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. Disbursement may be made upon receipt of invoices, receipts, or other statements describing goods or services being purchased and the amount to be paid. Commitment vouchers shall be executed as soon as possible to define future performance obligations where required by the fiscal rules. As soon as practicable, and in no event later than the end of the next business day, a written report of the circumstances and the nature and value of the commitments shall be made to the chief financial officer of the agency and institution and to the State Controller.

Vendor Agreements

A vendor agreement shall not be executed in lieu of a purchase order or state contract, where one is required, but may be included as an attachment to the state commitment voucher.

Chief fiscal officers or procurement directors may authorize individuals to execute vendor agreements up to \$5,000, when there is no requirement that a state contract be executed for the purchase of the goods or services and all of the following conditions apply.

- a. All terms and conditions in the vendor agreement have been reviewed by, authorized by, and the agreement signed by the agency's chief financial officer (or an authorized agency official, purchasing agent or State Controller contract signatory).
- b. All terms and conditions that put the state at risk of paying more than the agreed price for the goods or services have been deleted from the agreement, except that the agreement may specify reasonable cancellation provisions or other commercially reasonable terms defining liquidated damages, rights, or obligations because of breach of the agreement.

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- c. All terms requiring that the state indemnify or hold harmless the vendor are deleted from the agreement.
- d. All terms and conditions in the agreement limiting the liability of the vendor are deleted from the agreement. State agencies and institutions of higher education may agree to commercially reasonable limitation of liability/remedies provisions, or exclusion of consequential damages, so long as in the case of transactions in goods involving tangible risk from the nature of the goods, and in the case of all services, limitations of liabilities or exclusion of consequential damages exclude from their provisions damages and claims arising out of bodily injury (including death) and damage to tangible property.
- e. All charges including taxes and incidentals are stated in the agreement.
- f. Provisions providing for other than "Colorado" choice of law and venue shall require prior approval by the Attorney General or designated reviewing Assistant or Special Assistant Attorney General.
- g. All amendments, changes, and deletions shall be in writing and approved by an authorized state official.
- h. The agreement is complete and contains all attachments and schedules, which may be relevant to the agreement.

On-line Vendor Agreements

The same authority that is required for state contracts and other commitment vouchers is required to enter into on-line vendor agreements including software licenses that are subject to these rules. Unless the terms of an on-line vendor agreement are consistent with the requirements of this rule, state agencies and institutions of higher education shall not enter into an on-line vendor agreement, prior to it being reviewed for legal sufficiency by the Attorney General or designated reviewing Assistant or Special Assistant Attorney General. Only the State Controller or delegate shall approve on-line vendor agreements.

State Purchase Orders

When a purchase order is issued by a state agency or institution of higher education as required by this Rule 2-2, additions or changes to the approved, standard terms of the purchase order (see Appendix A to this chapter) shall be made consistent with the preceding and following rules. Changes to the standard terms of the purchase order may be approved by a procurement officer or delegate in fully delegated agencies or by the State Purchasing Office for partially delegated agencies.

- a. No changes to the clauses governing Changes, Vendor Offset, Assignment and Successor, Independent Contractor, or Funds Availability may be made without State Controller approval;
- b. No changes to the Indemnification, Choice of Law, and Non-discrimination provisions may be made without legal review and written approval by the Attorney General or designated reviewing Assistant or Special Assistant Attorney General.

When a state agency or institution of higher education issues a purchase order to another state agency or institution of higher education, the issuing agency or institution of higher education may change or delete any of the approved, standard terms of the purchase order (see Appendix A to this chapter).

Purchase Order Terms and Conditions

1. Offer/Acceptance. If this purchase order refers to your bid or proposal, then this purchase order is an ACCEPTANCE of your OFFER TO SELL in accordance with the terms and conditions of the IFB/RFP, as stated in your bid. If no bid or proposal is referenced, the purchase order is an OFFER TO BUY, subject to your acceptance, which must be demonstrated by either your performance of the purchase order or by a formal acknowledgment in writing. Any COUNTER-OFFER TO SELL is automatically construed as a CANCELLATION of this purchase order unless a change order is issued accepting a counter-offer. In the event vendor form(s) or part(s) of forms are included in, or as an attachment to, any bid, proposal, offer, acknowledgment, or otherwise, vendor agrees that, in the event of inconsistencies or contradictions, the terms and conditions of the solicitation document and this purchase order shall supersede and control over those contained in the vendor's form(s) regardless of any statement to the contrary in a vendor form(s). Unless the purchasing agent specifically agrees in writing through overt reference or other express written indication of assent, terms and conditions on vendor forms regarding choice of law, venue, warranty disclaimer or exclusion, indemnification or limitation of liability shall be of no effect.

2. Safety Information. All chemicals, equipment and materials proposed and/or used in the performance of this purchase order must conform to the standards required by the William-Steiger Occupational Safety and Health Act of 1970. Bidders must furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

3. Changes. The vendor agrees to furnish the products and/or services in strict accordance with the specifications, and at the price set forth for each item. Nothing in the purchase order may be added to, modified, superseded or otherwise altered except in writing signed by an authorized representative of the state agency purchasing office and acknowledged by the vendor. Each shipment received or service performed shall be only upon the terms contained in the purchase order, notwithstanding any terms that may be contained in any invoice or other act of vendor other than acknowledgment of a written change order to the purchase order.

4. Delivery. Unless otherwise specified, in the solicitation or in this order, delivery shall be F.O.B. destination. In its acceptance of any quotation offer, the state agency is relying on the promised delivery date, installation, or service performance as material and basic to its acceptance. In the event of vendor's failure to deliver or perform as and when promised, the state agency reserves the right to cancel its order, or any part thereof, without prejudice to its other rights, and vendor agrees that the state agency may return all or part of any shipment so made, and may charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

5. Rights In Data, Documents, and Computer Software or Other Intellectual Property (State Ownership). Unless otherwise agreed in writing, any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials delivered by vendor in the performance of its obligations under this purchase order shall be the exclusive property of the State. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

6. Quality. The State will be the sole judge in determining "equals" with regard to quality, price and performance. All products delivered shall be newly manufactured and of the manufacturer's current model, unless otherwise specified.

7. Warranties. All provisions and remedies of the Uniform Commercial Code relating to both implied and expressed warranties are herewith referred to and made a part of these Terms and Conditions and are in addition to any warranties stipulated in the specifications.

8. Inspection and Acceptance. Final acceptance is dependent upon completion of all applicable inspection procedures. Should the products or services fail to meet any inspection requirements the State may exercise all of its rights, including those provided in the Uniform Commercial Code. In the case of services, the State reserves the right to inspect services provided under this contract at all reasonable times and places. "Services" as used in this clause includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform with purchase order requirements, the State may require the vendor to perform the services again in conformity with purchase order requirements, with no additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, the State may (1) require the vendor to take necessary action to ensure that the future performance conforms to purchase order requirements and (2) equitably reduce the payment due the vendor to reflect the reduced value of the services performed. These remedies in no way limit the remedies available to the State in the termination provisions of this purchase order, or remedies otherwise available at law.

9. Cash Discount. The cash discount period will start from date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized agency representative, whichever is later.

10. Taxes. The state agency, as purchaser, is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-73012K] and from all state and local government use taxes [C.R.S. 39-26-114(a) and 203, as amended]. Tax exempt numbers for the specific state agency may be found elsewhere in this document. Vendor is hereby notified that when materials are purchased for the benefit of the State, such exemptions apply except that in certain political subdivisions (for example - City of Denver) the vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to the State. These sales or use taxes will not be reimbursed by the State.

11. Prompt Payment. State law and regulations provide that vendors will be paid within forty-five days after receipt of products or services and a correct notice of amount due, unless otherwise agreed to by contract or special conditions of the purchase order. A State liability not paid within forty-five days is considered delinquent and, unless otherwise agreed to, interest on the unpaid balance shall be paid beginning with the forty-sixth day at the rate of one percent per month on the unpaid balance until paid in full. A liability shall not arise if a good faith dispute exists as to the agency's obligation to pay all or a portion of the liability. Vendors shall invoice the State separately for interest on delinquent amounts due. The billing shall reference the delinquent payment, the number of days interest to be paid and the applicable interest rate. [Ref. Sec 24-30-202(24), C.R.S., as amended.]

12. Vendor Offset. Pursuant to CRS 24-30-202.4, as amended, the State Controller may withhold payment for debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the State Controller.

13. Assignment and Successors; Antitrust Claims. The vendor shall not assign rights or delegate duties under this purchase order, or subcontract any part of the performance required under the purchase order, without the express, written consent of the State, which shall not be unreasonably withheld. This purchase order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Assignment of accounts receivable may be made only with written notice furnished to the purchasing agency or institution.

14. Indemnification. In the event any article sold or delivered under this purchase order is covered by any patent, copyright, trademark, or application therefor, the vendor will indemnify and hold harmless the State of Colorado from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions, or judgments arising out of manufacture, sale or use of such article in violation, infringement or the like of rights under such patent, copyright, trademark or application. If this purchase order is for services, to the extent authorized by law, the vendor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and cost awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the vendor, or its employees, agents, subcontractors or assignees arising out of or in connection with performance of services ordered by this purchase order.

15. INDEPENDENT CONTRACTOR. THE VENDOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE VENDOR NOR ANY AGENT OR EMPLOYEE OF THE VENDOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. VENDOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING INCLUDING ALL FEDERAL AND STATE INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID PURSUANT TO THIS CONTRACT. VENDOR ACKNOWLEDGES THAT THE VENDOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE VENDOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. VENDOR SHALL HAVE NO AUTHORIZATION EXPRESS OR IMPLIED TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. VENDOR SHALL PROVIDE AND KEEP IN FORCE, WORKERS' COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE UPON REQUEST) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF VENDOR, ITS EMPLOYEES, AND AGENTS.

16. Communication. All communications, including reports, notices, and advice of any nature, concerning administration of this purchase order, prepared by vendor for the state agency's use, must be furnished solely to the Purchasing Agent within the agency purchasing office.

17. Compliance with Laws. Vendor agrees to comply with all applicable federal and state laws, regulations and policies, as amended, including those regarding discrimination, unfair labor practices, anti-kick-back and collusion.

18. Americans with Disabilities Act (ADA) Requirements. If this solicitation contemplates the provision of state services to the public, the vendor shall, in addition to any other requirements under Title 11 of the Americans with Disabilities Act, comply with the Title 11 requirements of the Americans with Disabilities Act regarding the accessibility of the State's services and programs, as an explicit requirement. The vendor assures that, at all times during the performance of any resulting contract, no qualified individual with a disability shall, by reason of that disability, be excluded from participation in, or be denied benefits of, services, programs, or activities performed by the vendor for the benefit of the State.

19. Insurance. The vendor shall obtain, and maintain at all times during the term of this purchase order, insurance as specified in the solicitation or order, and shall provide proof of such coverage.

20. Termination For Default/Cause.

a. Except as otherwise agreed, the Uniform Commercial Code shall govern in the case of transactions in goods. In the case of services, if the vendor refuses or fails to timely perform any of the provisions of this purchase order, with such diligence as will ensure its completion within the time specified in this purchase order, the Purchasing Agent may notify the vendor in writing of the non-performance, and if not promptly corrected within the time specified, such officer may terminate the vendor's right to proceed with the purchase order or such part of the purchase order as to which there has been delay or a failure to properly perform. The vendor shall continue performance of the purchase order to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the purchase order price.

b. In the case of remedies exercised under this paragraph for services, or analogous remedies exercised under the Uniform Commercial Code for transactions in goods, the purchasing agency may withhold amounts due to the vendor as the Purchasing Agent deems to be necessary to reimburse the purchasing agency for the excess costs incurred in curing, completing or procuring similar goods and services.

c. In the case of either transactions in goods or services, the vendor shall not be in default by reason of any failure in performance of this purchase order in accordance with its terms if such failure arises out of acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather.

d. If after rejection, revocation, or other termination of the vendor's right to proceed under the provisions of the Uniform Commercial Code (in the case of transactions in goods) or this clause (in the case of services), it is determined for any reason that the vendor was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

21. Termination For Convenience.

a. Cancellation Prior to Contract Formation. When this purchase order is not accepted by written acknowledgment, this purchase order may be canceled by written or oral notice to the vendor prior to shipment of goods or beginning of performance of services.

b. Termination After Contract Formation. Unless otherwise agreed in writing, in addition to the rights and remedies governing transactions in goods in the Uniform Commercial Code, the Purchasing Agent may when the interests of the purchasing agency so require terminate this purchase order in whole or in part, for the convenience of the agency or institution. The Purchasing Agent shall give written notice of the termination to the vendor specifying the part of the purchase order terminated and when termination becomes effective. Upon receipt of the notice of termination, the vendor shall incur no further obligations except to the extent necessary to mitigate costs of performance. In the case of services or specially manufactured goods, the State shall pay reasonable settlement expenses, the contract price or rate for supplies and services delivered and accepted, the reasonable costs of performance on unaccepted supplies and services, and a reasonable profit for that unaccepted work, in accordance with the cost principles promulgated in accordance with section 24-107-101, Colorado Revised Statutes, as amended. In the case of existing goods, the State shall pay reasonable settlement expenses, the contract price for goods delivered and accepted, reasonable costs incurred in preparation for delivery of the undelivered goods, and a reasonable profit for that preparatory work. The amount of the termination liability under this paragraph shall not exceed the amount of the purchase order price plus a reasonable cost for settlement expenses. The vendor agrees to submit a termination proposal as well as reasonable supporting documentation, cost and pricing data, and a certification required by section 24-106-101, C.R.S., as amended, upon request of the Purchasing Agent.

22. Purchase Order Approval. This purchase order shall not be deemed valid unless it is executed by the Purchasing Agent for the purchasing state agency or institution. The State shall have no responsibility or liability for products or services delivered or performed prior to proper execution hereof.

23. Fund Availability; Federal Funds Contingency. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this purchase order is funded in whole or in part with federal funds, this purchase order is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. If this purchase order contemplates the purchase of goods to be delivered in a single installment, the State represents that it has set aside sufficient funds to make payment under this purchase order in accordance with its terms.

24. Choice of Law. This purchase order is made in the State of Colorado. The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of this purchase order. Unless otherwise specified in the solicitation or this order, venue for any judicial action arising out of or in connection with this purchase order shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in § 24-109-106, Colorado Revised Statutes, as amended, prior to commencing any judicial action against the State.

26. Uniform Commercial Code. All references in this purchase order to the Uniform Commercial Code shall mean the Uniform Commercial Code as adopted by the State of Colorado at Title 4, Colorado Revised Statutes, as amended.

27. Non-discrimination. The vendor agrees to comply with the letter and spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

STATE OF COLORADO FISCAL RULES

Rule 2-3 RECEIVING REPORTS

AUTHORITY:

24-30-202, C.R.S. (State Controller Authority)

RULE:

Receiving reports, or other sufficient documentation, shall be prepared for all goods and services received, showing actual quantities, any unsatisfactory condition, and compliance with specifications, prior to processing a voucher for payment.

EXCEPTIONS TO RULE:

- .01 A receiving report need not be prepared for personal service expenditures.
- .02 When an adequate system of internal accounting and administrative controls exists to provide sufficient verification that goods or services were received, a state agency or institution of higher education may not require a certified receiving report.

STATE OF COLORADO FISCAL RULES

Rule 2-4 PURCHASE DISCOUNTS

AUTHORITY:

24-30-202, C.R.S. (State Controller Authority)

RULE:

Payments shall be processed in a timely manner and made within the allowable discount period to ensure the state takes advantage of purchase discounts.

STATE OF COLORADO FISCAL RULES

Rule 2-5 INTEREST PAYMENT ON DELINQUENT PAYABLES

AUTHORITY:

24-30-202(24), C.R.S. (State Controller Authority)

DEFINITIONS:

Payable - A payable is a liability incurred by the state. A liability shall arise upon receipt of supplies and services and a correct notice of the amount due. A liability shall not arise if a good faith dispute exists as to the state agency or institution of higher education's obligation to pay all or a portion of the liability.

Delinquent - A payable is delinquent if a disbursement is not made within forty-five days after a liability arises, unless the time of payment has been otherwise provided in the contract or purchase order. A payable being disputed by a vendor or state agency shall become delinquent if a disbursement is not made within forty-five days after resolution of the dispute.

RULE:

State agencies and institutions of higher education shall process invoices and other notices of liability as efficiently as possible in order to ensure payment in accordance with contractual or invoice terms, and in the absence of such terms, as soon as possible, or in accordance with statutory provisions. A delinquent payable shall be assessed interest at 1% per month as required by 24-30-202(24), C.R.S.

All written contracts and purchase orders shall provide for a reasonable time of payment considering the nature of the goods or services provided and review and approval required for payment. If no time for payment has been provided for in writing, interest on the unpaid balance shall be calculated beginning with the forty-sixth day after the liability for such payment arises under this Fiscal Rule. Interest shall be assessed at 1% per month or as stated in the contract or purchase order and, if higher, approved by the agency controller.

Payment of the interest liability incurred under this fiscal rule shall be processed on a separate voucher. The voucher shall be supported by a written claim, prepared by the state agency or institution of higher education or the vendor, referencing the delinquent payment, the number of days of interest to be paid, and the applicable interest rate. Such claims may be modified by the state agency or institution of higher education to adjust payments to include such items as additional interest due for time required to process interest payments.

STATE OF COLORADO FISCAL RULES

Rule 2-6 INTERAGENCY PURCHASES AND PAYMENTS

AUTHORITY:

24-30-202, C.R.S. (State Controller Authority)

RULE:

A state agency or institution of higher education shall make payment for purchases of goods and services from another state agency or institution of higher education within 30 days after receipt of a valid invoice. Where possible or practical payments shall be made by an interagency document in lieu of a state warrant.

Disputes Arising from Interagency Purchases

If a dispute arises as a result of an interagency purchase, the following steps will be used to resolve the dispute:

- .01 The state agency or institution of higher education disputing the charge shall notify the state agency or institution of higher education providing the goods or services and attempt to resolve the dispute. If necessary, the chief executive officer of these agencies involved shall assist in the resolution.
- .02 If the state agencies and/or institutions of higher education involved cannot reach a satisfactory resolution, the state agency or institution of higher education disputing the charge shall, within 30 days of the date of the last meeting held to resolve the dispute, petition the State Controller to resolve the dispute.
- .03 If the State Controller is petitioned to resolve the dispute, the decision of the State Controller will be rendered within a reasonable time and be final and binding on all parties concerned.

STATE OF COLORADO FISCAL RULES

Rule 2-7 OFFICIAL FUNCTIONS AND TRAINING FUNCTIONS

AUTHORITY:

24-30-202, C.R.S. (State Controller Authority)

DEFINITIONS:

Official Function - A meeting, conference, meal, or other function that is hosted by the chief executive officer, or representative, of a state agency or institution of higher education, attended by guests and/or state employees, and held for official state business purposes.

Training Function - A meeting, conference, or other function which is hosted by a state agency or institution of higher education, attended by customers of the state and/or state employees, and held to enhance staff knowledge or to educate customers of the state or state employees, that are affected by the state agency or institution of higher education's operations or regulations. Training functions should have a written agenda, study materials, and be led by an identified presenter.

RULE:

Official functions and training functions shall be held to achieve program objectives and shall be limited to reasonable and actual costs. The attendance of state employees at official functions shall be kept to a minimum and shall include only those individuals directly related to the purpose of the function. Expenditures shall be kept to a minimum as they have the potential of being perceived to be for personal benefit and an abuse of public funds. Expenditures incurred for official functions shall be approved by the chief executive officer or by a representative of the state agency or institution of higher education that has been delegated authority by the chief executive officer.

STATE OF COLORADO FISCAL RULES

Rule 2-8 MISCELLANEOUS COMPENSATION AND OTHER BENEFITS (PERQUISITES)

AUTHORITY:

24-2-103, C.R.S. (Compensation for State Employees)
24-30-202 (22), C.R.S. (State Controller Authority)

DEFINITIONS:

Benefits - Any pecuniary or material advantage provided by the state to a state employee other than salary, leave, incentives, awards, retirement benefits, insurance benefits, and travel and non-travel related reimbursements. Incentive awards, salary increases, fringe benefits established pursuant to CRS 24-50-104(8) and (9) are not considered benefits under this Fiscal Rule.

Economic Rent Study - A study conducted by a state agency or institution of higher education to determine the rent to be charged for a state-owned house or dwelling. The purpose of the study is to determine the rental rate the house or dwelling would command if available on the open market.

Limitations Placed on Employees - Limitations placed on a state employee as a condition of employment may include that the employee is required to live in the state facility, that the employee is required to be available twenty-four hours a day to perform the assigned duties, or that the employee is required to live in close proximity to the state facility in order to provide protection or discourage trespassers from entering the property.

Location of Work Place - The location of the work place assigned may vary from a metropolitan area where housing is readily available to a remote area that is difficult to reach and has no housing other than state furnished housing available.

RULE:

An employee of the state shall not receive any type of benefit by virtue of their position unless such benefit is provided by state statutes or state fiscal rule. An employee shall not have the authority to grant any perquisites, nor shall any employee receive any perquisite except as provided by state statute or state fiscal rule. Monetary allowances shall not be given to employees in lieu of benefits, except as provided by statute or approved by the State Controller. Where state statutes provide allowances for maintenance and ordinary expenses incurred in the performance of duty, it is the responsibility of the chief executive officer of the state agency or institution of higher education to establish specific expenses that are covered by the allowance so that the same expenses are not also directly reimbursed.

Miscellaneous Compensation

.01 Honorariums

State officials and employees may be asked to address an audience for which they receive an honorarium. If such speaking engagements occur outside normal working hours, or their normal work load, or while on annual leave, and there is no cost to the state for travel expenses, the official or employee may retain the honorarium. However, if the engagement occurs during normal working hours, or within their normal workload, as any other duty, the honorarium is to be turned over to the state. Any travel expenses related to the engagement would then be valid expenses for reimbursement by the state.

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Other Benefits (Perquisites)

.01 Clean air transit benefit for state employees:

To promote the state's mission of mitigating traffic congestion and creating clean air solutions, and to help equalize benefits for those state employees that do not receive free parking, the executive director of a state department, or the president or chancellor of an institution or campus of an institution of the Department of Higher Education (referred to as a state agency or institution of higher education for this rule) may offer a clean air transit benefit to their employees. If offered by a state agency or institution of higher education, the benefit shall be offered on an equal basis to all permanent full-time employees within the geographic area served by the mass transit provider and also, if deemed appropriate by such state agency or institution of higher education, may be offered on an equal basis to all part-time employees within the same geographic area. Further, where a state agency or institution of higher education has employees in different locations, the benefit shall be offered based upon the applicable price structure of the mass transit provider for each of those specific locations. The clean air transit benefit may be the total cost of using mass transit or a portion of the total cost.

Prior to offering the benefit, the state agency or institution of higher education shall develop an implementation plan. The plan shall contain the number of employees expected to receive the benefit, the estimated cost, if any, to be paid by the employee, and the estimated fiscal impact on the state agency or institution of higher education. Any contract between the state agency or institution of higher education and the mass transit provider shall be approved by the State Controller.

Each state agency or institution of higher education providing the clean air transit benefit for their employees shall maintain records showing the actual number of employees receiving the benefit, the actual cost, if any, paid by the employee and the cost to the state agency or institution of higher education for providing the benefit.

.02 Events sponsored by state agencies and institutions of higher education:

A reasonable discount may be offered by a state agency or institution of higher education to officials and employees to improve attendance or participation in State sponsored events. Examples included discounts on admission to athletic games and cultural, educational, recreational, or other events.

Such discounts shall generally be offered on a first-come, first-served basis, except that a state agency or institution of higher education may reserve a specified and reasonable number of admissions to particular events to be distributed on a targeted basis for the purpose of public relations or alumni relations, or for the purpose of student or employee recruitment. The chief executive officer of the state agency or institution of higher education or a delegate shall approve in writing all plans for discounted admissions.

.03 Meals

Meals prepared at state dining facilities are primarily for the benefit of the students, patients, or inmates housed at these facilities. However, meals may be provided to state employees working at these facilities and guests visiting these facilities. When a meal is provided to state employees or guests, the amount charged for the meal shall be established to at least recover the full cost of the meal. If an employee is required to eat at a state facility, the amount charged for the meal should be 50% of the full cost of the meal as determined above.

STATE OF COLORADO FISCAL RULES

The amount charged for the meals provided shall be approved annually by the chief executive officer of the state agency or institution of higher education. The chief executive officer, or a delegate, may establish separate meal rates for each facility or a single rate for all their facilities. Adequate documentation shall be maintained to substantiate the cost charged for the meals provided.

.04 Instructional courses and job related training

Job related and career enhancement courses may be provided to state employees at no cost or at a reduced cost as authorized by their state agency or institution of higher education. Written approval shall be obtained by the state employee from the chief executive officer, or a delegate, of the state agency or institution of higher education providing this benefit prior to enrollment. Only courses that will benefit the state and enhance the employee's performance shall be approved.

.05 State owned housing provided to state employees:

A state agency or institution of higher education may provide housing for a state employee where state-owned facilities are available and it is in the best interest of the state. The rent charged shall be based on the economic rent determined by the state agency or institution of higher education and shall take into consideration any limitations placed on the employee as a condition of employment, location of the employee's work place, and other factors deemed appropriate by the state agency or institution of higher education.

An economic rent study shall be conducted prior to the house or dwelling being offered for rent to a state employee. A new economic rent study shall be conducted on or before July 1, every three years thereafter. The rent charged shall be reviewed and if necessary, adjusted on an annual basis. The rent charged for each house or dwelling shall be approved in writing on July 1 of each year by the chief executive officer or a delegate of the state agency or institution of higher education.

State agencies and institutions of higher education shall execute a rental agreement with the state employee and make payroll deductions for the rent. If the rented unit does not have separate utility meters, the state agency or institution of higher education shall also make payroll deductions for the estimated utility costs. The state agency or institution of higher education shall maintain adequate documentation to support the rent and utility costs assessed for each house or dwelling.

.06 Temporary housing provided to visitors and guests:

Where space is available, temporary housing may be provided to visitors and guests by a state agency or institution of higher education with the approval the chief executive officer, or a delegate. The charge for such accommodations shall be set at an amount which will at least recover all direct and indirect costs and be reasonable in comparison to the charge for similar housing, if such housing is available. The state agency or institution of higher education shall maintain adequate documentation to substantiate the cost charged for the housing provided.

.07 Uniforms and maintenance of uniforms:

Uniforms required to be worn by state employees and the necessary maintenance of these uniforms may be provided to the employee by the state agency or institution of higher education at no charge, or at a reduced charge, or through a uniform allowance.

STATE OF COLORADO FISCAL RULES

.08 Bookstore discounts:

Discounts not to exceed 10% of retail price may be authorized by each institution for its faculty members and employees for purchases at its bookstores.

.09 Authorized Commuting

Where state-owned motor vehicles are used for taxable commuting, the employee must obtain prior written authorization signed by the chief executive officer of the state agency or institution of higher education based on review and verification of the justification in accordance with section 24-30-1113 C.R.S. and submit the commuting authorization form to Colorado state fleet management. The employee shall be imputed income for the use of the state vehicle at a rate that approximates the benefit derived from the use of the vehicle and that complies with Internal Revenue Service publications and regulations.

EXCEPTIONS TO RULE:

- .01 The governing boards of institutions of higher education, consistent with policies developed by the Commission on Higher Education and approved by the State Controller, may provide housing or a housing allowance for the chief executive officer of a state college or university as part of his/her employment contract.
- .02 Self-liquidating facilities such as faculty apartments and student housing or trailer houses used as temporary housing at remote work place stations are exempted from this fiscal rule.
- .03 The governing boards of institutions and agencies of the Department of Higher Education, with prior approval by the State Controller and the Governor or delegate, may authorize a voluntary separation incentive plan for its employees who are exempt from the State Personnel System under Article XII, Section 13(2) of the Colorado Constitution and Section 24-50-135, C.R.S. Any such plan shall offer uniform and equitable incentives to all employees similarly situated in defined categories within the institution or agency for which the plan is proposed. All proposed separation incentives in the plan must be justified as reasonable and necessary expenditures

STATE OF COLORADO FISCAL RULES

Rule 2-9 MOVING AND RELOCATION

AUTHORITY:

24-50-134, C.R.S. (Moving and Relocation Expenses)

DEFINITIONS:

Household Effects - Household or personal effects such as furniture, clothing, musical instruments, household appliances, foods, and other items which are usual and necessary for the maintenance of a household.

Installation - Normal hookup of appliances to existing utilities. It does not include adding wiring, plumbing, or vents.

APPLICABILITY:

This fiscal rule applies only to employees in the state personnel system.

RULE:

A state agency or institution of higher education shall not reimburse or pay moving expenses for a state employee when the move is made solely for personal reasons. Moving expenses shall be authorized by the chief executive officer, or a delegate, of a state agency or institution of higher education if the move of residence is occasioned by a change in assignment, a promotion, or for another reason related to the employees' duties. This rule does not apply to new hires.

Reimbursement for Moving Expenses and Allowances

.01 Moving of household effects - commercial mover:

State payment shall be allowed for the necessary expenses incurred for the packing, insurance, transportation, and storage in transit not to exceed thirty days, unpacking, and installation at the new location of an employee's household effects.

State payment shall not be made for moving household effects in excess of ten thousand pounds net weight for those with dependents and five thousand pounds net weight for those without dependents. Any expenses, including insurance for household effects exceeding the weight limitations shall be borne by the employee being moved. Claims shall be accompanied by at least two competitive bids and state payment shall be made at the rates proposed in the lowest responsible bid. If a move is billed at an hourly rate, the carrier shall weigh the items moved and this weight shall be used to apply the above weight limitations.

.02 Moving mobile homes and house trailers:

State payment shall be allowed for charges by commercial vendors for towing of mobile homes or house trailers containing the household effects of a state employee.

STATE OF COLORADO FISCAL RULES

Towing charges may include such additional items as labor and incidental material charges for packing, tie down of household effects, removal and reattachment of skirts, and utility costs for disconnecting and reconnecting from existing utilities. It does not include the costs of concrete pads or additional labor or supplies to add or modify connections for plumbing or electrical service. Claims shall be accompanied by at least two competitive bids and state payments shall be made at the rates proposed in the lowest responsible bid.

.03 Employee moves household effects:

A state employee may prefer to move household effects by rental trailer or truck in lieu of using a commercial mover. Two responsible bids shall be required for reimbursement of the rental trailer or truck if the cost exceeds \$1,000.

If the employee chooses to move household effects and requests reimbursement for moving expenses from the state, two responsible bids shall be obtained from a commercial mover, prior to the move. The employee shall be reimbursed one-half of the lowest responsible bid for commercial moving not to exceed \$1,500 and be reimbursed for the rental trailer or truck at the lowest responsible bid if required. This provision may also apply in certain circumstances when the employee's mobile home or house trailer cannot be used to move household effects.

Mileage allowance for one personal automobile shall be authorized and reimbursed at the statutory rate.

An employee shall receive the per diem allowance up to a maximum of thirty days for necessary expenses incurred while locating permanent residence at the new location. The employee may exclude interruptions caused by sick leave, vacation, other authorized leave of absence, or ordered travel. Reimbursement shall not exceed the travel rates authorized by the fiscal rules.

Per diem shall consist of lodging, meals, and other miscellaneous allowances as provided in these fiscal rules.

Any employee required to take another position within the state system and relocate due to the layoff process shall be allowed to claim reimbursement for moving expenses. Costs of the move shall be paid by the state agency or institution of higher education laying off the employee.

STATE OF COLORADO FISCAL RULES

Rule 2-10 PROCUREMENT CARD

RULE:

All state agencies and institutions of higher education eligible for the State of Colorado procurement card program shall enter into an agreement with the State Procurement Card Program to participate. State agencies and institutions of higher education may not enroll in other credit or debit card program agreements for purchases covered by the procurement card program.

Personal Services

Procurement cards may be used to pay for services as well as goods. It is the responsibility of the controller at each state agency or institution of higher education using procurement cards for 1099 reportable transactions to have in place a methodology to identify and report this information.

Purchases in Excess of \$5,000

If authorized by the controller of the state agency or institution of higher education, procurement cards may be used to pay invoices in excess of \$5,000. Use of the procurement card is not a substitute for a commitment voucher or encumbrance as required by Fiscal Rule 2-2.

Preaudit Responsibility

Use of the procurement card does not eliminate the need for a preaudit, which shall be completed when the disbursement is made to the bank or when distributions are made. The agency or institution of higher education is responsible for reconciling the disbursements made to the bank with the total of validated individual charges for the state agency or institution of higher education. The dispute mechanism shall be used when charges from the bank are challenged.

Reporting Misuse

All incidents of procurement card misuse that are recurring, significant, or in excess of \$500 should be reported in writing to the State Controller at least annually. Reports shall be submitted to the State Controller's Office by November 1 each year. This report should include results of any investigation or follow-up including corrective measures implemented to prevent or reduce the likelihood of future occurrences.

All incidents of procurement card suspected theft or embezzlement shall be reported according to Fiscal Rule 1-9.

Open Charge Accounts

State agencies or institutions of higher education participating in the procurement card program shall use the state procurement card for purchases at local vendors in lieu of open or other charge accounts. The state agency or institution of higher education's procurement card administrator and the controller or chief fiscal officer must approve exceptions to this requirement in advance. Open accounts should be closed as soon as procurement cards are available to state agency or institution of higher education personnel.

STATE OF COLORADO FISCAL RULES

CHAPTER 3: CONTRACTS

FISCAL RULE

NUMBER

State Contracts

3-1

STATE OF COLORADO FISCAL RULES

Rule 3-1 STATE CONTRACTS

AUTHORITY:

Article V, Section 33, Constitution of Colorado
Article XII, Section 13 (2), Constitution of Colorado
Governor's Executive Order, signed October 1, 1977
Governor's Executive Order, signed April 7, 1978
2-2-320(2), C.R.S. (Attorney General Contract Approval)
24-30-903(d), C.R.S. (Telecommunications Contract Approval)
24-30-1104(1)(h), C.R.S. (Central Service Contract Approval)
24-30-1107, C.R.S. (Central Services Contracts)
24-30-1303(1)(a), C.R.S. (State Buildings Contract Approval)
24-31-101, C.R.S. (Attorney General - Legal Advisor)
24-30-202, C.R.S. (State Controller Authority)

DEFINITIONS:

Commitment Voucher - A purchase order, a state contract, an approved travel authorization, an advice of employment, or any other document appropriate to the transaction, prescribed by the State Controller, which creates a financial obligation to the state that ultimately results in a disbursement of funds by the state.

Employee/Employer - A relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished, but also the details and means by which that result is accomplished. It is not necessary that the employer actually direct or control the manner in which the services are performed, it is sufficient that the employer has the right to do so. The right to discharge is also an important factor, indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and equipment, and a place to work to the individual who performs the services.

Independent Contractor – An independent contractor relationship exists when the firm or individual is responsible to the state for the results of certain work but is not subject to the state's control as to the means and methods of accomplishing those results. Further, an independent contractor generally:

- A. Has a place of business and a business listing in a directory when the services are offered to the public.
- B. Selects the clients and is free to work for one or more during any given period of time.
- C. Determines the time and place where work shall be performed.
- D. Provides the tools and materials needed to perform the work.
- E. Does not participate directly or indirectly in benefit programs of the state. For example, the individual is not covered by the state for Worker's Compensation covering injury to the worker, for public liability covering injury to others, or for unemployment compensation.
- F. May agree to perform specific services for a fixed price and generally does not receive regular amounts at stated intervals.

Interagency Contracts - Formal legally binding agreements between two principal state agencies and/or institutions of higher education are state contracts as defined in this fiscal rule and shall be subject to the provisions and requirements of this fiscal rule.

STATE OF COLORADO FISCAL RULES

Personal Service Contracts - Service or benefit purchased by the state where the state is to receive direct benefit. Individuals or firms performing these services are considered independent contractors and are not considered employees of the state.

State Contract - A formal legally binding agreement between two state agencies and/or institutions of higher education or one state agency or institution of higher education and another party or an amendment to such agreement, which ultimately results in the disbursement of funds. For the purpose of this fiscal rule, state contracts include, but are not limited to, outsource contracts, personal service contracts, purchased service contracts, and settlement agreements. State contracts, as used in this fiscal rule, do not include purchase orders.

Outsource Contracts - A formal legally binding agreement between a state agency or institution of higher education and another party or an amendment to such agreement whereby the state agency or institution of higher education remains fully responsible for the provision of affected services and maintains control over management decisions while another entity operates the function or performs the services. Outsource contracts includes contracting out, granting of franchises to private firms, and the use of volunteers to deliver public services. All contracts that meet the definition of outsource contracts shall be submitted to the state controller's office for review unless specifically authorized by state statute. State contracts that divert revenues due the state are subject to state controller's review.

Contracting Out – Contracting out is the hiring of private-sector firms or nonprofit organizations to provide a good or service for the state agency or institution of higher education. Under contracting out, the state remains the financier and has management and policy control over the type and quality of services to be provided.

Granting franchises – In franchising external services to private firms, the state agency or institution of higher education grants a concession or privilege to a private-sector entity to conduct business in a particular market or geographical area, such as concession stands, hotels, and other services provided in certain state parks. The state agency or institution of higher education may regulate the service level or price, but users of the service pay the provider directly.

Purchased Service Contracts - Service or benefit purchased by the state for a third party. An example is medical services received by a third party through a state contract between a medical care provider and the Department of Health Care Policy and Financing. Individuals or firms performing these services are considered independent contractors and are not considered employees of the state.

Purchase Order - A document prepared and signed by an authorized employee of a state agency or institution of higher education for the purpose of encumbering funds and securing goods or services from a vendor. For the purpose of this fiscal rule, a purchase order is not considered a state contract.

Settlement Agreements - Formal legally binding state contracts between two or more parties for the purpose of ratifying decisions reached concerning employment or contractual disputes.

RULE:

Each state agency or institution of higher education is responsible for assuring that the state contracts they initiate are within the intent of the appropriation and that the state contract is necessary and is the most economical and efficient means for accomplishing the identified tasks.

Each state agency or institution of higher education is responsible for assuring that all constitutional and statutory requirements have been met prior to signing a state contract.

Use of State Contracts

A State agency or institution of higher education shall negotiate and process a state contract when:

Issued by the Office of the State Controller
Rule 3-1

Date Issued: 7/1/74
Date Revised: 8/1/05

STATE OF COLORADO FISCAL RULES

- .01 Acquiring personal services costing over \$100,000 including maintenance and service agreements.
- .02 Leasing or entering into a license involving payment by the State for the use of land, buildings, or other office or meeting space when the term is for more than thirty days.
- .03 Acquiring architectural services, engineering services, land surveying, industrial hygienist services, and landscape architectural services.
- .04 Expending capital construction, controlled maintenance, and/or emergency maintenance project funds in excess of \$100,000 except as otherwise provided in Fiscal Rule 4-1. Purchases of fixed equipment that do not require installation services may be purchased with a state purchase order.
- .05 Protecting the interest of the state may only be accomplished by using a state contract because other commitment vouchers are not considered sufficient to adequately protect the state. When questions arise in this area the State Controller's office or the Attorney General's office should be contacted for assistance.

State Contract Form and Provisions

- .01 State contract form
 - A. All state contracts, including leases, shall be prepared on standard letter size paper, 8 1/2" X 11".
 - B. All state contracts shall be in a form approved by the State Controller.
 - C. All state leases and licenses of real property shall be in a form approved by the State Controller. All state leases and licenses shall contain the State Controller's approval condition (Special Provision Number 1), the funds availability clause (Special Provision Number 2), a collocation clause, and vendor offset (special provision number 7) found in Appendix A to this chapter of the state fiscal rules. The State Controller, with the concurrence of the Executive Director of the Department of Personnel and Administration, may agree to modify or waive the collocation clause upon good cause shown. All state leases shall contain clauses specifying cancellation requirements where the premises are destroyed by fire and/or where the premises are subject to eminent domain.
- .02 State contract provisions
 - A. All state contracts, except leases and interagency agreements, shall contain the applicable Special Provisions found in Appendix A or Appendix B to this chapter of the state fiscal rules.
 - B. All State contracts shall contain a maximum dollar amount to be paid by the state during each fiscal year of the contract. Those state contracts where a maximum contract amount cannot be readily determined, shall contain one of the following provisions:

"Payment pursuant to this Contract shall be made as earned, in whole or in part, from available state funds in an amount not to exceed the amount of funds available for the purchase of _____. The funds that are available may be used to pay multiple contractors for the services that are described in this contract. The liability of the state, at any time, for such payments shall be limited to the unexpended amount remaining of such funds.

Multiple fiscal year contracts shall contain the following provision:

STATE OF COLORADO FISCAL RULES

"Payment pursuant to this contract shall be made as earned, in whole or in part, from available state funds in an amount not to exceed the amount of funds available for each fiscal year this contract is in effect for the purchase of _____. The funds that are available for each fiscal year may be used to pay multiple contractors for the services that are described in this contract. The liability of the State, at any time, for such payments shall be limited to the unexpended amount remaining of such funds."

In addition, state agencies and institutions of higher education using one of these provisions shall also request an encumbrance waiver from the State Controller.

- C. All state contracts involving federal funds shall include the following provision:

"This Contract is subject to and contingent upon the continuing availability of Federal funds for the purposes hereof."

- D. All state contracts for the lease, easement, right-of-way or disposal of state property located in a flood plain to any non-state, public or private party, shall reference in the conveyance: those uses that are restricted under identified federal, state or local flood plain regulations; those appropriate restrictions to the use of properties by the grantee or purchaser and any successors, except where prohibited by law; or withhold such properties from conveyance.
- E. All state contracts shall contain a specific termination date or an event from which such date may be determined.

State Contract Approvals

The chief executive officer, or a delegate, of a state agency or institution of higher education shall sign all state contracts on behalf of the state agency or institution of higher education.

It shall be the responsibility of the contracting state agency or institution of higher education to obtain all required approvals. Approvals of certain state agencies and institutions of higher education are required by statute, executive order, or fiscal rule depending on the subject matter of the state contract. Proof of all required signatures indicating the approval of state agencies and institutions of higher education shall be retained by the contracting state agency or institution of higher education. State contracts requiring approvals include:

- .01 Service contracts require the approval of the State Personnel Director.
- .02 Construction contracts and controlled maintenance contracts require the approval of the State Buildings Director, or a delegate, unless otherwise exempted by statute.
- .03 Real property contracts, including leases, easements, and rights of way contracts, require the approval of the Director of the Real Estate Program or a delegate, unless otherwise exempted by statute. Excluded from this requirement are those real properties administered by the State Board of Land Commissioners and the Department of Transportation.
- .04 Communication system contracts involving telephone, radio, microwave, tale-type, closed circuit television, automated data processing communications systems require the approval of the State Communications Coordinator, or a delegate.
- .05 Legal and paralegal service contracts require the approval of the Attorney General's Office.
- .06 Centralized service contracts require the approval of the Director of the Division of Central Services, or a delegate, for all state agencies within the counties of Adams, Arapahoe, and Jefferson and the city and county of Denver. Examples include state contracts for the acquisition of the following:

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motor pool operation, motor vehicle maintenance, mail or messenger services, office copying, graphic design for print media, printing and binding, microfilming, or design of management forms.

- .07 Debt collection service contracts require the approval of the State Controller, or a delegate.
- .08 State agency or institution of higher education financial systems used to record their financial transactions and financial information and to develop their financial reports and prepare their financial statements shall be approved by the State Controller, or a delegate.

All state contracts shall be executed by the State Controller or by an individual delegated to execute state contracts by the State Controller. If an attempt is made to execute a State Contract without the approval of the State Controller, or a delegate, the state contract shall be null and void and not binding against the state. However, every person involved in incurring the obligation shall be jointly and severally liable for the obligation.

State Contract Legal Review

All state contracts shall be reviewed by the Attorney General's office except for interagency contracts and those state contracts for which the State Controller has designated in writing an attorney, employed by the state agency or institution of higher education and authorized by the State Attorney General, to perform the required legal review. If the state agency or institution of higher education's legal review raises a question concerning the legality of the state contract, the question shall be referred to the Attorney General's Office.

Review by the Attorney General's Office or an attorney delegated by the State Controller shall include the following:

- .01 Compliance with the Colorado Constitution, state statutes, regulations, and executive orders.
- .02 Authority of the contracting state agency or institution of higher education.

The Attorney General review may also include:

- .03 Risk analysis, including appropriate terms and conditions.
- .04 Conformity between the RFP or IFB and final contract, as appropriate.
- .05 Vendor compliance with all preconditions to the contract, as appropriate.

If during the course of the legal review a question should arise as to state contract language that cannot be resolved, it shall be referred to the State Controller together with a memorandum detailing the unresolved

issue for resolution. A copy of the memorandum shall also be sent to the principal contracting state agency or institution of higher education.

Outsource contracts shall be reviewed by the state Attorney General, or a delegate, but need not be signed and executed by the State Controller, or a delegate, unless the state contract requires an expenditure of state funds or the Attorney General identifies an issue concerning the expenditure or potential expenditure of state funds.

Review and Approval by the State Controller

Upon receipt of a state contract, the State Controller, or a delegate, shall review the state contract to ascertain whether or not the proposed expenditure is authorized by the appropriation to which it is proposed to be charged, whether or not the prices or rates are in accordance with law or administrative rules or are fair and reasonable and whether or not the amount of the expenditure exceeds the unencumbered balance.

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Upon approval, the state contract shall be executed by affixing the signature of the State Controller, or a delegate.

Under certain circumstances the State Controller may delegate in writing authority to execute state contracts. Delegation of the State Controller's signature authority does not eliminate the requirement that all state contracts have a legal review or exempt any state agency or institution of higher education from securing the required state contract approvals, as provided in the state contracts approval section of this fiscal rule.

Delegation granted by the State Controller to state agencies to execute state contracts on his behalf is limited to the specific types of contracts identified in the Letter of Delegation issued to the state agency. All contract types that are not specifically identified as delegated contracts are not delegated contracts and must be executed at the State Controller's Office.

Interagency Contracts

Interagency contracts require approval of the State Controller, or a delegate, unless the state agency or institution of higher education disbursing the funds has been delegated State Contract signature authority by the State Controller. Interagency contracts shall, at a minimum, include the following provisions:

- .01 Identification of parties to the state contract;
- .02 Appropriation authority, including fund, state agency or institution of higher education, appropriation code, and encumbrance number;
- .03 Scope of work;
- .04 Statement of consideration, (if applicable);
- .05 Payment and other performance; and
- .06 Definition of breach and remedies (shall be consistent with Fiscal Rule 2-6).

Employee/Employer or Independent Contractor

Careful distinction shall be made between work that should be accomplished by persons who are employees of the state and work that may be accomplished by individuals or firms on a personal services contract. The responsibilities and obligations of the state differ between employee/employer arrangements and agreements with independent contractors. The state has a third party liability for the acts of its employees, whereas independent contractors are liable for their own actions. The status should be carefully considered and cases of doubt generally resolved in favor of the employee classification. An erroneous classification as an independent contractor may result in serious penalty to the state for failure to deduct applicable taxes.

EXCEPTIONS TO RULE:

Excluded from the provision of this fiscal rule are:

- .01 Contracts that do not provide for the disbursement of funds, with the exception of outsource contracts and contracts that divert revenues due the state.
- .02 State contracts for personal services exempted from the state personnel system by the Colorado Constitution and paid through an authorized state payroll system. Examples include appointees by the Governor and Lieutenant Governor and their administrative staffs, members of boards or commissions, faculty members of educational institutions, attorneys at law serving as assistant attorneys general, and employees of the Legislative and Judicial Departments of the state. These state contracts are considered to be advises of employment and, therefore, are not covered by this fiscal rule.

STATE OF COLORADO FISCAL RULES

SPECIAL PROVISIONS

(Not for Use with Inter-Governmental Contracts)

1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. FUND AVAILABILITY. CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. INDEMNIFICATION.

The Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

4. INDEPENDENT CONTRACTOR. 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

5. NON-DISCRIMINATION.

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

6. CHOICE OF LAW.

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by

STATE OF COLORADO FISCAL RULES

reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

7. VENDOR OFFSET. CRS 24-30-202 (1) & CRS 24-30-202.4

Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

8. SOFTWARE PIRACY PROHIBITION Governor's Executive Order D 002 00

No State or other public funds payable under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

Effective Date: August 1, 2005

STATE OF COLORADO FISCAL RULES

(For Use Only with Inter-Governmental Contracts)

1. CONTROLLER'S APPROVAL. CRS 24-30-202 (1)

This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

2. FUND AVAILABILITY. CRS 24-30-202 (5.5)

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. INDEMNIFICATION.

To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq. or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

4. INDEPENDENT CONTRACTOR. 4 CCR 801-2

THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE STATE PURSUANT TO THIS CONTRACT. CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONTRACTOR OR THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE. CONTRACTOR SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE STATE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.

5. NON-DISCRIMINATION.

The contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

STATE OF COLORADO FISCAL RULES

6. CHOICE OF LAW

The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

7. SOFTWARE PIRACY PROHIBITION Governor's Executive Order D 002 00

No State or other public funds payable under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

8. EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

Effective Date: August 1, 2005

STATE OF COLORADO FISCAL RULES

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

STATE OF COLORADO:

GOVERNOR

Legal Name of Contracting Entity

By _____
Executive Director

Social Security Number or FEIN

Department of _____

Signature of Authorized Officer

LEGAL REVIEW:

ATTORNEY GENERAL

Print Name & Title of Authorized Officer

By _____

CORPORATIONS:
(A corporate attestation is required.)

Attest (Seal) By _____
(Corporate Secretary or Equivalent, or Town/City/County Clerk) (Place corporate seal here, if available)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:

By _____

Date _____

STATE OF COLORADO FISCAL RULES

CHAPTER 4: PROJECTS

<u>FISCAL RULE</u>	<u>NUMBER</u>
Capital Construction Administration	4-1
Capital Construction Projects	4-2
Capital Construction Project Retainage	4-3

STATE OF COLORADO FISCAL RULES

Rule 4-1 CAPITAL CONSTRUCTION ADMINISTRATION

AUTHORITY:

24-30-1301, C.R.S. (State Buildings Division)
Title 24, Article 75 Part 3, C.R.S. (Capital Construction Fund)
Title 24, Article 91, C.R.S. (Construction)
Title 24, Article 92, C.R.S. (Construction Bidding)
38-26-106, C.R.S. (Contractor Bonds)
38-26-107, C.R.S. (Supplier Claims)

DEFINITIONS:

Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the state.

RULE:

The State Capital Construction Fund was established to provide a source for appropriations to state agencies and institutions of higher education to acquire and maintain their physical facilities. The fund has special requirements that must be followed by state agencies and institutions of higher education receiving appropriations from the fund.

Capital Construction Contracts

- .01 Formal contracts shall be required when expending funds in excess of \$100,000 appropriated for emergency maintenance projects including construction services or installation of fixed equipment unless previous approval has been obtained from the Director of the State Buildings Program to use a purchase order.

Purchases of fixed equipment that do not require installation services may be purchased with a state purchase order.

A purchase order may be used for construction not exceeding \$100,000 if the Director of State Buildings Program or a delegate records written approval on the face of the purchase order. Such approval by the Director of State Buildings Program or a delegate shall require compliance with approved building codes and signify compliance with bonding requirements in C.R.S. 38-26-106 and 24-105-201. In addition, the purchase order shall be bilateral requiring written acknowledgment of acceptance by the contractor prior to the beginning of work.

- .02 Capital construction fund contracts shall follow the contract routing procedures established by the State Controller's Office.

STATE OF COLORADO FISCAL RULES

Rule 4-2 CAPITAL CONSTRUCTION PROJECTS

AUTHORITY:

24-30-1301, C.R.S. (State Buildings)
24-30-1404, C.R.S. (Contracts)
Title 24, Article 75 Part 3, C.R.S. (Capital Construction Fund)
Title 24, Article 91, C.R.S. (Construction)
Title 24, Article 92, C.R.S. (Construction Bidding)
38-26-106, C.R.S. (Contractor Bonds)
38-26-107, C.R.S. (Supplier Claims)

DEFINITIONS:

Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the state.

Capital Construction Project - A construction project funded wholly or in part by funds from the state capital construction fund.

Controlled Maintenance Project - A maintenance project funded wholly or in part by funds from the state capital construction fund.

RULE:

All funds appropriated for capital construction projects shall be used for their intended purpose. A state agency or institution of higher education shall not use the capital construction fund to pay or reimburse state employees for construction management, administrative activities, direct labor performed, or any other expense outside the scope of the capital construction or controlled maintenance project.

Contracts funded by the state capital construction fund shall be executed and the funds encumbered within the time limits established by 24-30-1404, C.R.S. If a State agency or institution of higher education determines that the deadlines imposed by the statute cannot be met, the State agency or institution of higher education may request the Capital Development Committee to recommend to the State Controller that the deadline be waived. The State Controller may grant the waiver request.

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Rule 4-3 CAPITAL CONSTRUCTION PROJECT RETAINAGE

AUTHORITY:

24-30-1301, C.R.S. (State Buildings)
Title 24, Article 75 Part 3, C.R.S. (Capital Construction Fund)
Title 24, Article 91, C.R.S. (Construction)
Title 24, Article 92, C.R.S. (Construction Bidding)
38-26-106, C.R.S. (Contractor Bonds)
38-26-107, C.R.S. (Supplier Claims)

DEFINITIONS:

Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the state.

Capital Construction Project - A construction project, as defined in 24-30-1301, C.R.S., funded wholly or in part by funds from the state capital construction fund.

Controlled Maintenance Project - A controlled maintenance project, as defined in 24-30-1301, C.R.S., funded wholly or in part by funds from the state capital construction fund.

RULE:

A state agency or institution of higher education shall withhold retainage for all capital construction and controlled maintenance projects where the total amount of the contract exceeds the limit established by 24-91-103, C.R.S.. The retainage shall be in the form of monies withheld from the contractor or in any other form authorized by statute and acceptable to the State agency or institution of higher education.

The retainage shall be released by the state agency or institution of higher education only when the contract has been satisfactorily completed and accepted, the state agency or institution of higher education has proof of publication of "Notice of Final Settlement", in accordance with 38-26-107, C.R.S., and there are no outstanding claims against the project.

STATE OF COLORADO FISCAL RULES

CHAPTER 5: TRAVEL

<u>FISCAL RULE</u>	<u>NUMBER</u>
Travel	5-1
Appendix A - Maximum Allowable Meal Per Diem Rates for CONUS Travel	
Appendix B - Maximum Allowable Meal Per Diem Rates for Travel to Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and Possessions of the United States.	
Appendix C - Maximum Allowable Meal Per Diem Rates for Travel to Foreign	

STATE OF COLORADO FISCAL RULES

Rule 5-1 TRAVEL

AUTHORITY:

24-9-104(2), C.R.S. (Mileage Allowance)
24-30-202(20.1), C.R.S. (Travel Advance Limit)
24-30-202(26), C.R.S. (State Controller's Authority)

DEFINITIONS:

Approving Authority - An individual delegated the authority, in writing, by the chief executive officer of the state agency or institution of higher education to approve matters related to official travel.

Commercial Lodging - Any accommodations that are available or offered for use by a traveler for which a rental schedule has been established and payment is required for its use.

CONUS - The 48 continental United States, including the District of Columbia.

Electronic Signature - Any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as a manual signature. "Electronic signature" includes digital signatures.

Expenses Incurred for the Benefit of the State - Expenses incurred that enable a state employee or a state official to perform their assigned duties or enable a state agency or institution of higher education to carry out the responsibilities required by law.

In-State Travel - Travel within the State of Colorado and to the immediate area outside the State that is a necessary part of an otherwise "in-state" trip.

International Travel - Travel to any destination not considered in-state or out-of-state.

Out-of-State Travel - Travel within CONUS, other than Colorado. Also travel to Alaska and Hawaii.

Political Expenses - Expenses incurred in relation to activities that are primarily designed to further the interests of a candidate, political party, or special interest group.

Travel Payment Program - The travel payment mechanisms provided to state employees through the Statewide Travel Management Program (STMP) (1CCR 103-1).

Transportation - Travel by commercial airline, railroad, bus, taxicab; state-owned, leased, or personally owned automobile or airplane; or any other means of conveyance.

RULE:

Fiscal Rule 5-1 addresses travel prepayment and reimbursement to state employees or state officials.

Travel charged to the State, regardless of the funding source, shall be for the benefit of the State, only for the time period necessary, and completed using the most economical means available which will satisfactorily accomplish the State's business.

STATE OF COLORADO FISCAL RULES

The traveler shall determine those expenses incurred for the benefit of the State and request prepayment of or reimbursement for only those expenses. The approving authority shall review the expenses claimed by the traveler and authorize prepayment of or reimbursement for only those expenses incurred for the benefit of the State. The approving authority may require documentation in addition to documentation prescribed by these rules that is deemed necessary or advisable in order to review and authorize expenses.

Required Travel Authorization

- .01 In-state Travel - Prior authorization for in-state travel may be required by the approving authority for all in-state travel.
- .02 Out-of-state Travel - Prior written or electronic authorization by the chief executive officer, or a delegate, of a state agency or institution of higher education shall be required for all out-of-state travel.
- .03 International Travel - Prior written or electronic authorization by the chief executive officer, or a delegate, of a state agency or institution of higher education and the governor, or a delegate, shall be required for all international travel, except for the Department of Higher Education. Prior written authorization by the executive director of the Colorado Commission on Higher Education shall be required for all international travel by employees within the Department of Higher Education. The executive director of the Colorado Commission on Higher Education, with approval of the State Controller, may delegate the authority to approve international travel to the chief executive officer, or a delegate, of a specific higher education institution.
- .04 Travel at no cost to the State - Prior authorization by the approving authority is required for any official state business travel for which reimbursement is made directly to the state employee or the state agency by the non-state organization.

Prepayment/ Reimbursement of Travel Expenses

Upon request by the employee, such employee shall be prepaid for authorized per diem expenses. The prepayment is subject to the approval of the approving authority and authorization by the chief fiscal officer, or a delegate, of the state agency or institution of higher education. In such cases, the prepayment shall be requested from the State by completing a travel prepayment/reimbursement voucher or through the state travel Individual Card if the ability for cash advances has been authorized by the designated Travel Compliance Designee. The amount of the prepayment shall be computed using the traveler's known per diem amounts. Under no circumstance shall a travel prepayment exceed the statutory limit as established by CRS 24-30-202.

Distribution of prepayments to travelers shall be made only within 5 working days of commencing the trip. An after-trip reconciliation is only required if the trip was not taken or varies from the approved length. The purpose of the reconciliation is to ensure that the prepayment is equal to the actual costs incurred. State agencies may require the traveler provide documentation the approved trip was indeed taken by the traveler. Such documentation shall be appropriate for the circumstances.

A separate travel prepayment/reimbursement voucher is to be processed for any allowable expenses incurred but not prepaid.

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The following rates shall be used for reimbursement of travel expenses:

.01 Lodging

Employees authorized to travel shall be reimbursed the actual cost of reasonable accommodations. Employees may be required to use approved or designated lodging facilities in certain areas to assist the state agency or institution of higher education in controlling travel cost. The STMP Travel Payment program, if available to the employee, shall be used to pay for all lodging expenses. Reimbursement shall be limited to the actual cost of commercial lodging. Receipts for lodging shall be obtained and submitted.

.02 Meals and Incidental Expenses

Employees authorized to travel shall be prepaid, upon request of the employee, or reimbursed for meals, including tax and tip at per diem rates established by these Fiscal Rules. The authorized meal per diem rate may be claimed for each meal the traveler would normally have eaten while traveling. If a meal is included in a conference fee the meal shall not be claimed for prepayment or reimbursement unless the meal is determined to be inadequate by the traveler. If a meal provided by a commercial carrier as part of the transportation ticket is deemed inadequate by the traveler then the per diem for that meal can be claimed. The authorized incidental expense per diem may be claimed for each overnight stay.

The incidental expense per diem may be used for personal telephone calls, miscellaneous tips, and other miscellaneous items. The chief executive officer, or a delegate, of an agency or institution of higher education may approve a higher incidental expense per diem rate for international travel based on the traveler's destination. Under no circumstance shall the higher incidental per diem rate exceed \$15.00 per overnight stay.

Under no circumstances shall an employee claim more than the established per diem rate. Receipts for meals are not required.

.03 Transportation

Employees authorized to travel shall be reimbursed only for the cost equivalent of the most cost beneficial method of transportation available, which will satisfactorily accomplish the state business.

The STMP Travel Payment Program payment mechanisms, if available to the traveler, shall be used to pay for all commercial transportation expenses. Reimbursement shall be limited to the actual cost of commercial transportation. Receipts for transportation shall be obtained and submitted.

.04 Rental Vehicles

The STMP Travel Payment Program payment mechanisms, if available to the traveler, shall be used to pay for all rental vehicle expenses. Reimbursement shall be limited to the actual cost of a rental vehicle if the use is required for business purposes and was pre-approved by the approving authority. A receipt is required for all rental vehicle expenditures. The traveler is required to use a rental vehicle vendor approved by the State Travel Management Program.

Various upgrades provided at extra cost by vehicle rental companies such as satellite radio, GPS units, etc. are not reimbursable unless necessary for business or safety reasons and approved by the approving authority.

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Other Allowable and Non-allowable Travel Expenses

.01 Other allowable travel expenses

In addition to lodging, meals, and transportation, the following actual expenses incurred as a necessary part of approved travel are allowable if necessary to complete the business purpose of the trip.

- A. Reasonable tips paid by the traveler for bellhops, porters, maids, and ground transportation. Tips paid in conjunction with meals are included in the meal allowance and cannot be claimed separately.
- B. Commercial transportation such as taxi and shuttle expenses paid by the traveler. A receipt shall be required for each individual ride in a commercial vehicle, if over \$25.
- C. Camping site fees paid by the traveler for a commercial camp ground or a state or national park. A receipt shall be required if over \$25.
- D. Parking fees paid by the traveler. A receipt shall be required for any single fee over \$25.
- E. Registration fees paid by the traveler. A receipt is required for all registration fees paid.
- F. Telephone, fax, internet access, and other similar miscellaneous business expenses paid by the traveler for official state business. A receipt shall be required for any single charge over \$25.
- G. Toll road charges paid by the traveler.
- H. Traveler's checks or transaction charges for the use of the state travel card paid by the traveler. A receipt shall be required if the total amount claimed for reimbursement is over \$25.

.02 Non-allowable travel expenses

The following expenses are not allowable:

- A. Alcoholic beverages purchased by the traveler.
- B. Entertainment expenses paid by the traveler.
- C. Personal expenses incurred during travel that are primarily for the benefit of the traveler and not directly related to the official purpose of the travel.
- D. Political expenses paid by the traveler.
- E. The STMP Travel Payment Program provides travel insurance while other types are not justifiable for business purposes; therefore expenses paid by the traveler for the following are not reimbursable:
 - a. Collision damage waiver/loss damage waiver for rental cars
 - b. Supplemental liability insurance on rental vehicles
 - c. Value premiums on airline tickets

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- d. Trip cancellation insurance
 - e. Additional liability for rental cars
 - f. Personal accident insurance on rented vehicles
 - g. Supplemental life insurance for airline or common carrier travel.
- F. The cost of traffic fines and parking tickets.

Certification

A travel prepayment/reimbursement voucher must be filed to obtain prepayment of or reimbursement for approved travel expenses and shall contain a statement as to the purpose of the travel.

The travel prepayment/reimbursement voucher shall contain the following certification signed manually or electronically by the traveler:

"I certify that the statements in the above schedule are true and just in all respects; that payment of the amounts claimed herein has not and will not be reimbursed to me from any other sources; that travel performed for which prepayment/reimbursement is claimed was or will be performed by me while on State business and that no claims are included for expenses of a personal or political nature or for any other expenses not authorized by the Fiscal Rules; and that I actually incurred or paid the operating expenses of the motor vehicle for which reimbursement is claimed on a mileage basis. Further, I hereby authorize the State to deduct from my pay any amount prepaid to me in excess of my actual incurred expenses."

The travel prepayment/reimbursement voucher shall be endorsed manually or electronically by the approving authority.

EXCEPTIONS TO RULE:

.01 Allowances for members of statutory boards or commissions

Board and commission members shall be paid in accordance with the statutory provisions establishing the board or commission. Board members may be reimbursed for actual and necessary expenses incurred in the performance of their duties. These actual and necessary expenditures should be reasonable under the circumstances and the board or commission member should be made aware that public funds are the source of the reimbursement.

Board or commission members may also be reimbursed for childcare services. The chief executive officer, or a delegate, of the state agency or institution of higher education shall determine the need for childcare reimbursement. Reimbursement shall not be made to a family member and receipts shall be furnished with the reimbursement request.

.02 Allowances for state job applicants

In order to obtain the best-qualified individual for a given position in the state it may be necessary to pay interview related travel expenses for job applicants. At the discretion of the chief executive officer, or a delegate, such travel expenses may be reimbursed to the applicant at the per diem rate established by the State Controller for state employees.

STATE OF COLORADO FISCAL RULES

.03 Allowances for travel by the Governor of Colorado

In the case of travel by the Governor, security, protocol, ceremonial functions, and overall time demands may require considerations not accorded any other state official or employee. Protocol may often require the spouse to travel with the Governor.

The use of state-owned aircraft, commercial airlines or state-owned automobiles by the Governor shall depend upon time constraints and security needs.

When the Governor allocates travel costs between official state business and personal or political, the allocation shall take into account all the various factors involved in the trip.

.04 Allowances for travel not solely for state business

In some instances the purpose of travel may not be solely for state business. It may be partially for official business and partially for personal or political reasons. In these instances, the individual involved shall make a reasonable allocation of the expenses. Where such an allocation is made, the travel reimbursement request shall contain sufficient documentation to indicate the allocation made and the basis for the allocation.

If a state employee obtains lower rates for lodging or transportation because travel is extended for personal or political reasons, these lower rates shall also apply to the business portion of the trip.

.05 Allowances for travel paid directly by a non-state entity

In limited instances, State officials and employees may be invited to attend committee meetings, seminars, or conferences concerning official state business where their travel expenses are either paid directly by the sponsor or they are reimbursed by the sponsor. In such instances the employee may accept the invitation if the travel has been approved by their approving authority and it does not violate other state statutes or constitutional provisions..

.06 Allowances for travel with spouse, relatives, or friends

The state shall not reimburse the cost of an employee's spouse or other person(s) accompanying the state employee on a business trip, unless specifically provided in this fiscal rule.

.07 Allowances for travel wholly within a single day

If travel is wholly within a single day, reimbursement for lunch shall not be allowed. If, however, an employee leaves home on official business prior to 5:00 a.m. and/or remains away from home after 8:00 p.m. and the official business requires the employee to extend the workday, the approving authority may allow a meal allowance for breakfast and/or dinner for the traveler. If breakfast and/or dinner are paid for an employee while traveling in a single day, the amount paid is reportable as income on an employee's W-2.

.08 Allowances for travel by leased or privately owned aircraft

A. A state agency or institution of higher education shall not lease an aircraft without the prior written approval of the Aircraft Section of the Colorado State Patrol in the Department of Public Safety, regardless of the source of funds. This includes the lease of any replacement aircraft for those presently operated by the state agency or institution of higher education.

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- B. A state agency or institution of higher education shall not authorize the use of a privately owned aircraft without the prior written approval from the Office of Risk Management. No reimbursement shall be allowed unless the required prior written approval has been secured.

.09 Allowances for travel by privately owned automobile

Employees shall be allowed mileage fees for each mile actually and necessarily traveled while on official state business. Employees shall normally be reimbursed at the mileage rate designated for two-wheel drive vehicles. Employees shall only be reimbursed at the mileage rate designated for four-wheel drive vehicles when the use of four-wheel drive is necessary because of road, terrain, or adverse weather conditions.

Commuting expenses incurred in traveling between an employee's residence and a primary work location are non-reimbursable employee expenses. However, upon approval of the appointing authority, an employee may be reimbursed for use of a personal automobile when commuting between his/her residence and a temporary work location. Reimbursement shall be for the number of miles between the employee's residence and the temporary work location or the employee's regular work location and the temporary work location, whichever is less.

CRS 24-9-104(2), establishes the mileage rate to be used for reimbursement for official state travel.

.10 Allowances for travelers furnishing their own lodging and meals

When employees who are traveling are furnishing their own lodging and meals, the state agency or institution of higher education may negotiate a special per diem rate for that period of travel. The rate negotiated shall be on a case-by-case basis and under no circumstance shall the negotiated rate exceed the normal per diem rates established by this fiscal rule.

.11 Travel Insurance

Travel insurance may be purchased when it benefits the state if approved in writing by the approving authority.

.12 Receipts

Chief Executive Officers may waive the requirement for a receipt in extenuating circumstances upon approval of a written certification by the traveler that the cost was incurred and the reason why the receipt was not obtained or available. Further, Chief Executive Officers may establish alternative document requirements for recurring travel into locations, e.g. international travel, or for group travel, where compliance with the receipt requirement is determined to be impractical.

STATE OF COLORADO FISCAL RULES

Maximum Allowable Meal Per Diem Rates For CONUS Travel

Effective October 1, 2007

The following tables list the per meal breakdown for the reimbursement rates for meals within CONUS (Appendix A), Alaska, Hawaii and other US possessions (Appendix B), and foreign countries (Appendix C), and the allocation of per diems for foreign countries (Appendix D). These meal rates should be used when calculating the amount of potential reimbursement available for part day while traveling. The daily total is the maximum per diem available for full day while traveling without regard to meal allocations.

Authorized Per Meal Reimbursement Rates Within CONUS

Per Diem Rate	Base	-----	-----	High Cost	-----	-----
Breakfast	\$7.00	\$8.00	\$9.00	\$10.00	\$11.00	\$12.00
Lunch	\$11.00	\$12.00	\$13.00	\$15.00	\$16.00	\$18.00
Dinner	\$18.00	\$21.00	\$24.00	\$26.00	\$29.00	\$31.00
Incidental	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
Daily Total	\$39.00	\$44.00	\$49.00	\$54.00	\$59.00	\$64.00



STATE OF COLORADO FISCAL RULES

CHAPTER 6: CASH

<u>FISCAL RULE</u>	<u>NUMBER</u>
Cash Receipts and Deposits	6-1
Change Funds and Petty Cash Funds	6-2
Imprest Cash Accounts and Bank Accounts	6-3
Entertainment Expense Bank Accounts	6-4
State Treasury Loans and Advances	6-5
Refunds and Reimbursements	6-6
Checks Returned for Insufficient Funds	6-7
Federal Cash Management	6-8

STATE OF COLORADO FISCAL RULES

Rule 6-1 CASH RECEIPTS AND DEPOSITS

AUTHORITY:

24-36-103, C.R.S. (Transmit Monies to State Treasurer)

DEFINITIONS:

Bank Account - An account approved by the State Controller and State Treasurer that is established by a state agency or institution of higher education in any financial institution for the purpose of conducting state business.

RULE:

A state agency or institution of higher education that receives money for any reason shall make timely deposits to the State Treasury, unless otherwise provided by statute or fiscal rule. All money received and not deposited during the month shall be deposited on the last working day of the month. Deposits or transfers to the State Treasury from any bank account shall be made as required by the State Treasurer.

STATE OF COLORADO FISCAL RULES

Rule 6-2 CHANGE FUNDS AND PETTY CASH FUNDS

AUTHORITY:

24-36-103(2), C.R.S. (Transmit Monies to State Treasury)
24-36-104(2.5) C.R.S. (Monies to be Deposited)
24-30-202 (20.1) C.R.S. (State Controller Authority)

DEFINITIONS:

Change Fund - A fund established at a state agency or institution of higher education that receives cash to allow for making change.

Petty Cash Fund - A fund established at a state agency or institution of higher education to allow cash payment for small, incidental expenses.

RULE:

Change funds and petty cash funds may be established based upon a written request from the chief financial officer of a state agency or institution of higher education and approval of the State Controller, or the Controller's designee. The request for approval shall state the purpose of the fund and contain justification for the amount requested.

Change funds shall only be used for making change when cash receipts are accepted from the public, such as for fees and fines. No expenditures of any kind shall be authorized from a change fund.

Petty cash funds shall only be used for payment of incidental expenses of a nominal amount such as postage, parking or expenses not otherwise appropriately billed by invoice and paid by voucher or warrant. Petty cash expenditures shall be consistent with all applicable statutes, rules, regulations, and executive orders.

All petty cash funds and all change funds shall be recorded on the State Financial System.

STATE OF COLORADO FISCAL RULES

Rule 6-3 IMPREST CASH ACCOUNTS AND BANK ACCOUNTS

AUTHORITY:

24-36-103(2), C.R.S. (Transmit Monies to State Treasury)
24-36-104(2.5), C.R.S. (Monies to Be Deposited)
24-75-202, C.R.S. (Imprest Cash Accounts)

DEFINITION:

Bank Account - An account that is established by a state agency or institution of higher education in any financial institution for the purpose of conducting state business.

Imprest Cash Account - A bank account that is established by a state agency or institution of higher education for the purpose of paying operating expenses.

RULE:

Bank account balances shall be limited to the minimum amount necessary to be consistent with legal requirements and operating efficiency. Written approval is required from the State Controller and State Treasurer prior to a state agency or institution of higher education establishing a bank account.

Deposits to imprest cash accounts shall only be in the form of reimbursements for expenditures, interest earnings, and other miscellaneous adjustments credited by the banking institution.

Reimbursements to imprest cash accounts shall be limited to actual expenditures. Request for reimbursements shall be made so that all disbursements are properly reported on the state financial system.

All imprest cash accounts and bank accounts shall be recorded on the state financial system.

EXCEPTIONS TO RULE:

This fiscal rule does not apply to the University of Colorado Board of Regents.

STATE OF COLORADO FISCAL RULES

Rule 6-4 ENTERTAINMENT EXPENSE BANK ACCOUNTS

AUTHORITY:

24-75-202, C.R.S. (Imprest Cash Accounts)

DEFINITIONS:

Entertainment Expense Bank Account - An entertainment expense bank account is an account authorized by a governing board that is established at a financial institution in the name of the State of Colorado to provide for the entertainment of officials and dignitaries by a governing board, a state university, or a state college.

RULE:

The governing boards may authorize an entertainment expense bank account to be established by the governing board for their respective colleges and universities. Prior to authorizing an entertainment expense bank account, the governing board shall review and approve a written request for the account, which includes the account balance and assures that adequate internal accounting and administrative controls exist to ensure the proper use of the account.

No deposits, other than reimbursements for expenditures, shall be made to an entertainment expense bank account. Each expenditure from the account shall be for the benefit of the state, and not for personal benefit.

EXCEPTIONS TO RULE:

This policy does not apply to any state agency or institution of higher education other than institutions of higher education and their governing boards.

STATE OF COLORADO FISCAL RULES

Rule 6-5 STATE TREASURY LOANS AND ADVANCES

AUTHORITY:

24-75-203, C.R.S. (Loans and Advances)
24-75-204, C.R.S. (Loans and Advances - Report)

DEFINITIONS:

Loans - Funds borrowed from the State Treasury by a state agency or institution of higher education to provide working capital for business operations or programs that generate their own revenue and have the capacity to repay the funds borrowed. Loans shall bear interest at a rate established by agreement or by statute. Interest shall be calculated by the State Treasurer and shall be paid as provided in the agreement.

Advances - Funds borrowed from the State Treasury by a state agency or institution of higher education to provide working capital for operations of programs, or for federal programs for which federal advances and letters of credit are not available. Advances shall be made without interest. Advances are limited to a total of twelve million dollars to a state agency or institution of higher education at any time.

RULE:

A state agency or institution of higher education shall make a written request to the State Controller for a loan or advance from the State Treasury. The request shall include the amount requested, justification for the request, and the method and time period for repayment. State agencies and institutions of higher education shall keep their working capital requirements to a minimum by following good business practices.

Loans and advances shall be made for a period no greater than twelve months. Loans and advances may be renewed for additional periods upon the state agency or institution of higher education demonstrating continuing purpose and need.

Loans and advances shall be limited to the extent that funds are available in the State Treasury that are not immediately required to be disbursed. Advances shall not exceed twelve million dollars at any given time to any state agency or institution of higher education.

Loans shall be approved by the Office of the Governor, the State Controller, and the State Treasurer. Advances shall be approved by the State Controller and the State Treasurer.

STATE OF COLORADO FISCAL RULES

Rule 6-6 REFUNDS AND REIMBURSEMENTS

AUTHORITY:

24-30-202 (19) C.R.S. (State Controller Authority)

DEFINITIONS:

Non-augmenting Revenue Account - An account used to record a refund or reimbursement from a prior fiscal year. Such revenue accounts do not serve as funding sources for appropriated expenditures.

Refund - An amount or credit received because of an overpayment or the return of an item purchased.

Reimbursement - Repayment received for amounts remitted on behalf of another party.

RULE:

State agencies and institutions of higher education will normally use either an account receivable or a revenue account to record refunds and reimbursements. However, incidental and non-recurring refunds or reimbursements for activities that involve a routine state agency or institution of higher education function may be credited against the original account coding if the recovery occurs in the same fiscal year as the original expenditure. If such recoveries are made in a subsequent fiscal year, such as an audit recovery, they should be credited to a non-augmenting revenue account.

EXCEPTIONS TO RULE:

- .01 Capital construction funds - Refunds or reimbursements received for expenditures of capital construction fund appropriation during the life of the project shall be treated as if they were received in the same fiscal year as the original expenditure. If the recovery is made after the term of the appropriation has expired, the recovery shall be credited to a non-augmenting revenue account.
- .02 Federal funds - Refunds or reimbursements received for expenditures of federal funds, prior to the expiration of the award, shall be treated as if they were received in the same fiscal year as the original expenditure. If the recovery is made after the award has expired, the recovery shall be refunded to the federal government.
- .03 Contracts and grants - Refunds or reimbursements received for expenditures made from contracts and grants shall be handled as set forth in the terms of the contract or the conditions of the grant.

STATE OF COLORADO FISCAL RULES

Rule 6-7 CHECKS RETURNED FOR INSUFFICIENT FUNDS

AUTHORITY:

24-30-202(25), C.R.S. (Returned Check Penalty)

DEFINITIONS:

Insufficient Funds - Not having a sufficient balance in an account with a bank or other drawee to cover a check when it is presented for the payment.

RULE:

A state agency or institution of higher education that receives a check that is returned for insufficient funds shall assess a reasonable fee against the person who issued the check. The fee assessed shall be at least equal to the additional bank charges incurred by the state agency or institution of higher education and may include up to an additional 25% of the additional bank charges to cover the state agency or institution of higher education's administrative costs. This penalty is in addition to any other penalty provided by statute except the penalty provided by 24-35-114, C.R.S.

STATE OF COLORADO FISCAL RULES

Rule 6-8 FEDERAL CASH MANAGEMENT

AUTHORITY:

31 CFR, Part 205 (Federal Cash Management Act)
24-22-107 (6), C.R.S. (Duties of the State Treasurer)

RULE:

State agencies and institutions of higher education shall make draws of federal funds as closely as possible with the use of those funds.

By statute, the State Treasurer shall ensure compliance with applicable federal and state laws, including any liability for interest payable to the federal government for major federal programs.

STATE OF COLORADO FISCAL RULES

CHAPTER 7: BUDGET

<u>FISCAL RULE</u>	<u>NUMBER</u>
Cash and Custodial Funds	7-1
Expiration and Rollforward of Appropriations	7-3
Overexpenditures and Required Reporting	7-4

STATE OF COLORADO FISCAL RULES

Rule 7-1 CASH AND CUSTODIAL FUNDS

AUTHORITY:

24-37-303, C.R.S. (Governor's Budget Authority)
24-37-304, C.R.S. (Office of State Planning and Budgeting)

DEFINITIONS:

Cash Funds - Funds received by state agencies and institutions of higher education from fees charged to the public, non-governmental entities, intra-agency service funds, internal service funds, and other state agencies and institutions of higher education for goods or services provided.

Custodial Funds - Funds set aside for a specific purpose generally by agreement with a donor, trustee or by court order that are generally not available for other state purposes. Federal funds originating from the federal government are considered custodial funds for the purpose of this fiscal rule.

RULE:

Spending authority for cash or custodial funds shall be approved by both the Office of State Planning and Budgeting and the State Controller. Spending authority remaining for custodial funds at year end due to an incomplete grant or contract may be reestablished in the new fiscal year, as approved by the State Controller.

Spending authority for cash and custodial funds may arise from various sources including: the federal government, the State Constitution, the State Legislature, and court decisions. Expenditures of cash and custodial funds are contingent on the availability of a positive fund balance, current revenue, or an approved working capital loan or advance from the State Treasurer.

Any excess revenue from cash funds shall be reverted to the general fund unless otherwise provided by statute. Custodial fund revenues shall be closed to the appropriate account as provided by agreement with the grantor, trustee or by court order.

EXCEPTIONS TO RULE:

This fiscal rule does not apply to non-appropriated funds in the Department of Higher Education.

STATE OF COLORADO FISCAL RULES

Rule 7-3 EXPIRATION AND ROLLFORWARD OF APPROPRIATIONS

AUTHORITY:

24-75-102, C.R.S. (Appropriation Expiration and Rollforward)

RULE:

Unexpended appropriations expire at the end of each fiscal year and do not carry over to a subsequent fiscal year, unless otherwise authorized by statute. Encumbrances that remain at the end of a fiscal year do not constitute an expenditure against that year's appropriation. Outstanding encumbrances that are carried over to the subsequent fiscal year and the resulting expenditure are charged against the subsequent fiscal year appropriation.

EXCEPTIONS TO RULE:

The State Controller may approve the carry over of unexpended appropriations to a subsequent fiscal year under one or more of the following:

- .01 The appropriated funds have been legally committed by purchase order or contract and there are extenuating circumstances that warrant carry over of the remaining appropriation.
- .02 The appropriation is from the capital construction fund.
- .03 The appropriated funds have been legally committed by purchase order or contract with the Division of Correctional Industries, d.b.a. Juniper Valley Products, and delivery is reasonably anticipated within 60 days of fiscal year end.

STATE OF COLORADO FISCAL RULES

Rule 7-4 OVEREXPENDITURES AND REQUIRED REPORTING

AUTHORITY:

24-37-303, C.R.S. (Governor's Budget Authority)
24-75-109, C.R.S. (Overexpenditures)

DEFINITIONS:

Overexpenditure of Appropriated Funds - An overexpenditure of appropriated funds exists when the total expenditures, based on the accrual basis of accounting, exceed the amount statutorily appropriated, as reflected on the state financial system. An overexpenditure also exists when accrued revenue is less than the expenditures in any fiscal year and where the fund balance at fiscal year end is insufficient to cover the revenue shortfall.

Overexpenditure of Non-appropriated Funds - An overexpenditure of cash, custodial, or other funds exists when the accrued revenues in the cash funds or custodial funds are less than the actual expenditures in any fiscal year for a particular program or project, and where the residual balance for the cash, custodial, or other fund is insufficient at fiscal year end to cover the revenue shortfall.

RULE:

For appropriated funds, expenditures shall only be made for the purpose intended and statutorily appropriated by the state Legislature and shall be limited to the amount authorized and appropriated.

For non-appropriated funds, expenditures shall be limited to:

- .01 The spending authority provided by the Office of State Planning and Budgeting and the State Controller.
- .02 The amount of accrued revenue and/or fund balance.
- .03 The actual amount approved by the governing board for the institutions within the Department of Higher Education.

Required Report of Overexpenditures

When the chief executive officer becomes aware of an overexpenditure condition within the state agency or institution of higher education, a report shall be submitted within 20 working days to the Governor through the Office of State Planning and Budgeting and the State Controller.

Statutory Penalty

If any official, officer, or employee of the state knowingly causes an expenditure of funds to be made in excess of the amount authorized by the State Legislature, upon conviction, statutory fines and/or imprisonment may be imposed.

STATE OF COLORADO FISCAL RULES

EXCEPTIONS TO RULE:

The State Controller may, with the approval of the Governor, allow an overexpenditure. Prior to recommending to the Governor that the overexpenditure be approved, the State Controller shall verify that the statutory requirements allowing the overexpenditure have been met.

Overexpenditures shall only be approved between May 1 of any fiscal year and the close of that fiscal year.

For any approved overexpenditure the State Controller shall restrict an amount equal to the overexpenditure in the next fiscal year's appropriation for the state agency or institution of higher education involved. The amount shall be restricted from a corresponding item or items of appropriation.

STATE OF COLORADO FISCAL RULES

CHAPTER 8: REPORTING

<u>FISCAL RULE</u>	<u>NUMBER</u>
Financial Statements	8-1
Quarterly Financial Reporting	8-2
Cost Allocation Plans	8-3

STATE OF COLORADO FISCAL RULES

Rule 8-1 FINANCIAL STATEMENTS

AUTHORITY:

24-75-102, C.R.S. (Appropriations Expended - When - Balance)

DEFINITIONS:

Financial Statements – Comprehensive reports prepared in accordance with generally accepted accounting principles, as adopted by the Governmental Accounting Standards Board.

Financial Reports - Financial information compiled periodically to assist in management decision-making or for reasons other than financial statement purposes.

RULE:

Annual financial statements prepared by state agencies and institutions of higher education shall be submitted to and approved by the State Controller's Office as required by the State Controller. Unless otherwise provided by this fiscal rule, financial statements shall be prepared in accordance with generally accepted accounting principles.

Any state agency or institution of higher education that have individual audits of its financial statements by the Office of the State Auditor or its contractor, may provide draft financial statements to the Office of the State Auditor or its contractor to facilitate a timely and efficient audit. The draft financial statements must be submitted to the State Controller's Office at the same time. Before publication of the financial statements, the statements must be submitted to the State Controller's Office for approval. State agencies and institutions of higher education, upon request, shall also provide copies of their financial statements to other interested parties.

Financial Statements for the State of Colorado

The annual financial statements for the State of Colorado shall be prepared by the State Controller's Office in accordance with generally accepted accounting principles. These annual financial statements shall reflect all of the financial activities of State Government.

Financial Statements for State Agency or Institution of Higher Education Reporting

The state financial system generates a balance sheet and an income statement for each state agency or institution of higher education utilizing the system. These system generated financial statements are considered acceptable financial statements for the purpose of complying with this fiscal rule.

Financial statements prepared by a state agency or institution of higher education for formal third party reporting shall be prepared in accordance with generally accepted accounting principles.

Financial statements prepared by institutions of higher education may be presented at institution or governing board level.

Exhibit information required in the fiscal year-end closing instructions issued by the State Controller and any post-closing adjustments are an integral part of the financial statements and are considered part of the state agency or institution of higher education reporting requirement.

STATE OF COLORADO FISCAL RULES

Required Reconciliation to the State Financial System

Financial statements prepared by state agencies and institutions of higher education shall be reconciled to the state financial system. A copy of this reconciliation shall be provided to the State Controller.

Should the state financial system generate the required state agency or institution of higher education financial statements, these system generated financial statements shall satisfy the requirement for this reconciliation.

Financial Reports Provided to State Agencies and Institutions of Higher Education or Other Interested Parties

As required by statute or regulation, or upon written request, financial reports shall be provided to state agencies and institutions of higher education or other interested parties. These reports shall be based on financial data obtained from or reconciled to the state financial system. If the report provided contains additional financial information or if the report has been modified, a copy of the reconciliation of the report to the state financial system shall be retained by the state agency or institution of higher education.

Additional Financial Reports for State Agencies and Institutions of Higher Education

In addition to the financial statements required by this fiscal rule, state agencies and institutions of higher education are encouraged to provide additional financial reports. These reports should be tailored to meet their needs and enhance their ability to make timely and accurate decisions.

The reports prepared should be relevant, easy to understand, comparable, timely, consistent, current, accurate, and reliable. Reports may include but are not limited to such items as: comparison of budget to actual for programs or organizational units; efficiencies and economies in operations; and the results of specific programs and activities, as reflected in accomplishments, benefits, and effectiveness; and compliance with legal requirements and administrative policies.

STATE OF COLORADO FISCAL RULES

Rule 8-2 QUARTERLY FINANCIAL REPORTING

AUTHORITY:

24-30-201, C.R.S.
24-30-202 (13)(a), C.R.S.

RULE:

All state agencies and institutions of higher education shall submit quarterly financial reports as required by the State Controller. Quarterly financial reports shall be available for use by the Governor, state legislators, executive management, and their respective staffs for planning purposes and decision-making.

- .01 The state financial system shall be the system used to record the state's financial information and the system from which standard reports shall be prepared and forwarded to the State Controller in compliance with the reporting requirement of this rule.
- .02 The State Controller shall determine what is reasonable and necessary to be included in the report, the funds which are to be included, the state agencies and institutions of higher education required to submit the reports, and the date each report is due.

Each quarterly reporting period shall be regarded as an integral part of the fiscal year. Revenues shall be allocated to quarterly reporting periods in accordance with generally accepted accounting principles. Expenditures such as salaries, operating expenditures and accruals of expenditures shall be allocated to interim periods in which they are incurred or, where appropriate, allocated among quarterly periods on the basis of benefit received or time expended. Arbitrary assignment to a quarterly period shall not be allowed.

STATE OF COLORADO FISCAL RULES

Rule 8-3 COST ALLOCATION PLANS

AUTHORITY:

CFR: Title 48, Chapter 99, Subchapter B, Part 9904: "OMB" Cost Accounting Standards Board, Cost Accounting Standards"

Federal OMB Circular A-21: "Cost Principles for Educational Institutions"

Federal OMB Circular A-87: "Cost Principles for State and Local Governments"

DEFINITIONS:

Basis of Allocation - The best suited statistic that may be used for assigning pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither a benefit nor cause and effect relationship is determinable.

Cash Funds - Funds received by state agencies from fees charged to the public, non-governmental entities, internal service funds, and other state agencies for goods or services provided.

Cost Objective - A project, grant, program, or other activity to which costs are being allocated.

Cost Pool - An aggregation of costs for subsequent allocation to another cost pool or a cost objective.

Costs - All expenses incurred by a project or program, either directly or indirectly. Costs include such items as labor, material, supplies, rent or building charges, operating expenses, and administrative expenses that might properly be assigned to the project or program.

Direct Cost - A cost incurred by a state agency that exclusively benefits a specific cost objective and that may be readily identified with the same specific cost objective.

Equitable Relationship - A relationship that is based on cause and effect or logic and reason.

Federal Funds - Funds received by state either directly or indirectly from the federal government.

Full Cost - The total of all direct and indirect cost associated with a specific cost objective.

Indirect Cost - A cost incurred by a state agency that does not exclusively benefit a specific cost objective and that cannot be readily identified with the same specific cost objective, and, therefore shall be allocated to cost objectives on some basis of assumed service/benefit or other equitable distribution basis.

Indirect Cost Allocation - A systematic and rational allocation of indirect cost to benefiting programs and activities that result in the calculation of an indirect cost recovery rate or the identification of the amount of indirect cost assigned to the benefiting program for cost recovery purposes and/or to establish appropriations and fees. Four types of documentation representing indirect cost allocations to cost objectives are recognized in this fiscal rule:

- a. **Statewide Federal Indirect Cost Allocation Plan** - The plan prepared by the State Controller's Office, using federally approved costing principles, to allocate the allowable central administrative costs of state government to state agencies for inclusion in its state agency Federal Indirect Cost Rate Proposal/Plan.

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- b. Statewide Budget/Cash Indirect Cost Allocation Plan - The plan prepared by the State Controller's Office using full costing principles, to allocate the central administrative costs of state government to state for inclusion in its state agency Budget/Cash Program Indirect Cost Determination Worksheet.
- c. State agency Federal Indirect Cost Rate Proposal/Plan:
 - o Proposal - A document prepared by a state agency to establish a rate used to recover indirect costs from federally funded programs or activities.
 - o Plan - A document prepared by a state agency to document indirect cost allocation algorithms used for federal indirect cost recovery purposes.
- d. Documentation of an indirect cost allocation prepared separately or as a part of a fee formulation process, the allocations from which are used to establish a component of fees for state cash programs and services.

Indirect Cost Allocation Methodology - A system of principles, practices, and procedures that identify: 1) the types of services provided; 2) the cost of each service; 3) the reasonable basis of allocation for each type of service which shall produce a service/benefit based or other equitable distribution of costs; 4) the cost objective(s); and 5) the appropriate mathematical computation to make an equitable allocation of costs.

RULE

State agencies shall prepare a documented indirect cost allocation or indirect cost rate proposal/plan that assigns indirect costs to their programs, activities, and services relative to their benefits received from the activities whose costs are being allocated or on another equitable relationship. The allocated costs shall be used as the basis of recovering indirect costs from the federal government, determining fees for program services and activities, and assessing the cost effectiveness of a program or activity.

State agencies shall use a cost allocation methodology that assures that the allocations made through the methodology represents a service/benefit or other equitable relationship between the cost of the services provided and the value of the benefits received by users of the services.

State agencies shall periodically review their cost allocation methodology to ensure that the methodology represents the best allocation attainable. Allocations should be reconciled to actual expenditures to ensure all costs have been captured and allocated.

Indirect Cost Allocations Made for Federal Indirect Cost Recovery Purposes

A state agency that receives federal funds shall prepare a state agency federal indirect cost rate proposal/plan in accordance with OMB A-21 or OMB A-87 and sign an indirect cost rate or allocation methodology agreement with the federal government. The state agency federal indirect cost rate proposal/plan shall include all costs allocated to the state agency in the statewide federal indirect cost allocation plan and other approved cost allocation plans.

A state agency that receives federal funds primarily from federal programs that do not allow indirect costs to be recovered is exempted from preparing a state agency federal indirect cost rate proposal/plan to obtain an agreement with the federal government. However, documentation supporting this fact shall be sent to the State Controller's Office by the state agency for review.

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Grants, contracts, and other agreements that do not allow for the recovery of the full cost incurred under the agreement should be closely evaluated to determine if their acceptance is cost effective and in the best interest of the State of Colorado.

A state agency that has prepared and submitted an indirect cost rate proposal or plan or a plan revision to the federal government and negotiated an indirect cost rate or allocation agreement with the federal government shall submit a copy of the agreement with the federal government to the State Controller within three weeks after a signed copy is received from the federal government.

Indirect Cost Allocations Made For Use in Establishing Fees and Appropriations

A state agency that receives cash funds based on fees charged to users shall compute an indirect cost allocation that identifies and allocates all indirect costs to all appropriate cost objectives. Allocations to cash programs shall be used as a component in the calculation of fees that recover the full cost of cash funded programs and services. The allocations made to cash funded programs and services shall be documented. Documentation of the allocated components may take any form that is convenient for the state agency, but shall adequately document the allocations of indirect costs used in establishing the fees for cash funded programs and services and be available for review. The allocations shall include all costs allocated to the state agency in the Statewide Budget/Cash Cost Allocation Plan.

If a statewide central service agency provides services to federally funded programs and is charging a fee for the services provided, the statewide central service agency's fees charged to the federal programs shall be based upon only allowable cost for federal programs as defined in federal regulations. The statewide central service agency that charges a fee for services to federally funded programs shall include the allocation from the Statewide Federal Indirect Cost Allocation Plan, as opposed to the allocation from the Statewide Budget/Cash Cost Allocation Plan, as a component of the costs used to formulate its fees for services provided.

Accounting for Indirect Cost Recoveries

Indirect cost recoveries shall be recorded when earned in separately identifiable accounts as determined by the State Controller. All Indirect cost recoveries shall be credited to the state general fund, unless otherwise appropriated or directed by law.

Revenues from indirect cost recoveries shall not be deferred at the end of the fiscal year.

EXCEPTIONS TO RULE:

- .01 If a state agency can document that use of their state agency federal indirect cost rate or allocation, in lieu of a separate indirect cost determination for establishing fees would not result in a significant reduction in the potential costs recovered, the state agency may use the state agency Federal Indirect Cost Rate Proposal/Plan as their basis for recovering indirect costs from cash funded programs.
- .02 Direct costs are generally defined as costs that may be identified specifically with a particular final cost objective. All other costs are defined as indirect costs. However, for institutions of higher education, under OMB Circular A-21, a cost that cannot specifically be identified with a particular final cost objective (a sponsored project, an instructional activity, or other institutional activity), but may be directly assigned to such activities relatively easily with a high degree of accuracy may be allocated to federal contracts and grants as a direct cost.

STATE OF COLORADO FISCAL RULES

- .03 If a state agency has negotiated a multiple year indirect cost recovery rate with its federal cognizant agency, based upon their state agency Federal Indirect Cost Rate Proposal, the state agency is not required to prepare or submit another state agency Federal Indirect Cost Rate Proposal to the State Controller's Office as long as the negotiated multiple year rate is in effect.

STATE OF COLORADO FISCAL RULES

CHAPTER 9: PAYROLL

<u>FISCAL RULE</u>	<u>NUMBER</u>
Use of the State Payroll System	9-1
Direct Deposit Payroll for State Employees Paid on the State Payroll System	9-2
Final Pay for a Terminating State Employee	9-3
Overpayments	9-4

STATE OF COLORADO FISCAL RULES

Rule 9-1 USE OF THE STATE PAYROLL SYSTEM

AUTHORITY:

24-30-201(1)(e), C.R.S.
24-30-202(1); (8.5); (13), C.R.S.

DEFINITIONS:

State Payroll System - The official payroll system for the State of Colorado as designated by the State Controller.

RULE:

All state agencies and institutions of higher education shall use the state payroll system to record and maintain employee payroll information and data; and to pay employees, unless the State Controller has granted an exception.

STATE OF COLORADO FISCAL RULES

Rule 9-2 DIRECT DEPOSIT PAYROLL FOR STATE EMPLOYEES PAID ON THE STATE PAYROLL SYSTEM

AUTHORITY:

24-30-201(1)(e), C.R.S.
24-30-202(1); (8.5); (13), C.R.S.
24-50-104(8)(a), C.R.S. (Payment of Salaries)

DEFINITIONS:

Direct Deposit Payroll Program - A payroll program where an employee's net pay is deposited directly to the employee's legally established checking or savings account via an electronic fund transfer system.

State Payroll System - The official payroll system for the State of Colorado as designated by the State Controller.

RULE:

State employees paid either monthly or bi-weekly on the state payroll system shall be on the direct deposit payroll program unless an exception is approved by the State Controller, or delegate.

STATE OF COLORADO FISCAL RULES

Rule 9-3 FINAL PAY FOR A TERMINATING STATE EMPLOYEE

AUTHORITY:

24-30-201(1)(e), C.R.S.
24-30-202(1); (8.5); (13), C.R.S.
24-50-104(8)(a), C.R.S. (Payment of Salaries)

DEFINITIONS:

State Payroll System - The official payroll system for the State of Colorado as designated by the State Controller.

RULE:

Final pay shall be available to terminating state employees as follows:

- .01 When an employee terminates employment with the state, with or without giving notice, final payment shall be made no later than their next regular pay day.
- .02 When a state agency or institution of higher education terminates an employee, final payment shall be made within three working days of the date of termination.

STATE OF COLORADO FISCAL RULES

Rule 9-4 OVERPAYMENTS TO STATE EMPLOYEES

AUTHORITY:

24-30-201 C.R.S.

RULE:

Through error, a state employee may be paid more than is due. When the error is detected, provisions shall be made for the repayment of the overpayment.

If the overpayment is nominal, it shall all be deducted from the employee's next paycheck. However, in some cases the overpayment may be significant and require a repayment schedule extending over a period of time. The chief executive officer, or a delegate, of the state agency or institution of higher education shall establish a repayment schedule based on the particular facts involved in each case. The State Controller shall approve any repayment schedule extending for more than six months.

An employee's maximum liability for repayment, should an error go undetected for over a two year period, shall be limited to the total amount of the overpayment for the first two years in which the employee was overpaid

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