

## UNOFFICIAL COLORADO FISCAL RULES

These unofficial rules are provided with a table of contents and internal hyperlinks to assist the reader in finding rules and sections that provide information that the reader is seeking. They replicate the language of each rule as shown in the Colorado Code of Regulations, but they are formatted with indentations not shown in the Code of Regulations for ease of reading. To verify that language presented in these rules matches the official language of the State of Colorado Fiscal Rules, please refer to 1 CCR 101-1 available on the Colorado Secretary of State's website.

### EFFECTIVE DATE

This version of the Fiscal Rules are effective as of November 1, 2018.

## STATE OF COLORADO FISCAL RULES

### PURPOSE

The purpose of these Fiscal Rules is to implement statutory provisions, set forth principles concerning internal controls, accounting policies, and financial reporting for the State of Colorado, and assist the State Controller in managing the finances and financial affairs of the State.

### STATUTORY AUTHORITY

Colorado Revised Statutes created the Office of the State Controller. Title 24, Article 30, Part 2, C.R.S., lists the powers and duties of the State Controller and is incorporated as a reference into each of these Fiscal Rules. §24-30-202(13), C.R.S., provides the authority of the State Controller to issue binding Fiscal Rules and is specifically incorporated into each of these State Fiscal Rules as statutory authority.

### DEFINITIONS

In addition to any definitions contained in each Rule, the following general definitions shall apply to and are incorporated into each of these Fiscal Rules:

**Agreement** – A legal agreement between a State Agency or Institution of Higher Education and another individual or entity that may or may not constitute a State Contract, as defined in Fiscal Rule 3-3.

**Chief Executive Officer** – An executive director, commissioner, president, and/or any individual delegated to act on behalf of any of the foregoing.

**Chief Fiscal Officer** – The top financial position in the State Agency or Institution of Higher Education.

**Commitment Voucher** – A document, the form of which has been approved by the State Controller, which includes a Purchase Order, as defined in Fiscal Rule 3-2, State Contract, as defined in Fiscal Rule 3-3, travel authorization, Advice of Employment, as defined in Fiscal Rule 3-1, Grant, as defined in Fiscal Rule 3-4, license agreement, parking license agreement, Small Purchase Documentation, as defined in Fiscal Rule 3-1, and other written authorizations for disbursement of funds approved by the State Controller. Commercial Cards, as defined in Fiscal Rule 2-7, are not Commitment Vouchers but are instead a method of payment.

**CORA** – The Colorado Open Records Act, §24-72-200.1, et seq., C.R.S.

**Elective Officers** – The Governor, Lieutenant Governor, Attorney General, Secretary of State, and Treasurer of the State of Colorado.

**Institution of Higher Education** – A college or university in Colorado State government created by law, executive order, or any other authority that has not elected to be exempt from these Fiscal Rules under §24-30-202(13)(b), C.R.S.

**Procurement Code** – Section 24-101-101, et seq., C.R.S.

**Procurement Rules** – Rules promulgated under the Procurement Code, set forth in 1 CCR 101-9.

**State** – The State of Colorado.

**State Agency** – A department, division, section, unit, commission, board, bureau, or institution in Colorado State government created by law, executive order, or any other authority, but does not include an Institution of Higher Education, or a college or university that has elected to be exempt from these Fiscal Rules under §24-30-202(13)(b), C.R.S.

**State Financial System** – The official financial system for the State of Colorado, as now or hereafter prescribed by the State Controller. The current State Financial System is composed of the Colorado Operations Resource Engine (CORE), including the various systems and sub-systems that now or may hereafter interface to CORE such as human resource and payroll systems.

## **APPLICABILITY**

These Fiscal Rules are applicable to all State Agencies and Institutions of Higher Education, to all employees of the State in the applicable State Agencies and Institutions of Higher Education, and to all funds in the executive branch of State government, except as provided in the following paragraph.

Pursuant to §24-2-102(4) C.R.S., an Elective Officer and each Elective Officer's second-in-command, such as a deputy or chief of staff, may elect to exempt any solicitation or Commitment Voucher from either or both of §24-30-202 C.R.S., including the Fiscal Rules, and the Procurement Code and the Procurement Rules, on a case-by-case basis. The Elective Officer, or second-in-command, shall authorize the use of the exemption, which shall be documented prior to issuing the solicitation, for exemptions from the Procurement Code, or upon executing the Commitment Voucher, for exemptions from §24-30-202, C.R.S. The departments headed by Elective Officers are otherwise subject to §24-30-202 C.R.S., including these Fiscal Rules, and the Procurement Code and the Procurement Rules, unless the Elective Officer chooses to exempt all solicitations and Commitment Vouchers by expressly documenting the Elective Officer's intent.

## **VIOLATIONS**

If a State Agency or Institution of Higher Education materially violates any of these Fiscal Rules, that State Agency or Institution of Higher Education shall seek ratification of that violation from the Office of the State Controller. Repeated, willful, or unratified material violations of these Fiscal Rules, or a knowing failure to seek ratification of a material violation of these Fiscal Rules, may result in any of the following: removal of or limitation on delegated authority; disciplinary action, up to and including termination, at the discretion of the appointing authority of the individual who violated the Fiscal Rules; or any other remedies as provided by law or elsewhere in these Fiscal Rules.

## **RESPONSIBILITY**

It is the responsibility of the Chief Executive Officer of each State Agency or Institution of Higher Education to ensure compliance with these Fiscal Rules.

## **ADMINISTRATIVE HARDSHIP**

A State Agency or Institution of Higher Education may submit a written request to the State Controller, with notification to the State Agency or Institution of Higher Education's Chief Fiscal Officer, for exemption if any of these Fiscal Rules or the related State Controller policies create undue administrative or financial hardship. The State Controller, in that individual's sole discretion, may approve or deny such request and may waive the requirements of any such Fiscal Rules and State Controller Policies that create the undue administrative or financial hardship.

## **STATE CONTROLLER POLICIES**

The State Controller may issue policies under these Fiscal Rules to provide specific requirements, direction, guidance, and clarification in relation to complying with the requirements of these Fiscal Rules. All such policies shall be deemed to include all applicable definitions from these Fiscal Rules.

## **DEPARTMENTAL POLICIES**

A State Agency or Institution of Higher Education may implement internal policies that may be more restrictive than these Fiscal Rules or the State Controller Policies. If a State Agency or Institution of Higher Education develops such policies, then employees at that State Agency or Institution of Higher Education shall comply with those policies in addition to complying with these Fiscal Rules.

## **SUBSTANCE OVER FORM**

When reviewing any action for compliance with these Fiscal Rules, the individual reviewing the action shall review the substance of the action and not just the legal form of that action. These Fiscal Rules apply to the true intent of the transaction as well as its form.

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## **CHAPTER 1: ACCOUNTING AND INTERNAL CONTROLS**

RULE 1-1: ACCOUNTING PRINCIPLES AND STANDARDS

RULE 1-2: INTERNAL CONTROLS

RULE 1-3: STATE FINANCIAL SYSTEM

RULE 1-4: DELEGATED AUTHORITY

## **RULE 1-1: ACCOUNTING PRINCIPLES AND STANDARDS**

### **1. AUTHORITY:**

§24-30-202(12), C.R.S. (Accrual System of Accounting)

### **2. DEFINITIONS:**

**2.1.** GAAP - Generally accepted accounting principles, as adopted by the Governmental Accountings Standards Board.

### **3. RULE:**

The accounting principles of the State shall be based on GAAP. In addition, all applicable statutory provisions shall be met.

When a conflict between statutory provisions and GAAP exists, GAAP 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.

## **RULE 1-2: INTERNAL CONTROLS**

### **1. AUTHORITY:**

§24-17-102(1), C.R.S. (Internal Controls)

§24-17-103, C.R.S. (Annual Internal Control Report)

§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)

### **2. DEFINITIONS:**

**2.1.** Fraud – Misstatements Arising from Fraudulent Financial Reporting, Misstatements Arising from Intentional Misappropriation of Assets, and theft or embezzlement of public property.

**2.2.** Misstatements Arising from Fraudulent Financial Reporting – Intentional misstatements, or omissions of amounts or disclosures in financial statements, with the intent to deceive financial statement users.

**2.3.** Misstatements Arising from Intentional Misappropriation of Assets – 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 GAAP.

**2.4.** Pre-audit – A review for compliance with applicable statutes, Fiscal Rules, and other regulations, and adherence to accepted business practices.

### **3. RULE:**

**3.1.** State Agencies and Institutions of Higher Education have the responsibility for the design and implementation of programs and controls to prevent, deter, and detect Fraud.

**3.2.** Any suspected Misstatements Arising from Fraudulent Financial Reporting shall be reported in writing to the State Controller as soon as it is suspected.

**3.3.** Any suspected theft or embezzlement of State funds or assets or sensitive State financial information shall immediately be reported to the Chief Executive Officer, or delegate, and the Chief Fiscal Officer of the State Agency or Institution of Higher Education where the theft or embezzlement may have occurred and appropriate action shall be taken by the State Agency or Institution of Higher Education. A suspected theft or embezzlement of State funds or assets totaling \$5,000 or more per incident shall be reported in writing to the State Controller. All suspected theft of sensitive State financial information 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 by the Chief Fiscal Officer to the State Controller in a timely manner.

**3.4.** When complying with §24-17-101, C.R.S., the certification form, content, and due date shall be determined by the State Controller.

**3.5.** All accounting documents and financial transactions shall be subjected to a Pre-audit by the State Agency or Institution of Higher Education 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, conform to the Fiscal Rules, and reflect the underlying realities of the accounting transaction (substance rather than form). The factors of risk, cost, and business requirements shall be considered when establishing these internal controls.

## **RULE 1-3: STATE FINANCIAL SYSTEM**

### **1. AUTHORITY:**

§24-30-202(12), C.R.S. (Accrual System of Accounting)

§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)

§24-30-201(1)(f), C.R.S (Accounts and Control)

### **2. DEFINITIONS:**

**2.1.** Electronic Interface – A standard specifying a set of functional characteristics, common physical interconnection characteristics, and signal characteristics for the exchange of data.

### **3. RULE:**

The State Controller is the official custodian of the database included within the State Financial System.

The State Controller, as official custodian of the State Financial System, shall approve access and resolve all disputes regarding access to the State Financial System and information contained in that system in compliance with CORA.

#### **3.1. Use of the State Financial System**

**3.1.1.** All State Agencies and Institutions of Higher Education shall use the State Financial System to record their financial transactions and financial information, develop their financial reports, and prepare their financial statements.

**3.1.2.** The State Controller hereby grants an exemption to the requirement to use the State Financial System to the governing boards of Institutions of Higher Education that have an internal accounting system and either an Electronic Interface or other process that enables the data to be included in the State Financial System, that has been approved by the State Controller. The State Controller may also grant an exemption to State Agencies to use an internal accounting system and an Electronic Interface that is approved by the State Controller. Redundancies between State Agency or Institution of Higher Education financial systems and the State Financial System should be eliminated 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.

#### **3.1.3. Internal Revenue Filing Requirements**

**3.1.3.1.** State Agencies and Institutions of Higher Education exempt from using the State Financial System shall be responsible for Internal Revenue Service (IRS) filing requirements in accordance with the Internal Revenue Code, including obtaining a separate Taxpayer Identification Number (TIN) from the IRS.

**3.1.3.2.** For State Agencies that utilize the State Financial System, IRS filing

requirements are coordinated by the Office of the State Controller on behalf of State Agencies. State Agencies shall record contractor and payment transactions properly to ensure proper Federal reporting.

**3.2. Electronic Interfaces**

**3.2.1.** An Electronic Interface with the State Financial System shall not be made without the approval of the State Controller. Requests for interface to the State Financial System shall be made prior to the solicitation, acquisition, development, or implementation of a new or replacement internal financial system by a State Agency or Institution of Higher Education. Only approved and tested interfaces shall be allowed to feed data into the State Financial System.

**3.2.2.** The Electronic Interface of any internal accounting system of any Institution of Higher Education or State Agency that has been granted an exemption from the use of the State Financial System shall provide timely updates to the State Financial System as directed by the State Controller.

**3.3. Access to State Network**

**3.3.1.** Access to the State network shall only be granted in accordance with the policies issued by the Office of Information Security in the Governor's Office of Information Technology.

**3.4. Access to the State Financial System**

**3.4.1.** State Financial System records contain both public and confidential information. Therefore, an employee who has access to the State Financial System shall only access information that is needed to do the employee's job and shall not browse or otherwise access information contained in the State Financial System that exceeds the minimum necessary to do the employee's job. Individuals with the authority to grant access to the State Financial System shall only grant access to create, modify or approve documents within the State Financial System to users as required by the user's job duties.

**3.4.1.1.** Individuals with the authority to grant access to the State Financial System shall only grant access to non-State employees if such access is necessary to the work that the non-State employee is performing for the State or to comply with audit requirements. If access is granted to a non-State employee, then the individual granting such authority shall ensure that the access granted is read-only, and limited to the specific purpose for which access was granted and only for the duration of the work that will be performed by the non-State employee.

**3.4.2.** If the State Controller receives a request from a State Agency or Institution of Higher Education for information belonging to another State Agency or Institution of Higher Education, the State Controller shall notify each State Agency or Institution of Higher Education whose information has been requested of the request for information and furnish such State Agency or Institution of Higher Education a copy of the information provided.

**3.4.3.** If the State Controller receives a request from a citizen or entity other than a State Agency or Institution of Higher Education under CORA, the State Controller shall furnish the information in a timely manner, as provided by statute, if the State Controller is the custodian of record for that information. The State Controller shall only respond to requests under CORA if the State Controller is the custodian of

record for the information contained in that request; for all requests for which the State Controller is not the custodian of record, the State Controller shall refer the request to the State Agency or Institution of Higher Education who is the custodian of record for that information, if known.

**3.5.** State Financial System Security

**3.5.1.** The State Controller and the Governor's Office of Information Technology are 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 access to the State Financial Systems.

## **RULE 1-4: DELEGATED AUTHORITY**

### **1. AUTHORITY:**

§24-30-201, C.R.S. (Powers and Duties of the State Controller)

§24-30-202(1), (2), (3), (4), and (5) C.R.S. (Authority for Delegation of Authority)

### **2. RULE:**

Any individual who has the direct authority to sign or approve Commitment Vouchers on behalf of a State Agency or Institution of Higher Education, may delegate that authority as described in this Fiscal Rule. The State Controller may delegate the authority granted in §24-30-202, C.R.S. to approve and sign Commitment Vouchers as described in this Fiscal Rule.

#### **2.1. Executive Signature Authority Delegation**

**2.1.1.** The Chief Executive Officer of a State Agency who has authority to sign State Contracts, as defined in Fiscal Rule 3-3, and Grants, as defined in Fiscal Rule 3-4, for the State Agency over which the individual has authority on behalf of the Governor or another Elective Officer may delegate that signature authority as described in the State Controller Contract, Grant, and Purchase Order Policies.

**2.1.2.** The Chief Executive Officer of an Institution of Higher Education who has authority to sign State Contracts, as defined in Fiscal Rule 3-3, and Grants, as defined in Fiscal Rule 3-4, for the Institution of Higher Education over which the individual has authority on behalf of the Governor may delegate that signature authority as described in the State Controller Contract, Grant, and Purchase Order Policies.

#### **2.2. State Controller Signature Authority**

**2.2.1.** The State Controller may delegate the authority to approve and sign Commitment Vouchers as the final State signatory, as required under §24-30-202, C.R.S., and as described in the State Controller Contract, Grant, and Purchase Order Policies.

#### **2.3. Delegation of Other State Controller Authority**

**2.3.1.** The State Controller may delegate other State Controller authority as permitted under §§24-30-201 and 24-30-202, C.R.S., and these Fiscal Rules, by entering into a delegation agreement with the individual to whom the State Controller is delegating that authority. This may include, without limitation, the authority for Pre-audit responsibilities under §24-30-201(1)(h), C.R.S., and internal controls and system security administration under §24-30-201(1)(f), C.R.S.

#### **2.4. Chief Information Officer Signature Authority**

**2.4.1.** The Chief Information Officer may delegate the authority to approve and sign Commitment Vouchers for Major Information Technology Projects, as required under §24-30-202, C.R.S., and as described in the State Controller Contract, Grant, and Purchase Order Policies.

## **CHAPTER 2: DISBURSEMENT**

RULE 2-1: PROPRIETY OF EXPENDITURES

RULE 2-2: RECEIVING REPORTS

RULE 2-3: PAYMENT TERMS

RULE 2-4: OFFICIAL FUNCTIONS AND TRAINING FUNCTIONS

RULE 2-5: MISCELLANEOUS COMPENSATION AND OTHER BENEFITS (PERQUISITES)

RULE 2-6: MOVING AND RELOCATION

RULE 2-7: STATE COMMERCIAL CARDS

## **RULE 2-1: PROPRIETY OF EXPENDITURES**

### **1. AUTHORITY:**

§24-77-101, et seq., C.R.S. (Fiscal Year Spending Limits)

§24-30-202(2), and (5)(a), C.R.S. (Propriety of Expenditures)

### **2. DEFINITIONS:**

**2.1.** Donation – Property, services, or money given without receiving consideration for the transfer. The term “Donation” does not include the State’s purchase of any good or service; Grants, as defined in Fiscal Rule 3-4, where the grantee is required to provide an accounting of funds and progress reports regarding the work performed; restitution or court judgments; services provided by individuals in their individual capacity; or payments to or on behalf of beneficiaries of State programs defined in State statute or regulations.

### **3. RULE:**

All expenditures by State Agencies and Institutions of Higher Education shall meet the following standards of propriety:

**3.1.** Are for official State business purposes only.

**3.2.** Are reasonable and necessary under the circumstances.

**3.3.** Are authorized by the appropriation and required approvals have been received.

**3.4.** Prices or rates are fair and reasonable.

**3.5.** Amount is within the available unencumbered balance or is within the balance encumbered specifically for the expenditure.

**3.6.** Are in compliance with applicable statutes, executive orders, rules, and policies.

State Agencies and Institutions of Higher Education shall not make a Donation to any other entity or individual unless specifically permitted by statute.

All expenditures by State Agencies and Institutions of Higher Education recorded in a State fiscal year shall be for services performed or goods received by the last day of that fiscal year.

## **RULE 2-2: RECEIVING REPORTS**

1. **AUTHORITY:**

§24-30-202 (1), C.R.S. (State Controller Authority to Determine Payment Processes)

2. **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. This information shall be certified by the receiver of the goods or services.

3. **EXCEPTIONS TO RULE:**

**3.1.** A receiving report need not be prepared for personal service expenditures.

**3.2.** 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 choose to not require a signed receiving report.



## **RULE 2-3: PAYMENT TERMS**

### **1. AUTHORITY:**

§24-30-202 (1), C.R.S. (State Controller Authority to Determine Payment Processes)

§24-30-202.4 (3.5) C.R.S. (Vendor Offset)

### **2. DEFINITIONS:**

- 2.1.** Common Policy Payment – A payment made by a State Agency to another State Agency with an internal service fund, such as the Governor’s Office of Information Technology, the Department of Personnel and Administration, or the Department of Law, for services provided by those State Agencies to multiple other State Agencies. The General Assembly provides spending authority to both the State Agency purchasing the services and the State Agency providing the services.
- 2.2.** Delinquent Payable – 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 Commitment Voucher. A Payable being disputed by a contractor or State Agency or Institution of Higher Education shall become delinquent if a disbursement is not made within forty-five days after resolution of the dispute.
- 2.3.** 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.
- 2.4.** Payment Terms – Contractual obligations between a State Agency or Institution of Higher Education and a contractor regarding timing, amount, and preconditions of payment, as evidenced in a Commitment Voucher or on an invoice.

### **3. RULE:**

#### **3.1. Payment on Time**

- 3.1.1.** Payments shall be processed in a timely manner and made within the allowable discount period to ensure the State Agency or Institution of Higher Education takes advantage of purchase discounts, if economically beneficial to the State. All payment processing timelines shall begin upon the acceptance of a correct invoice by the State Agency or the Institution of Higher Education and the delivery of goods or completion of the services provided unless specifically stated otherwise in a Commitment Voucher.

#### **3.2. Interest Payment on Delinquent Payables**

- 3.2.1.** 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 the 1% per month, or such other amount as may be required by §24-30-202(24), C.R.S. All Commitment Vouchers 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-fifth day after the liability for such payment arises under this Fiscal Rule.

**3.3. Interagency Purchases and Payments**

**3.3.1.** 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 and practical payments shall be made by an interagency document in lieu of a state warrant.

**3.4. Disputes Arising from Interagency Purchases**

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

**3.4.1.1.** 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 State Agencies or Institutions of Higher Education involved shall assist in the resolution.

**3.4.1.2.** If the State Agencies and/or Institutions of Higher Education involved cannot reach a satisfactory resolution within 60 days, the State Agency or Institution of Higher Education disputing the charge shall, within 30 days of the date on which the State Agencies and/or Institutions of Higher Education determined that they could not resolve the dispute, petition the State Controller to resolve the dispute.

**3.4.1.3.** 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.

**3.4.1.4.** State Agencies shall make Common Policy Payments regardless of any dispute. Disputes related to setting of the common policy appropriations, budgets, and funding sources shall be handled in accordance with Fiscal Rule 7-4.

**3.5. Vendor Intercepts**

**3.5.1.** State Agencies and Institutions of Higher Education shall withhold unpaid balance or debts owed to the State by a contractor prior to disbursement of payment in accordance with §24-30-202.4(3.5)(a)(I), C.R.S.

**3.5.2.** For State Agencies that utilize the State Financial System, the State Financial System automatically withholds the unpaid balance of debts owed to the State, as identified by an intercepting State Agency prior to disbursement to a vendor as outlined in the statute. Payment is then transmitted to the intercepting agency. State Agencies and Institutions of Higher Education that do not use the State Financial System shall be responsible for ensuring compliance with the statute by creating their own internal withholding procedures.

**3.6. Unpaid Warrants and Payables**

**3.6.1.** A State Agency or Institution of Higher Education that has an unpaid warrant or check shall perform due diligence to identify if the payable is valid. If valid, the State Agency or Institution of Higher Education shall reissue payment to a contractor or vendor. A check or warrant that is presumed abandoned under §38-13-106, C.R.S., shall be transferred to the unclaimed property trust fund as described in §38-13-106, C.R.S.

**3.6.2.** For State Agencies that utilize the State Financial System, transfer of unpaid

warrants or checks to the unclaimed property trust fund and completion of reporting requirements is coordinated by the Office of the State Controller after State Agencies complete their due diligence. State Agencies and Institutions of Higher Education that do not use the State Financial System shall be responsible for ensuring compliance with the statute by creating their own internal procedures.

## **RULE 2-4: OFFICIAL FUNCTIONS AND TRAINING FUNCTIONS**

### **1. AUTHORITY:**

§24-30-202 (1), C.R.S. (State Controller Authority to Determine Processes for Liabilities)

### **2. DEFINITIONS:**

**2.1.** Official Function – A meeting, conference, meal, training, 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, held for official State business purposes and includes an expenditure of State funds.

### **3. RULE:**

**3.1.** Official Functions that include purchases of food and beverages have the potential of being perceived to be for personal benefit and an abuse of public funds. Attendance shall include only those individuals directly related to the purpose of the function. Purchases of food and beverages should be kept to a minimum and shall be approved by the Chief Executive Officer or by a representative of the State Agency or Institution of Higher Education who has been delegated authority by the Chief Executive Officer. All expenditures associated with an Official Function must meet the requirements in Fiscal Rule 2-1.

**3.2.** Permissible and prohibited Official Functions are further defined in the State Controller Fiscal Policies.

**3.3.** For all purchases of food and beverages, State Agencies and Institutions of Higher Education shall maintain documentation that includes the following:

**3.3.1.** Description of Official Function;

**3.3.2.** Justification for food and beverages;

**3.3.3.** Attendees; and

**3.3.4.** Chief Executive Officer or delegate approval.

## **RULE 2-5: MISCELLANEOUS COMPENSATION AND OTHER BENEFITS (PERQUISITES)**

### **1. AUTHORITY:**

§24-2-103, C.R.S. (Compensation for State Employees)

§24-30-202(22), C.R.S. (State Controller Authority for Allowing Perquisites)

### **2. DEFINITIONS:**

- 2.1.** Fringe Benefits – Any benefit described in §24-50-104(1)(g), C.R.S., including, without limitation, insurance, retirement and leaves of absence with or without pay.
- 2.2.** Metropolitan Area – A region including a city and the densely populated surrounding areas that are socially and economically integrated with it. See State Controller Travel Policies.
- 2.3.** Perquisite – Any payment, benefit or privilege provided by the State to a State employee other than the following, which are not considered Perquisites:
  - 2.3.1.** Salary;
  - 2.3.2.** Fringe benefits;
  - 2.3.3.** Incentives and awards;
  - 2.3.4.** Travel and non-travel related reimbursements;
  - 2.3.5.** State sponsored job related training;
  - 2.3.6.** Temporary housing provided to employees who are working at a work location that is not in the same Metropolitan Area as the employee’s normal work location;
  - 2.3.7.** Permanent housing on State property, provided for the benefit of the State, where the employee is required to stay as a condition of employment;
  - 2.3.8.** The provision of faculty housing or student apartments by Institutions of Higher Education;
  - 2.3.9.** Housing or a housing allowance provided to the Chief Executive Officer of an Institution of Higher Education as part of that individual’s employment contract consistent with policies developed by the Commission on Higher Education and approved by the State Controller;
  - 2.3.10.** Uniforms that are required to be worn by State employees and the necessary maintenance of these uniforms, so long as the uniform is worn as a condition of employment, is not suitable for everyday wear, is distinctive to a particular group, and serves as a means of identification; and
  - 2.3.11.** Employee discounts offered to all State employees.

### **3. RULE:**

A State employee shall not have the authority to grant any Perquisites, nor shall any State employee receive any Perquisite except as provided by State statute or this Fiscal Rule. Monetary allowances shall not be given to State employees in lieu of Fringe Benefits, except as provided by State 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. A State Agency or Institution of Higher Education may provide any payment, benefit, or privilege to a State employee, that is not considered a Perquisite, in its sole discretion. If a State Agency or Institution of Higher Education provides a Perquisite allowed under this Fiscal Rule, then it shall equitably determine which State employees are eligible to receive such Perquisites.

**3.1. Allowed Perquisites**

- 3.1.1.** Clean Air Transit Perquisite for State Employees – A State Agency or Institution of Higher Education may offer a clean air transit Perquisite to its employees on an equal basis to all permanent full-time employees within the geographic area served by the mass transit provider and, if deemed appropriate by such State Agency or Institution of Higher Education, also may be offered on an equal basis to all of its part-time employees within the same geographic area.
  - 3.1.1.1.** Clean air transit perquisites for State employees may include mass-transit passes, such as the Regional Transportation District EcoPass, provided to State employees at a reduced or no cost; the provision of electric vehicle charging stations for use by State employees at a reduced or no cost; or any other Perquisite intended to reduce the effects of State employee transit on air quality as may be determined by the State Controller in the State Controller Policies.
- 3.1.2.** 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 State officials and State employees to improve attendance or participation in State sponsored events. Examples include discounts on admission to athletic games and cultural, educational, recreational, or other events.
- 3.1.3.** Meals – Meals prepared at State dining facilities are primarily for the benefit of the students, patients, or inmates housed at these facilities. However, a State Agency or Institution of Higher Education may provide meals to State employees working at these facilities.
- 3.1.4.** Instructional Courses and Job Related Training – A State Agency or Institution of Higher Education may provide job related and career enhancement courses to State employees that are not sponsored by the State or may provide tuition reimbursement for such courses and training. A State Agency or Institution of Higher Education may only offer or provide tuition reimbursement for courses and training that will benefit the State and enhance the employee's performance. Such instructional courses and job related training may include, without limitation, continuing education courses for licensed professionals, regardless of whether such license is a mandatory requirement of the employee's position; courses provided by private entities to enhance job-related skills; and courses provided by public or private colleges and universities, including State Institutions of Higher Education.
- 3.1.5.** State 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. If the employee will pay any rent or otherwise be charged for the housing, then the State Agency or Institution of Higher Education shall execute a rental agreement with the State employee. If the rented unit does not have separate utility meters, the State Agency or Institution of Higher Education shall also include in the rental agreement payment for the estimated utility costs.

**3.1.5.1.** A State employee may be provided housing as a condition of employment for reasons that may include the employee is required to live in the State facility, the State employee is required to be available twenty-four hours a day to perform the assigned duties, the State employee is required to live in close proximity to the State facility in order to provide protection or discourage trespassers from entering the property, or the State employee's work location is in a remote area that is difficult to reach and has no housing available other than State furnished housing.

**3.1.6.** De Minimis Employee Appreciation Items – A State Agency or Institution of Higher Education may provide awards, items of clothing, meals and other items intended to show employee appreciation, so long as those items are de minimis. The State Controller may issue policies regarding the frequency with which such items may be provided and value of those items that are considered de minimis.

**3.1.7.** Bookstore Discounts – An Institution of Higher Education may provide equitable discounts for its faculty members and employees for purchases at its bookstores.

**3.1.8.** Commuter Use of State Owned Vehicles – A State Agency or Institution of Higher Education may provide a State owned vehicle to an employee to use for commuting purposes when the State Agency or Institution of Higher Education determines that the employee requires the use of the State owned vehicle for work purposes and also allowing the employee to use the State owned vehicle for commuting is the most efficient use of State fleet resources, as described in Fiscal Rule 9-6.

#### **4. PAYMENTS FOR PERQUISITES:**

**4.1.** A State Agency or Institution of Higher Education that provides any Perquisite to a State employee may choose to either provide that Perquisite without cost to the employee or may charge the employee for that Perquisite. For each Perquisite offered by a State Agency or Institution of Higher Education for which an employee is charged, the Chief Executive Officer of that State Agency or Institution of Higher Education shall annually determine the amount that the agency will charge its employees. All such charges shall be equitable for all employees to whom the Perquisite is offered.

**4.2.** If a State Agency or Institution of Higher Education will charge a State employee for any Perquisite, then the State Agency or Institution of Higher Education shall make a payroll deduction from that employee's pay in the amount of the charges for such Perquisites received by that employee.

#### **5. TAXABILITY OF PERQUISITES:**

**5.1.** State Agencies and Institutions of Higher Education shall report all payments for Perquisites in accordance with the Internal Revenue Code and its implementing regulations. State Agencies and Institutions of Higher Education shall report all taxable Perquisites received by State employees in accordance with the Internal Revenue Code and its implementing regulations, and State Controller Fiscal Policies.

## **RULE 2-6: MOVING AND RELOCATION**

### **1. AUTHORITY:**

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

Internal Revenue Service Publication 521 (Moving Expenses)

### **2. DEFINITIONS:**

- 2.1.** Incidental Expenses – See Fiscal Rule 5-1 (Travel).
- 2.2.** Moving Expenses – Reasonable expenses of moving a State employee’s Household Goods and Personal Effects to the State employee’s new home.
- 2.3.** Household Goods and Personal Effects – This includes household and 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.
- 2.4.** Relocation Expenses – Relocation expenses are equal to the total per diem for the destination location in the latest per diem rates published by the U.S. General Services Administration. The total per diem includes the lodging per diem rate plus the meals and Incidental Expense (M&IE) rate.
- 2.5.** Transportation – See Fiscal Rule 5-1 (Travel).

### **3. RULE:**

When an employee in the State personnel system, other than an Elective Officer, qualifies for moving, such State employee shall be allowed moving expenses as set forth in §3.1. In addition, such State employee shall be allowed relocation expenses up to a maximum of thirty days for necessary expenses incurred while relocating to a permanent residence. The 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 State employee's duties. This rule does not apply to new hires.

#### **3.1. Employee Qualification for Moving Expenses**

A State employee must meet all of the following conditions to qualify for moving expenses under this Fiscal Rule:

- 3.1.1.** An appointing authority requires the State employee to change the employee’s primary place of residence because of a change in assignment or a promotion or for any other reason related to the employee’s duties. See §24-50-134, C.R.S.
- 3.1.2.** The State employee’s move is closely related to the start of work, both in time (move occurs within one year from the date the employee first reported to work at the new location) and in place (the distance from employee’s new home to the new job location is less than the distance from the employee’s former home to the new job location).

#### **3.2. Moving Expenses**

##### **3.2.1. Moving of Household Goods and Personal Effects – Overall**

- 3.2.1.1.** The State employee shall obtain at least two competitive bids and submit



those bids when the employee seeks reimbursement. State payment shall be made at the rate proposed in the lowest responsible bid.

**3.2.1.2.** The amount of moving expenses shall be reasonable and necessary under the circumstances.

**3.2.2.** Moving of Household Goods and Personal Effects – Commercial Mover

**3.2.2.1.** Moving expenses include packing, insurance, Transportation, and storage not to exceed thirty days, unpacking, and installation at the new location of the State employee's Household Goods and Personal Effects. Moving expenses also include charges by commercial vendors for towing of mobile homes.

**3.2.2.2.** Upon approval by the State Controller or an individual with a delegation from the State Controller, the State employee may arrange for the commercial mover to bill the State Agency or Institution of Higher Education directly.

**3.2.3.** Moving of Household Goods and Personal Effects – Employee Moves Household Goods and Personal Effects

**3.2.3.1.** A State employee may move Household Goods and Personal Effects by rental trailer or truck, or portable moving container, in lieu of using a commercial mover, and shall be reimbursed for the actual cost of using that trailer, truck, or portable moving container, so long as such costs are reasonable.

**3.2.3.2.** If the State employee uses the State employee's vehicle to move, the State employee shall be entitled to the standard State mileage rate for moving, not travel.

**3.3.** Relocation Expenses

**3.3.1.** A State 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 per diem shall consist of the lodging, meals, and Incidental Expenses rate for the destination location published by the U.S. General Services Administration. The employee may exclude interruptions caused by sick leave, vacation, other authorized leave of absence, or ordered travel. The maximum amount paid for the per diem allowance shall not exceed the daily rate multiplied by thirty days.

## **RULE 2-7: STATE COMMERCIAL CARDS**

### **1. AUTHORITY:**

§24-102-207, C.R.S. (Statewide Procurement Card)

### **2. DEFINITIONS:**

- 2.1.** Commercial Card Program – All card (Procurement, Travel, One Card) accounts and services provided to the State and participating entities by the bank.
- 2.2.** Commercial Cards – State issued payment cards including Procurement Cards, Travel Cards, and One Cards.
- 2.3.** Procurement Card – Used for small purchases of general merchandise and services as governed by State statutes, the Procurement Rules, and these Fiscal Rules. A Procurement Card is a corporate liability card.
- 2.4.** Travel Card – Used for travel related purchases as governed by State statutes, State travel rules, and these Fiscal Rules. A Travel Card may be centrally billed (corporate liability) or individually billed (individual or joint and several liability).
- 2.5.** One Card – Allows for the combination of the functionality of both the Procurement Card and the Travel Card. A One Card is a corporate liability card.

### **3. RULE:**

All State Agencies and participating Institutions of Higher Education eligible for the State Commercial Card Programs shall enter into an agreement with the applicable State Commercial Card Program to participate. State Agencies and Institutions of Higher Education may not enroll in other credit or debit card program agreements (including store credit or other extension of credit).

- 3.1.** Personal Services – Commercial Cards may be used to pay for services as well as goods. Under present Internal Revenue Service guidelines, it is the responsibility of the banking institution to fulfill 1099 reporting requirements.
- 3.2.** Purchases in Excess of \$5,000 – If authorized by the Chief Fiscal Officer of the State Agency or Institution of Higher Education, Commercial Cards may be used to pay invoices in excess of \$5,000. Commercial Cards are a method of payment. Use of the Commercial Card is not a substitute for a Commitment Voucher or Encumbrance, as required by and defined in Fiscal Rule 3-1.
- 3.3.** Pre-audit Responsibility – Use of the Commercial Card does not eliminate the need for a Pre-audit, which shall be completed when the disbursement is made to the bank. The State 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 in the card agreement shall be used when charges from the bank are challenged.
- 3.4.** Reporting Misuse – All incidents of State Commercial Card misuse that are recurring, significant, or in excess of \$500 shall be reported in writing to the State Controller annually. Reports shall be submitted to the Office of the State Controller 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. Misuse may include

actions such as the purchase of goods/services or travel related transactions for personal use, splitting a purchase to circumvent single purchase dollar limits or cardholder credit limits, travel related transactions on the Procurement Card, purchasing related transactions on the Travel Card, or any other unauthorized transactions disallowed by State Agency or Institution of Higher Education policy. All incidents of Commercial Card suspected theft or embezzlement shall be reported according to Fiscal Rule 1-2.

- 3.5.** Monitoring and Training – Administrators of Commercial Card Programs shall ensure compliance with card agreements, monitor proper usage of the card, and provide direction to State Agencies and Institutions of Higher Education on proper use of the card.
- 3.6.** Cardholders – State Agencies and Institutions of Higher Education shall only issue a Commercial Card to permanent State employees and shall not issue a State Commercial Card to contractors, temporary State employees, or non-State employees.

## **CHAPTER 3: COMMITMENT VOUCHERS**

RULE 3-1: COMMITMENT VOUCHERS

RULE 3-2: PURCHASE ORDERS

RULE 3-3: STATE CONTRACTS

RULE 3-4: GRANTS

RULE 3-5: INTERAGENCY AGREEMENTS

## **RULE 3-1: COMMITMENT VOUCHERS**

### **1. AUTHORITY:**

- §24-30-202 (1-4), and (5)(a), C.R.S. (State Controller Authority)
- §24-30-1401, et seq., C.R.S. (Professional Services)
- §24-102-206, C.R.S. (Contract Performance Outside United States or Colorado)
- §24-106-103, C.R.S. (Centralized Contract Management System)
  
- §24-106-106, C.R.S. (Right to Audit Records)
- §24-106-107, C.R.S. (Monitoring of Vendor Performance)

### **2. DEFINITIONS:**

All references to “contract” or “agreement” refer to legally binding documents between the State and another party or documents describing the agreement between State Agencies and Institutions of Higher Education. The terms “contract”, and “agreement” are used interchangeably in the following definitions to reflect their common usage in the State and include any amendments and modifications thereto.

- 2.1.** Advance Payment – A payment made for goods or services prior to the receipt and acceptance of the goods or the completion and acceptance of the services.
- 2.2.** Advice of Employment – A document that includes an offer of employment.
- 2.3.** Contract – Any Commitment Voucher that constitutes a State Contract or Purchase Order under this Fiscal Rule, where the principal purpose is to acquire supplies, services, or construction or to dispose of supplies for the direct benefit of the State.
- 2.4.** Commercial Cards – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.5.** Emergency – A situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reasons as may be designated by the State Controller or a delegate of the State Controller as an emergency, and that creates an immediate and serious need for goods, services, or construction without time to issue a Purchase Order or State Contract and the lack of which would seriously threaten:
  - 2.5.1.** The functioning of State government or its programs;
  - 2.5.2.** The preservation or protection of property; or
  - 2.5.3.** The health or safety of any person or persons.
- 2.6.** Encumbrance – An amount reserved on the State Financial System or an approved State Agency or Institution of Higher Education financial system to reflect a formal obligation of the State.
- 2.7.** Financing – The receipt of a loan or issuance of bonds or certificates of participation.
- 2.8.** GAAP – See Fiscal Rule 1-1 (Accounting Principles and Standards).
- 2.9.** Grant – See Fiscal Rule 3-4 (Grants).
- 2.10.** Interagency Agreement – See Fiscal Rule 3-5 (Interagency Agreements).
- 2.11.** Major Information Technology Project – See §24-37.5-102(2.6), C.R.S.

- 2.12.** Party – An individual or entity who is not a State Agency or Institution of Higher Education. If appropriate in the context, the term “Party” may also refer to multiple individuals or entities who are not State Agencies or Institutions of Higher Education.
- 2.13.** Personal Services Commitment Voucher – A Commitment Voucher between a State Agency or Institution of Higher Education and a Party, where the Party provides labor, time, or effort for the direct benefit of the State. An individual or entity performing services under a Personal Services Commitment Voucher is an independent contractor and not an employee of the State.
- 2.14.** Procurement Official – The head of the procurement function for an Institution of Higher Education or for a State Agency who has received delegation from the State’s Chief Procurement Officer.
- 2.15.** Procurement Code Violation – A purchase made in violation of the Procurement Code and the Procurement Rules. A Procurement Code Violation is subject to ratification in accordance with the Procurement Code and the Procurement Rules.
- 2.16.** Purchase – The act of incurring an obligation on behalf of the State in order to acquire goods or services from another entity
- 2.17.** Purchase Order or PO – See Fiscal Rule 3-2 (Purchase Orders).
- 2.18.** Small Dollar Grant Award – See Fiscal Rule 3-4 (Grants).
- 2.19.** Small Purchase Documentation – Documentation of a purchase, which does not require a Purchase Order, Grant Agreement, Interagency Agreement or State Contract under §4 of this Fiscal Rule, but does require, without limitation, an invoice, billing statement, itemized receipt, court order, travel authorization, approved Vendor Agreement, or any other document appropriate to the transaction and approved by the State Controller.
- 2.20.** State Contract – See Fiscal Rule 3-3 (State Contracts).
- 2.21.** Statutory Violation – Liabilities incurred or payments made on the State’s behalf without prior approval of a Purchase Order, Grant Agreement, Small Dollar Grant Award, or State Contract by the State Controller or a proper delegate, when required under this Fiscal Rule, or without the prior approval of a State Contract by the State’s Chief Information Officer or a proper delegate for a Major Information Technology Project. A Procurement Code Violation does not necessarily constitute a Statutory Violation under these Fiscal Rules.
- 2.22.** Vendor Agreement – Any form of agreement provided by a contractor or vendor, including an online or “click-through” agreement, containing contractual provisions relating to the goods and/or services to be provided by such contractor or vendor.

**3. RULE:**

- 3.1.** A State Agency or Institution of Higher Education shall not disburse funds unless the disbursement is supported by a Commitment Voucher and complies with Fiscal Rule 2-1. Prior to entering into a Commitment Vouchers for proposed expenditures, State Agencies and Institutions of Higher Education shall ensure the following:
  - 3.1.1.** The purchase satisfies all appropriate procurement requirements;
  - 3.1.2.** The Commitment Voucher used meets the requirements for that type of Commitment Voucher, as defined by Fiscal Rules; and
  - 3.1.3.** The purchase complies with applicable statutes, executive orders, rules, and policies.
- 3.2.** In addition to the requirements in §3.1 of this Fiscal Rule, State Agencies and Institutions of Higher Education shall ensure the following for all Commitment Vouchers, other than Small

Purchase Documentation:

- 3.2.1.** The Commitment Voucher adequately defines all parties involved in the transaction, the respective performance obligations of the parties, the maximum amount payable and pricing, the required performance date, the timing of payments, and the entity responsible for payments;
- 3.2.2.** The Commitment Voucher terms and conditions represent a commercially reasonable allocation of risks between the parties and any risks to the State are outweighed by the benefits to the State; and
- 3.2.3.** The expenditure is encumbered prior to or concurrently with the execution of the Commitment Voucher.
  - 3.2.3.1.** The Encumbrance of funds is not required for the following:
    - 3.2.3.1.1.** Agreements related to the issuance of Financing where the payment for that work will be paid out of the proceeds of the Financing and the State is not obligated to pay if the Financing is never received by the State.
    - 3.2.3.1.2.** Agreements where the total amount of payments are calculated as a portion of revenues received, and the State is not obligated to pay until after the revenues are actually collected.
    - 3.2.3.1.3.** Any of the items specified in §5.3 of this Fiscal Rule.
  - 3.2.3.2.** Regardless of the total term of a Commitment Voucher, a State Agency or Institution of Higher Education shall only encumber funds for the current State fiscal year of the Commitment Voucher, unless the Agency or Institution of Higher Education has continuous spending authority for that Commitment Voucher.

#### 4. COMMITMENT VOUCHERS

- 4.1.** Purchase Orders – When State Agencies and Institutions of Higher Education are required to use a PO as the Commitment Voucher under this Fiscal Rule, the State Agency or Institution of Higher Education shall use the PO in accordance with Fiscal Rule 3-2 (Purchase Orders) and shall comply with all requirements of that Rule.
- 4.2.** State Contracts – When State Agencies and Institutions of Higher Education are required to use a State Contract as the Commitment Voucher under this Fiscal Rule, the State Agency or Institution of Higher Education shall use the State Contract in accordance with Fiscal Rule 3-3 (State Contracts) and shall comply with all requirements of that Rule.
- 4.3.** Grants – When State Agencies and Institutions of Higher Education are required to use a Grant Agreement or Small Dollar Grant Award as the Commitment Voucher under this Fiscal Rule, the State Agency or Institution of Higher Education shall use the Grant Agreement or Small Dollar Grant Award in accordance with Fiscal Rule 3-4 (Grants) and shall comply with all requirements of that Rule.
- 4.4.** Interagency Agreements – When State Agencies and Institutions of Higher Education are required to use an Interagency Agreement under this Fiscal Rule, the State Agency or Institution of Higher Education shall use the Interagency Agreement in accordance with Fiscal Rule 3-5 (Interagency Agreements) and shall comply with all requirements of that Rule.
- 4.5.** Small Purchase Documentation – When State Agencies and Institutions of Higher Education

use Small Purchase Documentation as the Commitment Voucher under this Fiscal Rule, the State Agency or Institution of Higher Education shall ensure that the Small Purchase Documentation describes the following:

- 4.5.1. The goods or services being purchased and the reason for the disbursement of funds if the description of the goods or services doesn't otherwise clearly specify the reason;
- 4.5.2. The total amount due for the goods delivered or services provided and sufficient detail or itemization to ensure that the proper amount will be paid and the prices are fair and reasonable; and
- 4.5.3. Sufficient detail to determine if the delivery of goods or provision of services was successfully completed and accepted.

Separate Small Purchase Documentation is not required for purchases made by travelers that do not require a receipt under Fiscal Rule 5-1(Travel), as the travel authorization constitutes the Small Purchase Documentation for those purchases. As the Commercial Card is only a method of payment, purchases made with a Commercial Card require Small Purchase Documentation and may also require another form of Commitment Voucher.

**5. DOLLAR LIMITS AND REQUIREMENTS:**

- 5.1. The following table describes the required Commitment Voucher for the different types of agreements.

TYPE OF AGREEMENT	DOLLAR LIMIT	REQUIRED DOCUMENT FOR COMMITMENT VOUCHER
<b>Goods</b>	\$5,000 and less	Small Purchase Documentation, PO, or State Contract
	More than \$5,000	PO or State Contract
<b>Services</b>	\$5,000 and less	Small Purchase Documentation, PO, or State Contract
	More than \$5,000 and not more than \$150,000	PO or State Contract
	More than \$150,000	State Contract



<b>Grants</b>	\$5,000 and less	Small Purchase Documentation, Small Dollar Grant Award, or Grant Agreement
	More than \$5,000 and not more than \$150,000	Small Dollar Grant Award or Grant Agreement
	More than \$150,000	Grant Agreement
<b>Capital Construction / Controlled Maintenance</b>		
<b>Capital Construction / Controlled Maintenance</b>	\$150,000 and less	Construction PO (See Fiscal Rule 4-1)
	More than \$150,000	Construction Contract (See Fiscal Rule 4-1)
<b>Professional Services under §24-30-1401, et seq., C.R.S., including architectural, engineering, land surveying, industrial hygienist, and landscape architect services</b>		
	Any dollar amount	State Contract
<b>Real Property lease or license of land, buildings, or a portion thereof for term of more than 30 days</b>		
	Any dollar amount	State Contract
<b>Agreements Between Agencies and/or Institutions of Higher Education</b>		
	Any dollar amount	No Commitment Voucher Needed; Use Interagency Agreement in accordance with Fiscal Rule 3-5

- 5.2.** Dollar Limits – the dollar limits shown in the table in §5.1 of this Fiscal Rule apply to the total term of the Commitment Voucher. If a single Commitment Voucher will be used for a purchase that will span multiple fiscal years, then the total of all fiscal years included in that Commitment Voucher is the amount to which the dollar limit will apply. State Agencies and Institutions of Higher Education shall use a single Commitment Voucher for purchases in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding single purchases.
- 5.3.** Protecting the State’s Interests – State Contracts shall be used in situations in addition to those described in this Section if other Commitment Vouchers do not adequately protect the State’s interests. Refer questions regarding the proper form of Commitment Voucher to the Office of

the State Controller.

**5.4.** Disbursements Exempt from Purchase Order or State Contract – A Purchase Order or State Contract is not required for the following types of disbursements regardless of the amount of funds disbursed:

- 5.4.1.** Access to internet-based, on-demand training classes and webinars;
- 5.4.2.** Advices of Employments;
- 5.4.3.** Calculated payments required under a program within a State Agency or Institution of Higher Education (e.g., formula distributions, other distributions required by regulatory or statutory formulas);
- 5.4.4.** Copier rental agreements when the payment is based on a defined rate per copy;
- 5.4.5.** Conference registrations;
- 5.4.6.** Conference facilities at hotels or other venues that include, but need not be limited to, meeting rooms, audio visual equipment, catering, and guest accommodation rooms.
- 5.4.7.** Financial aid or tuition assistance programs that is paid directly to a beneficiary;
- 5.4.8.** Membership dues and fees, and participation assessments, that do not include services or examinations;
- 5.4.9.** Insurance premiums;
- 5.4.10.** Services needed by the Department of Law, or by another State Agency or Institution of Higher Education with the approval of the Department of Law to seek outside counsel, to support civil or criminal proceedings, civil or criminal enforcement, or legal services (e.g. attorneys, expert consultants, expert witnesses, mediators, and arbitrators).
- 5.4.11.** Court orders related to criminal proceedings, civil enforcement, or legal services.
- 5.4.12.** Intra-agency or intra-institution purchases;
- 5.4.13.** Moving expenses reimbursed to State employees or paid on behalf of State employees;
- 5.4.14.** Payroll and related disbursements to employees (withholding, authorized benefits, etc.), including reimbursements or payment for Travel as described in Fiscal Rule 5-1;
- 5.4.15.** Postal and other delivery charges, including messenger fees, post office boxes and postage meters;
- 5.4.16.** State program payments to or on behalf of individuals qualified for the program's benefits;
- 5.4.17.** Subscriptions for journals, informational publications, informational and research databases or similar materials (print or electronic), that do not include additional services (such as training or configuration);
- 5.4.18.** Utility hook ups, relocations, and line extensions performed by a utility company;
- 5.4.19.** Water; energy (regulated electric and natural gas, and steam); local, long-distance, wireless, satellite, and telephone communication or data services, including pagers, cell phones and other wireless/communication devices; septic pumping services;

regular, non-hazardous trash collection services; and bulk fuel (coal, heating oil, gasoline, propane), which are routinely purchased by a State Agency or Institution of Higher Education; and

**5.4.20.** Other disbursements approved in writing by the State Controller.

**5.5.** Exemption from Purchase Order and State Contract Only. The exemptions listed in §5.3 are exemptions from the need to have a Purchase Order or State Contract only and does not create any exemption from any other statutory requirement, such as the requirements of the Colorado Procurement Code and the Procurement Rules.

## **6. PROHIBITED TERMS AND LIMITATIONS:**

- 6.1.** Indemnification by the State Prohibited – Unless specifically authorized by statute, a State Agency or Institution of Higher Education shall not indemnify and/or hold harmless another Party (no matter how it is phrased) against any liability incurred as a result of the acts or omissions of such State Agency or Institution of Higher Education. The Colorado Constitution prohibits disbursement by the State Treasurer except upon appropriations made by law or as otherwise authorized by law (Article V, §33). Except as authorized by law, any term or provision of any Commitment Voucher or any other agreement that requires the State to indemnify or hold harmless another Party is void as described in §24-106-109, C.R.S.
- 6.2.** Binding Arbitration Prohibited – A State Agency or Institution of Higher Education shall not be bound by the results of arbitration or any other extrajudicial dispute resolution process in which the final resolution is not determined by the State. Any term or provision of any Commitment Voucher or any other agreement that requires the State to agree to binding arbitration or any other binding extrajudicial resolution process in which the final resolution is not determined by the State is void as described in §24-106-109, C.R.S.
- 6.3.** Limitations of Liability – A State Agency or Institution of Higher Education may not limit another Party’s liability for claims or damages arising out of bodily injury, death, or damage to tangible property of the State. Any term or provision of any Commitment Voucher or any other agreement that limits the liability of a Party for bodily injury, death or damage to tangible property of the State is void as described in §24-106-109, C.R.S. Other liability may be limited if the State Agency or Institution of Higher Education determines in writing that the benefits outweigh the risks, the limitation of liability does not apply to any insurance required under the Commitment Voucher, if any, and the Office of the State Controller has approved the limitation.
- 6.4.** Choice of Law Outside of Colorado – A State Agency or Institution of Higher Education may not agree to be bound by the laws of another state. As described in §24-106-109, C.R.S., all agreements except those with another government shall be governed by Colorado law. State Agencies and Institutions of Higher Education may agree to be silent on choice of law in agreements with another governmental entity, but cannot agree to their law as controlling.
- 6.5.** Inclusion of Void Terms – A State Agency or Institution of Higher Education should not include a term or provision that would be void under this §6 or under §24-106-109, C.R.S., in any Commitment Voucher or a Vendor Agreement entered into by a State Agency or Institution of Higher Education with another Party. If another Party requires the inclusion of a void provision, the State Agency or Institution of Higher Education shall inform the Party that those terms or provisions will be void if they are included. If the Party is unwilling or unable to remove those terms or provisions after being notified but is unwilling to accept the Commitment Voucher, Small Purchase Documentation, or Vendor Agreement without the inclusion, the State Agency or Institution of Higher Education may enter into the Commitment

Voucher or Vendor Agreement that includes the void provision if the State Controller, Chief Procurement Officer, authorized Procurement Official or delegate, or authorized State Controller delegate approves the inclusion of the void term or provision.

## **7. COMMITMENT VOUCHER APPROVALS:**

The State Controller, or an authorized delegate of the State Controller, shall approve all Purchase Orders, State Contracts, Grant Agreements, and Small Dollar Grant Awards. A State Agency or Institution of Higher Education, at its discretion, may require such additional internal approvals as it deems proper. The State Agency or Institution of Higher Education shall obtain all required approvals and signatures and retain documentation thereof in its files for the period specified in the State Controller Contract, Grant, and Purchase Order Policies. Unless a State Agency or Institution of Higher Education is exempt by statute or has delegated approval authority, prior approval of the Commitment Voucher by one or more of the Central Approvers, defined in Fiscal Rule 3-3, is required as follows:

- 7.1.** Capital Construction and Controlled Maintenance Commitment Vouchers require the approval of the State Architect or a delegate of the State Architect, unless otherwise exempt by statute or waived by the State Architect. See §24-30-1303(1)(d), C.R.S.
- 7.2.** Commitment Vouchers for services normally provided by the Division of Central Services require the approval of the Director of the Division of Central Services, Department of Personnel and Administration, or a delegate of the Director of the Division of Central Services, for all State Agencies located within Adams, Arapahoe, Boulder, Douglas, Pueblo, El Paso, and Jefferson counties, the City and County of Broomfield, and the City and County of Denver. Institutions of Higher Education are exempt from this requirement. See §24-30-1104(1), C.R.S.
- 7.3.** Contingency-Based Commitment Vouchers require the approval of the Office of State Planning and Budgeting. See §24-17-204, C.R.S.
- 7.4.** Debt Collection Services Commitment Vouchers require the approval of the State Controller or a delegate of the State Controller with specific authority to approve Debt Collection Services Commitment Vouchers. See §24-30-202.4, C.R.S.
- 7.5.** Financial Information Commitment Vouchers used by a State Agency or Institution of Higher Education to record financial transactions and information, develop financial reports, or prepare financial statements require the approval of the State Controller. See §24-30-202(12), C.R.S.
- 7.6.** Information Technology Commitment Vouchers require approval by the Governor's Office of Information Technology as described in the State Controller Contract, Grant, and Purchase Order Policies.
- 7.7.** Legal Services Commitment Vouchers require the approval of the State Attorney General or a delegate of the State Attorney General. See §24-31-101, C.R.S.
- 7.8.** Personal Services Commitment Vouchers require the approval of the State Personnel Director or a delegate of the State Personnel Director. See §24-50-501, et seq., C.R.S. This approval is not required for Personal Services Commitment Vouchers for services that are:
  - 7.8.1.** Exempt from the State classified personnel system under Article XII, §13 of the State Constitution, including without limitation, attorneys at law serving as assistant attorneys general; faculty members and certain administrators at Institutions of Higher Education, exempt under §24-50-135, C.R.S., and members, officers, and employees of the judicial and legislative branches of the State, unless specifically provided by the Constitution, and the offices of the Governor and Lieutenant Governor whose functions and duties are confined to such offices.; or

- 7.8.2.** Non-recurring services lasting nine months or less, where the need for such services is not expected to recur on a regular basis. Temporary services that do not meet these criteria require approval from the State Personnel Director or a delegate of the State Personnel Director.
- 7.9.** Real property State Contracts, including leases where the State Agency or Institution of Higher Education is the tenant, easements, and rights-of-way agreements, require the approval of the State Architect or the Director of Real Estate Programs within the Office of the State Architect, Department of Personnel & Administration, or a delegate of either position, unless otherwise exempted by statute. See §24-30-1303, C.R.S. Real properties administered by the State Board of Land Commissioners, Division of Parks and Wildlife in the Department of Natural Resources, and the Department of Transportation, are exempt from this requirement. See §24-30-1301(15)(b), C.R.S.
- 7.10.** Utility cost-savings Commitment Vouchers require the approval of the State Personnel Director or a delegate of the State Personnel Director. See §24-30-2003(1)(b), C.R.S.
- 7.11.** Commitment Vouchers related to the Business Enterprise Program require the approval of the Business Enterprise Program within the Department of Labor and Employment. See §8-84-201, et seq., C.R.S.

## **8. STATUTORY VIOLATIONS:**

A Statutory Violation occurs when liabilities are incurred or payments are made on the State's behalf without prior approval of a State Purchase Order, Small Dollar Grant Award, Grant Agreement, or State Contract, when required under this Fiscal Rule. A Statutory Violation also occurs when liabilities are incurred or payments are made that exceed the unencumbered balance of the appropriation to which the resulting disbursement would be charged.

- 8.1.** Personal Liability – Under §24-30-202(3), C.R.S., any person(s) who incurs, orders or votes for an obligation or makes a payment which creates a Statutory Violation shall be personally liable for such obligation, unless the contractor payment subject to the Statutory Violation is approved by the State Controller and the State Controller permits the State Agency or Institution of Higher Education to make payment to the contractor without recovering the amount of that payment from the person(s) who incurred, ordered or voted for an obligation or made a payment which created the Statutory Violation.
- 8.2.** Payment Prohibition – A State Agency or Institution of Higher Education shall not make payments to a contractor that are subject to a Statutory Violation, unless and until the contractor payment subject to the violation has been approved by the State Controller.
- 8.3.** Commitment Voucher Modification Provision – A State Agency or Institution of Higher Education shall not modify any requirements related to the work contained in a Commitment Voucher if that Commitment Voucher is subject to an unapproved Statutory Violation.
- 8.4.** Approval Allowing Contractor Payment – The State Controller or an authorized delegate of the State Controller, in that individual's sole discretion, may approve a retroactive Commitment Voucher supporting the expenditure or obligation creating a Statutory Violation, and allow payment to the contractor if that individual finds all of the following:
  - 8.4.1.** The prices or rates are fair and reasonable;
  - 8.4.2.** The amount of the expenditure is authorized by the appropriation and allotment to which it will be charged and is within the unencumbered balance available within that allotment;
  - 8.4.3.** The State Agency or Institution of Higher Education provides a written explanation

in accordance with the State Controller Contract, Grant, and Purchase Order Policies;  
and

- 8.4.4.** The contractor did not act in bad faith or in a fraudulent manner.
- 8.5.** Removal of Personal Liability – As part of any approval allowing contractor payment, the State Controller or an authorized delegate of the State Controller, in that individual’s sole discretion, may permit the State Agency or Institution of Higher Education to make payment to the contractor without recovering the amount of that payment from the person(s) who incurred, ordered, or voted for an obligation or made a payment which created the Statutory Violation if that individual finds of the following:
  - 8.5.1.** The violation does not show a willful disregard of law, rules, policies or regulations on the part of the person(s) who incurred, ordered, or voted for an obligation, or who made a payment which created the Statutory Violation;
  - 8.5.2.** The violation happened accidentally or was unavoidable through no fault of the person(s) who incurred, ordered, or voted for an obligation, or who made a payment which created the Statutory Violation; and
  - 8.5.3.** The State Agency or Institution of Higher Education has requested permission to make the payment without recovering the amount of the payment from the person(s) who incurred, ordered, or voted for an obligation or who made a payment which created the Statutory Violation.
- 8.6.** Fiscal Rule Violation Ratification – If the State Controller or an authorized delegate of the State Controller approves a retroactive Commitment Voucher supporting the expenditure or obligation creating a Statutory Violation, then that approval shall also constitute a ratification of the violation of this Fiscal Rule.

## 9. ADVANCE PAYMENTS

- 9.1.** General Prohibition – Commitment Vouchers shall not provide for Advance Payment for goods supplied and/or services performed or for any other contractual obligation, except as permitted in §§9.4 through 9.6 of this Fiscal Rule.
- 9.2.** Accounting for Advance Payments – Regardless of when a payment is made, State Agencies and Institutions of Higher Education shall account for those payments in accordance with GAAP and any grant requirements applicable to those payments.
- 9.3.** Waiver Process – The State Controller or an authorized delegate of the State Controller, in that individual’s sole discretion, may grant the request of a State Agency or Institution of Higher Education for a waiver, allowing an Advance Payment not listed in the exceptions in §§9.4 through 9.6. The waiver request shall include evidence that advance payment is an established industry standard and/or provides a benefit to the State at least equal to the cost and risk of the Advance Payment.
- 9.4.** Exceptions – Prior Approval of State Controller Not Required – Advance Payments where the payment is made no more than one year in advance of the substantial receipt and acceptance of the goods or completion and acceptance of the services to which the payment applies are permitted without prior approval of the State Controller or a delegate of the State Controller for the following, unless the State Controller or delegate determines that the circumstances around the payment require prior approval to minimize risk to the State:
  - 9.4.1.** Advertising services and related goods;
  - 9.4.2.** Charter Transportation;

- 9.4.3. Construction permits;
- 9.4.4. Catering for events at both State and non-State facilities;
- 9.4.5. Deposits for conference facilities at hotels or other venues that include, but need not be limited to, meeting rooms, audio visual equipment, catering, and guest accommodation rooms.
- 9.4.6. ExpressToll passes issued by the E-470 Public Highway Authority.
- 9.4.7. Federal grants awarded by the State to subgrantees (in compliance with Federal requirements) or agreements where the State is acting as a fiscal agent for the disbursement of Federal funds (in compliance with Federal requirements);
- 9.4.8. Information technology (IT) service agreements (including internet access, systems and database access),
- 9.4.9. Insurance premiums;
- 9.4.10. Interagency Agreements;
- 9.4.11. Janitorial services;
- 9.4.12. Licenses, including licenses for software;
- 9.4.13. Maintenance of office equipment or information technology (IT) (software and hardware), and other maintenance agreements;
- 9.4.14. Membership dues and fees, and participation assessments, that do not include services or examinations;
- 9.4.15. Personal property leases or rentals;
- 9.4.16. Postal and other delivery charges, including messenger fees, post office boxes and postage meters;
- 9.4.17. Purchases made with a Commercial Card through an online retailer (See Fiscal Rule 2-7);
- 9.4.18. Professional services provided by entertainers and speakers;
- 9.4.19. Participation in conferences and trade shows as an exhibitor or presenter, including booth rental at those conferences or events;
- 9.4.20. Real property leases, where the State is a tenant, and perpetual easements, if the entire interest is purchased and all attendant rights are transferred upon payment;
- 9.4.21. Security alarm and safety systems and monitoring;
- 9.4.22. Services needed by the Department of Law, or by another State Agency or Institution of Higher Education with the approval of the Department of Law to seek outside counsel, to support criminal or civil proceedings, civil or criminal enforcement, or legal services (e.g. attorneys, expert consultants, expert witnesses, mediators, and arbitrators).
- 9.4.23. Sponsored projects – See Fiscal Rule 3-3 (State Contracts);
- 9.4.24. Subscriptions for journals, informational publications, informational and research databases or similar materials (print or electronic), which do not include additional services (such as training and configuration);
- 9.4.25. Telecommunications services, such as prepaid local, long-distance, wireless,

satellite, and telephone communication or data services, including pagers, cell phones and other wireless/communication devices;

- 9.4.26.** Travel expenses such as hotels, motels, airfare etc. paid in accordance with Fiscal Rule 5-1;
  - 9.4.27.** Tuition, registration, and fees charged for trainings, classes, conferences, and seminars;
  - 9.4.28.** Utility hook-ups, relocations, and line extensions performed by a utility company;
  - 9.4.29.** Utility services including trash and recycling collection, heat, water, and sewer; and
  - 9.4.30.** Water rights purchases, temporary water leases, or water storage payments.
- 9.5.** Exceptions – Prior Approval Not Required – Multiple Years. Advance Payments, where the payment may be made any time in advance of the receipt of the goods or completion of the service to which the payment applies, are permitted without prior approval of the State Controller for the following:
- 9.5.1.** Federal contracts where the State Agency or Institution of Higher Education is paying the Federal government and the Federal agency requires Advance Payments under the Anti-Deficiency Act or other Federal rule or regulation;
  - 9.5.2.** In-kind payments, where the State Agency or Institution of Higher Education has access to variable quantities of the good or commodity to be used for payment and the State Controller delegate for the State Agency or Institution of Higher Education determines, and documents in the contract file, that it is in the best interest of the State Agency or Institution of Higher Education to be able to prepay in years where the State Agency or Institution of Higher Education has access to high quantities to offset years where lower quantities are available (e.g. when a State Agency or Institution of Higher Education is required to pay in water, it may need to prepay in “wet” years in order to offset drought years).
- 9.6.** Exceptions – Prior Delegate Approval Required – One or More Years. Advance Payments of up to \$10,000, may be made any time in advance of the receipt and acceptance of goods or the completion and acceptance of services, if the State Controller delegate for the State Agency or Institution of Higher Education determines, and documents in the Contract file, that the Advance Payment provides a benefit to the State at least equal to the cost and risk of the Advance Payment. Advance Payments shall not be split in order to stay below the \$10,000 maximum. In no instance shall more than \$10,000 be advanced under a single Commitment Voucher without State Controller approval.

## **10. REQUIREMENTS FOR PERSONAL SERVICES COMMITMENT VOUCHERS**

- 10.1.** Designation of Contract Manager – In accordance with §24-106-107, C.R.S., for each Personal Services Commitment Voucher, State Agencies and Institutions of Higher Education shall designate at least one person with subject matter expertise as a contract manager to be responsible for day-to-day management of the Personal Services Commitment Voucher, including performance monitoring as required by §24-106-107(3), C.R.S.
- 10.2.** Monitoring – Each State Agency and Institution of Higher Education shall monitor its Personal Services Commitment Vouchers to ensure that the work is performed in accordance with the performance measures and standards of the Personal Services Commitment Voucher and that the contractor was paid in accordance with the payment schedule in the Personal Services Commitment Voucher. State Agencies and Institutions of Higher Education shall follow the State Controller Contract, Grant, and Purchase Order Policies and the accountability standards



in §24-106-107(2)(b), C.R.S.

- 10.3.** Contract Management System – In accordance with §24-106-103(3)(d), C.R.S., State Agencies and Institutions of Higher Education subject to §24-106-103, C.R.S., shall include all Personal Services Commitment Vouchers over \$100,000.00 in the State’s centralized contract management system, maintained by the Department of Personnel and Administration, within 30 days following their execution, regardless of the type of Commitment Voucher used.
- 10.4.** Personal Services Provided By Retirees – State Agencies and Institutions of Higher Education that purchase services from an independent contractor who is also a retired State employee shall make employer contributions to Public Employees' Retirement Association (PERA) in accordance with per §24-51-1101(2), C.R.S. For State Agencies that utilize the State Financial System, full disclosure of the relationship with the retired State employee working as independent contractor shall be provided to the Office of the State Controller to allow coordination of employer contribution payments to PERA on behalf of State Agencies. Agencies and Institutions of Higher Education that do not use the State Financial System shall be responsible for ensuring that the proper contribution payments are made to PERA.
- 10.5.** Personal Services Commitment Voucher Terms – In addition to the elements otherwise required for each type of Commitment Voucher, each Personal Services Commitment Voucher over \$100,000 shall include all of the following terms, as required by §24-106-107, C.R.S.:
  - 10.5.1.** Performance measures and standards developed specifically for the Commitment Voucher by the administering State Agency or Institution of Higher Education;
  - 10.5.2.** Accountability standards requiring regular contractor reports on achievement of the specified performance measures and standards;
  - 10.5.3.** Payment provisions allowing the State Agency or Institution of Higher Education to withhold payment until successful completion of all or specified parts of the Commitment Voucher and requiring prompt payment upon successful completion;
  - 10.5.4.** Monitoring requirements specifying how the State Agency or Institution of Higher Education will evaluate the contractor’s performance, including progress reports, site visits, inspections, and reviews of performance data; and
  - 10.5.5.** Processes for resolving disputes between the State Agency or Institution of Higher Education and the contractor.

## **11. EMERGENCIES:**

Emergency disbursements for procurements that would require a State Contract or Purchase Order may be made upon presentation of invoices, receipts, or other statements describing goods or services purchased and the amount to be paid. Goods and services necessary to respond to an Emergency may be procured immediately, without issuing a Commitment Voucher or obtaining a written waiver from the Office of the State Controller, where all of the following conditions are met:

- 11.1.** The nature of the situation requires an immediate response and there is insufficient time to issue a Commitment Voucher;
- 11.2.** The procurement is authorized in accordance with the Procurement Code and the Procurement Rules;
- 11.3.** The expenditure is approved by a State Controller delegate;
- 11.4.** If there are any future performance obligations necessary to resolve the Emergency, a Commitment Voucher is executed as soon as possible to define those future performance obligations, as required by Fiscal Rules; and

- 11.5.** The State Agency or Institution of Higher Education notifies the State Controller's Office in writing, as soon as possible, of the circumstances, the goods and services purchased, and the dollar amount of the commitment. Failure to provide notice in a timely manner, as determined by the State Controller's Office, will constitute a Statutory Violation.

**12. VENDOR AGREEMENTS:**

- 12.1.** Prohibited Use – A Vendor Agreement shall not be used in lieu of a State Purchase Order or State Contract, where one is required, absent the prior written approval of the State Controller or an approved delegate. A Vendor Agreement shall not be used where a State Purchase Order or State Contract is not required, except as provided in §12.2 or in the State Controller Contract, Grant, and Purchase Order Policies.
- 12.2.** Permitted Use – The Chief Fiscal Officer or Procurement Official of a State Agency or Institution of Higher Education, or a delegate of either individual, may authorize the use of Vendor Agreements up to \$5,000, if a State Contract or Purchase Order is not required.
- 12.3.** Conditions of Use – All of the conditions set forth in the State Controller Contract, Grant, and Purchase Order Policies related to Vendor Agreements shall be met whenever a Vendor Agreement is used.

**13. INDEPENDENT CONTRACTOR RELATIONSHIP:**

State Agencies and Institutions of Higher Education shall ensure that all Commitment Vouchers create only an independent contractor relationship and do not create an employer-employee relationship. State Agencies and Institutions of Higher Education shall not engage in any practices that would result in the creation of an employer-employee relationship.

## **RULE 3-2: PURCHASE ORDERS**

### **1. AUTHORITY:**

§24-30-202(1-4) and (5)(a), C.R.S. (State Controller Authority)

§24-106-103, C.R.S. (Centralized Contract Management System)

§24-102-206, C.R.S. (Contract Performance Outside United States or Colorado)

§24-106-106, C.R.S. (Right to Audit Records)

§24-106-107, C.R.S. (Monitoring of Vendor Performance)

### **2. DEFINITIONS:**

**2.1.** Purchase Order – A unilaterally approved Commitment Voucher, the form of which has been approved by the State Controller, issued by a State Agency or Institution of Higher Education to purchase goods, services, or construction for the direct benefit of the State, as described in this Fiscal Rule.

### **3. RULE:**

Each State Agency or Institution of Higher Education shall use a Purchase Order as described in this Rule when Fiscal Rule 3-1 requires the use of a Purchase Order as the Commitment Voucher.

### **4. CONTENT OF PURCHASE ORDERS:**

**4.1.** Standard Provisions – All Purchase Orders issued by State Agencies and Institutions of Higher Education shall include all of the following:

**4.1.1.** Identification of the parties;

**4.1.2.** A description of all goods to be delivered and/or services to be performed;

**4.1.3.** Payment Terms, as defined in Fiscal Rule 2-3, including the maximum dollar amount;

**4.1.4.** Dates that define the term of the Purchase Order; and

**4.1.5.** Any other content required under the State Controller Contract, Grant, and Purchase Order Policies.

### **5. APPROVED PURCHASE ORDER FORMS**

**5.1.** All Purchase Orders shall be in a form approved by the State Controller. The State Controller has approved the following Purchase Order forms and may approve additional forms in the State Controller's sole discretion.

**5.1.1.** Model Purchase Orders – State Agencies and Institutions of Higher Education shall use the model Purchase Order forms as described in the State Controller Contract, Grant, and Purchase Order Policies.

**5.1.2.** Purchase Order Modifications – All modifications to a Purchase Order shall be made by a formal written change order approved by the State Controller or a delegate, unless an alternative modification tool has been approved by the State Controller. A Purchase Order for services or one that has already been accepted by performance cannot be modified or extended (revived) after its term has expired.

**5.1.2.1.** If unaccepted goods are delivered after the expiration of a Purchase

Order for goods only, the State Agency of Institution of Higher Education may accept those goods by modifying the Purchase Order to extend the term to the date the goods were delivered so long as the goods had not been used by the State prior to the extension. In this circumstance, the use of goods prior to the execution of the extension of the Purchase Order constitutes a Statutory Violation as described in Fiscal Rule 3-1, §8.

- 5.1.3.** Other Purchase Order Forms – State Agencies and Institutions of Higher Education may use any other Purchase Order form that is approved by the State Controller from time-to-time.

## **6. STATE CONTROLLER REVIEW AND APPROVAL:**

### **6.1. Performance of State Controller Functions**

- 6.1.1.** Delegation to State Agencies and Institutions of Higher Education – The State Controller has delegated the authority to approve Purchase Orders to the State’s Chief Procurement Officer, as defined in §24-101-301(6), C.R.S., with special approval to sub delegate that authority. The State Controller may also delegate the authority to approve Purchase Orders to any other individual through a delegation agreement in accordance with Fiscal Rule 1-4.

### **6.2. Process for Review, Approval, and Signature**

- 6.2.1.** Review of Purchase Orders – All Purchase Orders shall be reviewed by the State’s Chief Procurement Officer, a Procurement Official or another individual with either a delegation from the State Controller or a sub-delegation from the Chief Procurement Officer or a Procurement Official to review Purchase Orders to determine if the Purchase Order complies with Fiscal Rule 3-1, §3 and all procurement laws and regulations.
- 6.2.2.** Approval of Purchase Orders – All Purchase Orders shall be approved by the State’s Chief Procurement Officer, a Procurement Official, or another individual with either a delegation from the State Controller or a sub-delegation from the Chief Procurement Officer or a Procurement Official to approve Purchase Orders, prior to any Purchase Order becoming effective. If approved, the person approving the Purchase Order shall evidence such approval in the State Financial System, or other such system used by the State Agency or Institution of Higher Education in accordance with Fiscal Rule 1-3, or by signing the Purchase Order.

## **RULE 3-3: STATE CONTRACTS**

### **1. AUTHORITIES:**

Article V, Section 33, Constitution of Colorado – Disbursement of public money

Article XI, Section 1, Constitution of Colorado – Pledging credit of state, county, city, town or school district forbidden

Article XII, Section 13 (2), Constitution of Colorado – State personnel system – merit system

Governor's Executive Order signed April 7, 1978 (Authority to Sign Contracts, Deeds, and Leases)

Governor's Executive Order D 016 07 – Improving State Information Technology Management

State of Colorado Procurement Rules – 1 CCR 101-9

§4-1-101, et seq., C.R.S. (Uniform Commercial Code)

§24-2-102(4), C.R.S. (Appointment of Officers and Employees)

§2-2-320(2), C.R.S. (Legislative Contracts Approval)

§24-17-201, et seq., C.R.S. (State Contingency-based Contracts)

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

§24-30-1104(1)(h), C.R.S. (Central Services Approval Authority)

§24-30-1107, C.R.S. (Central Services Approval authority)

§24-30-1303(1)(a) and (d), C.R.S. (Office of State Architect Approval Authority)

§24-30-1404(4), C.R.S. (Prohibition against Contingency Fees)

§24-30-2001, et seq., C.R.S. (Utility Cost-savings Measures)

§24-31-101(1)(c), C.R.S. (State Attorney General Powers and Duties)

§24-31-104, C.R.S. (Appointment of Subordinate Officers and Employees)

§24-34-101, et seq., C.R.S. (Department of Regulatory Agencies)

§24-37.5-101, et seq., C.R.S. (Office of Information Technology)

§24-37.5-601, et seq., C.R.S. (Telecommunications Approval Authority)

§24-50-135, C.R.S. (Exemptions from Personnel System)

§24-50-501, et seq., C.R.S. (Contracts for Personal Services)

§24-75-302, C.R.S. (Capital Construction Fund)

§24-101-101, et seq., C.R.S. (Procurement Code)

§§33-1-105 and 105.5, C.R.S. (Acquisition of Property – Parks and Wildlife Commission)

§33-10-107, C.R.S. (Acquisition of Property – Parks and Wildlife Commission)

### **2. DEFINITIONS:**

The following definitions include terms used in this Fiscal Rule as well as various types of Agreements entered into by State Agencies and Institutions of Higher Education.

- 2.1.** Agreement – A legal agreement between a State Agency or Institution of Higher Education and another individual or entity that may or may not constitute a State Contract under this Fiscal Rule.
- 2.2.** Capital Construction – A Capital Construction Project or Controlled Maintenance Project funded wholly or in part by the State Capital Construction Fund (§24-75-302, C.R.S.) or wholly or in part with any cash resources of a State Agency or Institution of Higher Education. See Fiscal Rule 4-2.
- 2.3.** Central Approvers – Certain division directors, executive directors of State Agencies, and Elective Officers, or their respective delegates, whose prior approval is required by statute or Fiscal Rule for certain types of State Contracts. Central approvers include, without limitation, the State Personnel Director, the State Architect, the Director of the Real Estate Programs, the State Communications Coordinator, the State Attorney General, the Director of the Division of Central Services, the State Risk Manager, and the Executive Director of the Governor’s Office of Information Technology.
- 2.4.** Central Services Contract – A State Contract between a State Agency or Institution of Higher Education and another Party for the acquisition of services, services related to equipment, and software related to services. Centralized services include, without limitation, motor pool operation, motor vehicle maintenance, mail or messenger services, office copying, graphic design for print media, printing and binding, microfilming, or design of forms. See §24-30-1104, C.R.S.
- 2.5.** Contingency-Based Contract – A State Contract for services between a State Agency or Institution of Higher Education and a contractor where all or part of the contractor’s compensation is computed by multiplying a stated percentage by the measurable savings in the State Agency’s or Institution of Higher Education’s expenditures or costs of operation attributable to the contractor’s services under the State Contract. The term “Contingency-Based Contract” does not include State Contracts where the contingency-based compensation is specifically authorized by statute, as described in §24-17-203, C.R.S, including State Contracts where the contractor collects a debt on behalf of the State Agency or Institution of Higher Education and receives a portion of those amounts collected as payment. Contingent fees are prohibited in Professional Services Contracts. See §24-30-1404(4), C.R.S.
- 2.6.** Debt Contract – A State Contract in which the State receives money from a lender and agrees to repay the money to the lender, including the payment of any interest due. All Debt Contracts must comply with the requirements of the Taxpayer Bill of Rights. Examples of Debt Contracts include lease purchase agreements, short-term debt, notes, bonds, and certificates of participation.
- 2.7.** Delegated State Agency or Delegated Institution of Higher Education – A State Agency or Institution of Higher Education whose controller has been granted delegated signature authority by the State Controller.
- 2.8.** Employee Voluntary Separation Agreement – An Agreement between a State Agency or Institution of Higher Education and a State employee setting forth the terms of the employee’s voluntary separation from State employment.
- 2.9.** Expenditure Contract – A State Contract where a State Agency or Institution of Higher Education is required to make a payment, either in funds or in-kind, to another Party, directly or indirectly, and includes any agreements that divert revenue that would otherwise be due to the State. An agreement where the State is required to perform a service for another Party is an Expenditure Contract if it is likely that the State’s failure to perform would result in the payment of State funds to the other Party.

- 2.10.** Franchise Agreement – An Agreement where a State Agency or Institution of Higher Education grants to another Party a concession or right to provide goods or services in a particular market or geographical area controlled by the State, such as concession stands, hotels, and other services provided in certain State parks. The State Agency or Institution of Higher Education may regulate service level, quality, and price, but users of the service pay the other Party directly and the other Party provides the goods or services and exercises control over other management decisions. For the purposes of this Fiscal Rule, an Agreement by a State Agency or Institution of Higher Education to buy a franchise from another Party is an Expenditure Contract, not a Franchise Agreement.
- 2.11.** Fund Management Services Agreement – A State Contract for professional consulting services regarding the management of State funds.
- 2.12.** Goods Contract – A State Contract between a State Agency or Institution of Higher Education and another Party for the purchase of goods. The term “goods” includes commodities, supplies, and products as such terms are used in the State Procurement Code, the Procurement Rules, and Uniform Commercial Code (§4-2-105, C.R.S.).
- 2.13.** Information Technology Contract – A State Contract between a State Agency or Institution of Higher Education and another Party, where the other Party provides information technology services or products and services. An Information Technology Contract is a type of personal services contract. See §24-37.5-102(2), C.R.S. and the State Controller Contract, Grant, and Purchase Order Policies regarding Information Technology Contracts for a description of information technology products and services.
- 2.14.** Intergovernmental Contract – An Agreement between a State Agency or Institution of Higher Education and a political subdivision of the State, another state, a political subdivision or public Institution of Higher Education of another state, or an agency of the Federal government. An Intergovernmental Contract may be an Expenditure Contract or a Non-Expenditure Contract.
- 2.15.** Investment Advisory Services Agreement – A State Contract for professional consulting services regarding securities and investments.
- 2.16.** License – A grant by the owner of rights in real or personal property to another of a personal privilege to use such property, without the transfer of the underlying ownership interest therein.
- 2.17.** Loan Agreement – An Agreement between a State Agency or Institution of Higher Education and another Party, where the State Agency or Institution of Higher Education agrees to loan funds to such other Party.
- 2.18.** Major Information Technology Project – See Fiscal Rule 3-1 (Commitment Vouchers).
- 2.19.** Modification Policies – the State Controller Contract, Grant, and Purchase Order Policies related to the modification of State Contracts.
- 2.20.** Non-Expenditure Contract – An Agreement between a State Agency or Institution of Higher Education and another Party involving an exchange of resources, goods, or services, that does not result in the expenditure of funds by the State Agency or Institution of Higher Education or that is a Revenue Contract, and the likely result of a failure to perform by the State Agency or Institution of Higher Education would not result in the expenditure of State funds.
- 2.21.** Outsource Contract-Third Party Payor – A State Contract between a State Agency or Institution of Higher Education and another Party for personal services, where the State Agency or Institution of Higher Education:
- 2.21.1.** Is charged with providing the function or services that are the subject matter of the Outsource Contract to members of the public;





be terminated or modified at any time at the sole discretion of the State Controller.

- 2.30.** Sale of Securities – The offer, issuance or sale of securities by the State of Colorado or any State Agency or Institution of Higher Education. Securities may include certain Debt Contracts.
- 2.31.** Settlement Agreement – A State Contract between a State Agency or Institution of Higher Education and another Party for the purpose of ratifying agreements concerning employment, contractual, or legal disputes, where a State Agency or Institution of Higher Education is required to make a payment, either in funds or in-kind, to the other Party, directly or indirectly, and includes any agreement that diverts revenue that would otherwise be due to the State, requires the State to forgo the right to receive funds, property or services, or obligates the State to perform a service for another Party, where failure to perform such service would result in payment of State funds to the other Party, where failure to perform such service would result in payment of State funds to the other Party.
- 2.32.** Sponsored Project Agreement – A State Contract between an Institution of Higher Education and another Party, where the Institution of Higher Education receives or expends funding for use in connection with oversight responsibilities for research and development or other specified programmatic activities sponsored by Federal, state, or local governments, or private agencies or organizations.
- 2.33.** State Contract – A Commitment Voucher between a State Agency and/or Institution of Higher Education and another Party to acquire supplies, services, or construction, to lease supplies or real property or to dispose of supplies for the direct benefit of the State, and that does not include Small Purchase Documentation, Purchase Orders, Grant Agreements, or Small Dollar Grant Awards, each as described in Fiscal Rule 3-1. Interagency Agreements, as described in Fiscal Rule 3-5 are not State Contracts because they are not Commitment Vouchers.
- 2.34.** Utility Cost-Savings Contract – An energy performance State Contract, shared-savings State Contract, or other State Contract in which utility cost savings are used to pay for services or equipment. See §24-30-2001(6), C.R.S.

### **3. CATEGORIES OF STATE CONTRACTS:**

The following categories provide examples of different types of State Contracts, but are not all inclusive and any State Contract may combine any two or more of these types.

- 3.1.** Expenditure Contracts
  - 3.1.1.** Capital Construction Contracts;
  - 3.1.2.** Central Services Contracts;
  - 3.1.3.** Contingency-Based Contracts;
  - 3.1.4.** Employee Voluntary Separation Agreements;
  - 3.1.5.** Fund Management Services Agreements;
  - 3.1.6.** Goods Contracts;
  - 3.1.7.** Information Technology Contracts;
  - 3.1.8.** Intergovernmental Agreements – State has a financial obligation;
  - 3.1.9.** Investment Advisory Services Agreements;
  - 3.1.10.** Outsource Contracts-Third Party Payor;
  - 3.1.11.** Personal Property Leases/Licenses – State as lessee or licensee;

- 3.1.12. Professional Services Contracts;
- 3.1.13. Real Property Leases/ Licenses – State as tenant or licensee;
- 3.1.14. Real Property Purchase Agreements – State as buyer; and
- 3.1.15. Settlement Agreements.
- 3.2. Revenue Agreements
  - 3.2.1. Franchise Agreements;
  - 3.2.2. Real Property Leases/Licenses – State as landlord or licensor; and
  - 3.2.3. Real Property Purchase Agreements – State as seller.
- 3.3. Other Agreement Types
  - 3.3.1. Debt Contracts – State as borrower;
  - 3.3.2. Intergovernmental Agreements – State has no financial obligation
  - 3.3.3. Loan Contracts – State as lender;
  - 3.3.4. Non-Expenditure Contracts other than Revenue Contracts;
  - 3.3.5. Price Agreements;
  - 3.3.6. Sale Of Securities Agreements;
  - 3.3.7. Sponsored Project Agreements; and
  - 3.3.8. Utility Cost-Savings Agreements.

**4. RULE:**

- 4.1. Each State Agency or Institution of Higher Education shall use a State Contract as described in this Rule when Fiscal Rule 3-1 requires the use of a State Contract as the Commitment Voucher.

**5. CONTENT OF STATE CONTRACTS:**

- 5.1. Expenditure Contracts and Other Contract Types that result in an expenditure of State funds, including Debt Contracts and Price Agreements – The general provisions of this subsection shall apply to all State Contracts that result in an expenditure of State funds or the disposition of State property, except as limited or excluded in the specific subsections covering: (a) real property purchases (State as buyer), leases (State as tenant), and licenses (State as licensee) and (b) Settlement Agreements and Employee Voluntary Separation Agreements. See the State Controller Contract, Grant, and Purchase Order Policies.
  - 5.1.1. The following provisions shall be included in (a) Expenditure Contracts, (b) Debt Contracts, and (c) Price Agreements:
    - 5.1.1.1. Identification of the State Agency or Institution of Higher Education and the other Party or Parties;
    - 5.1.1.2. Statutory authority (except for Institutions of Higher Education);
    - 5.1.1.3. Statement of work;
    - 5.1.1.4. Payment terms, as defined in Fiscal Rule 2-3, including maximum dollar amount;

- 5.1.1.5. Effective date and termination date of the State Contract;
  - 5.1.1.6. General terms and conditions;
  - 5.1.1.7. Special Provisions (see §13 of this Fiscal Rule);
  - 5.1.1.8. Signature and cover page(s) as described in the State Controller Contract, Grant, and Purchase Order Policies; and
  - 5.1.1.9. Statement that the Contract shall not be valid until it has been approved by the State Controller or delegate.
    - 5.1.1.9.1. If the Contract is for a Major Information Technology Project, then a statement that the Contract shall not be valid until it has been approved by the State's Chief Information Officer or delegate.
- 5.1.2. Real Property Purchase Agreements (State as buyer), Leases (State as tenant) and Licenses (State as licensee) – State Contracts for the purchase, lease or license of real property shall contain the following provisions:
- 5.1.2.1. Identification of the parties;
  - 5.1.2.2. Statutory authority (except for Institutions of Higher Education);
  - 5.1.2.3. A description of the property and any services or allowances included with the lease;
  - 5.1.2.4. Payment terms, including maximum dollar amount;
  - 5.1.2.5. The effective date and termination date of the State Contract;
  - 5.1.2.6. General terms and conditions;
  - 5.1.2.7. If a State Agency or Institution of Higher Education is the buyer, tenant or licensee, the State Contract shall include the following Special Provisions:
    - 5.1.2.7.1. State Controller's Approval;
    - 5.1.2.7.2. Funds Availability;
    - 5.1.2.7.3. Governmental Immunity;
    - 5.1.2.7.4. Compliance with Law; and
    - 5.1.2.7.5. Vendor Offset and Erroneous Payments.
  - 5.1.2.8. If a State Agency or Institution of Higher Education is the buyer, tenant, or licensee, the State Contract may include the other Special Provisions, at the discretion of the State Agency or Institution of Higher Education.
  - 5.1.2.9. If a State Agency or Institution of Higher Education is the tenant or licensee, the State Contract shall include provisions specifying cancellation rights, if the real property leased or licensed is destroyed by fire and/or becomes subject to eminent domain.
  - 5.1.2.10. A State Agency or Institution of Higher Education shall not be in holdover after the expiration of a Real Property Lease for a period of longer than 6 months without the prior approval of the Office of the State Architect.

- 5.1.2.11. Statement that the State Contract shall not be valid until it has been approved by the State Controller or delegate.
    - 5.1.3. Capital Construction Contracts – See Fiscal Rule 4-2, (Capital Construction Projects). See also approved State Contract forms, available on the website of the Office of the State Architect.
    - 5.1.4. Settlement Agreements and Employee Voluntary Separation Agreements – See the State Controller Contract, Grant, and Purchase Order Policies.
    - 5.1.5. Intergovernmental Contracts
      - 5.1.5.1. Federal Government Contracts – All intergovernmental State Contracts with any agency of the Federal government shall be reviewed by the Office of the State Controller or a Reviewing Attorney except as described in the State Controller Contract, Grant, and Purchase Order Policies.
      - 5.1.5.2. Sponsored Project Agreements – see the State Controller Contract, Grant, and Purchase Order Policies regarding sponsored projects.
- 5.2. Revenue Contracts and Other Contract Types that do not result in an expenditure of State funds – The general provisions of this subsection shall apply to all State Contracts that do not result in either an expenditure of State funds or in the disposition of State property, but that still create a performance obligation for the State where failure to perform such obligation would result in payment of State funds to another Party.
  - 5.2.1. The following provisions shall be included in all Revenue Contracts and all Other Contract Types that are described in §5.2 but not included in §5.1 of this Fiscal Rule:
    - 5.2.1.1. Identification of the State Agency or Institution of Higher Education and the other Party or Parties;
    - 5.2.1.2. Payment terms, if any payment will be made to the State;
    - 5.2.1.3. A description of any work the State must perform or obligations the State must fulfill in order to comply with the State Contract or to earn any payments under the State Contract; and
    - 5.2.1.4. The effective date and termination date of the State Contract.

## 6. APPROVED STATE CONTRACT FORMS:

All Expenditure Contracts shall be in a form approved by the State Controller. The State Controller has approved the following contract forms and may approve additional forms in the State Controller's sole discretion.

- 6.1. Capital Construction Contracts – See Fiscal Rule 4-1. See also approved contract forms available on the website of the Office of the State Architect.
- 6.2. Model Contracts – State Agencies and Institutions of Higher Education shall use the model contract forms as described in the State Controller Contract, Grant, and Purchase Order Policies.
- 6.3. Contract Amendments – All modifications to a State Contract shall be made by a formal written amendment signed by the State Agency or Institution of Higher Education and the other Party or Parties to the State Contract and approved by the State Controller or a delegate of the State Controller, unless an alternative modification tool has been approved by the State Controller. A State Contract cannot be amended or extended (revived) after the State Contract term has

expired. A form of contract amendment and forms of alternative modification tools are set forth in the Modification Policies.

- 6.4.** Alternative Modification Tools and Forms – A State Agency or Institution of Higher Education may use an approved alternate modification tool to modify a State Contract in lieu of a contract amendment only in the specific circumstances identified in the Modification Policies. A State Agency or Institution of Higher Education shall obtain written approval from the Office of the State Controller prior to making a change to the form of an alternative modification tool or using an alternative modification tool in a manner not described in the Modification Policies. A State Contract cannot be modified or extended after the expiration of the term of the State Contract. Approved alternative modification tool forms are set forth in the Modification Policies.
  - 6.4.1.** Required Provision and Attachment – An approved modification tool may be included as a part of a State Contract only if the State Contract contains a provision referencing the specific modification tool, in the form set forth in the Modification Policies, and the form of the specific modification tool is attached as an exhibit to the State Contract.
  - 6.4.2.** Each contract modification tool was created for use in connection with specific types of State Contracts and scopes of services and is not universally applicable. Each modification tool shall be used only for its intended purposes, as set forth in the Modification Policies, and shall not be changed or combined with any other contract modification tool except as specifically allowed in the Modification Policies.
- 6.5.** Real Property Lease Agreements – Lease agreements involving real property shall be in a form approved by and set forth on the website of the Office of the State Architect, except for Real Property leases exempted by statute, and Real Property leases where the Department of Personnel and Administration is a party, which may be in any form approved by the State Controller.
- 6.6.** Special Provisions – All State (a) Expenditure Contracts, (b) Debt Contracts, and (c) Price Agreements, shall contain the State Special Provisions. See §13 of this Fiscal Rule. No modification shall be made to a Special Provision without the prior written approval of the Office of the State Controller and, in the case of the Choice of Law Special Provision, a Reviewing Attorney, except as otherwise expressly provided in subsection 5.1.2.8 of this Fiscal Rule.
- 6.7.** Waived Contracts – If a State Agency or Institution of Higher Education has a contract that was approved as a “Phase I Waived Contract” under the State Controller Contract, Grant, and Purchase Order Policies, then that contract shall be an approved contract form.
- 6.8.** Other Contract Forms – Any other contract form which may be approved by the State Controller from time-to-time.

## **7. STATE CONTRACT LEGAL REVIEW:**

The State Controller may request the Office of the State Attorney General to review any State Contract at the State Controller’s discretion.

## **8. STATE CONTROLLER REVIEW AND APPROVAL:**

State Controller review and approval of all Expenditure Contracts, task order contracts, and price agreements is mandatory. The Office of the State Controller may, in its discretion, review other types of contracts, for example, non-expenditure contracts, if requested by a State Agency or Institution of Higher Education. All State Controller reviews and approvals shall be conducted in accordance with

the provisions of this §8.

- 8.1.** Outsource Contracts – Third Party Payor – All Outsource Contracts shall be submitted to the State Controller or delegate for review and approval, including without limitation, any Outsource Contract that diverts revenues due to the State, unless specifically exempted by State statute. For example, see §24-34-101, C.R.S.
- 8.2.** Performance of State Controller Functions
  - 8.2.1.** Delegated State Agencies – Delegated State Agencies shall be responsible for determining the level of risk for their State Contracts. A Delegated State Agency shall classify the risk of each of its State Contracts in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval for delegated State Agencies. The individual or individuals at the Delegated State Agency who have a delegation from the State Controller to sign State Contracts may sign State Contracts on behalf of the State Controller that are not required to be sent to the Office of the State Controller in accordance with their delegation agreement and the State Controller Contract, Grant, and Purchase Order Policies.
  - 8.2.2.** Non-delegated State Agencies and Institutions of Higher Education – Non-delegated State Agencies and non-delegated Institutions of Higher Education shall submit all State Contracts to the Office of the State Controller for review and approval in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval of non-delegated State Agencies and Institutions of Higher Education.
  - 8.2.3.** Delegated Institutions of Higher Education – Delegated Institutions of Higher Education shall determine if a State Contract requires legal review prior to execution in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval for Delegated Institutions of Higher Education. The individual or individuals at the Delegated Institution of Higher Education who have a delegation from the State Controller to sign State Contracts may sign State Contracts on behalf of the State Controller, that are not required to be sent to the Office of the State Controller and that either do not require legal review or have been signed by a Reviewing Attorney, in accordance with the Institution of Higher Education’s delegation agreement and the State Controller Contract, Grant, and Purchase Order Policies.
- 8.3.** Process for Review, Approval, and Signature
  - 8.3.1.** Review – The State Controller or delegate shall review all Expenditure Contracts to determine if the contract complies with Fiscal Rule 3-1, §3.
  - 8.3.2.** Approval and Signature – After review, the State Controller or delegate shall approve or disapprove the State Contract. If approved, the State Controller or delegate shall evidence such approval by signing the State Contract.
- 8.4.** Contracts Not Approved by State Controller
  - 8.4.1.** Not Binding – An Expenditure Contract is not binding on or enforceable against the State unless and until it is signed by the State Controller or delegate. An Information Technology Contract for a Major Information Technology Project is also not binding on or enforceable against the State unless and until it is signed by the State’s Chief Information Officer or delegate.
  - 8.4.2.** Null and Void – Any Expenditure Contract disapproved by the State Controller or delegate is null and void.

- 8.4.3.** Statutory Violation – Any obligation created under a contract that has not been signed by the State Controller or delegate or has been disapproved by the State Controller or delegate constitutes a Statutory Violation as described in Fiscal Rule 3-1, §8. Any obligation created under an Information Technology Contract for a Major Information Technology Project that has not been signed by the State’s Chief Information Officer or delegate constitutes a Statutory Violation as described in Fiscal Rule 3-1, §8.

**9. ACCOUNTING FOR STATE CONTRACTS:**

- 9.1.** Encumbrances – All State Agencies and Institutions of Higher Education shall encumber Expenditure Contracts in accordance with Fiscal Rule 3-1 and the Fiscal Procedures Manual.
- 9.2.** Outsource Contracts – Third Party Payor – State Agencies and Institutions of Higher Education shall record all gross revenues and expenditures for each Outsource Contract in the State Financial System or on an approved State Agency or Institution of Higher Education accounting system and shall not net the expenditures against the revenues, unless specifically exempted by State statute.

**10. MONITORING OF STATE CONTRACTS**

- 10.1.** All State Agencies and Institutions of Higher Education shall designate a contract manager with subject matter expertise who will be responsible for day-to-day management of each State Contract. See §24-106-107(3), C.R.S.
- 10.2.** Each State Agency and Institution of Higher Education shall monitor its Expenditure Contracts and Other Contract Types that result in an expenditure of State funds with respect to all of the following elements, as well as any additional elements a State Agency or Institution of Higher Education may choose to monitor:
  - 10.2.1.** Compliance with requirements, standards, and measures of the Expenditure Contract provisions in §5.1 of this Fiscal Rule;
  - 10.2.2.** Completion of the State Contract according to the State Contract's performance schedule;
  - 10.2.3.** Satisfactory performance and completion of the State Contract's scope of work; and
  - 10.2.4.** Extent to which the contractor met or exceeded budgetary requirements of the State Contract
- 10.3.** Contract Management System – State Agencies and Institutions of Higher Education shall include all information specified in CRS §24-106-103(3) for all State Contracts for personal services subject to that statute.
- 10.4.** This §10 shall not apply to the following State Contracts:
  - 10.4.1.** Any State Contract under Medicare;
  - 10.4.2.** Any State Contract for indigent care under §25.5-3-101 et seq., C.R.S.;
  - 10.4.3.** Any State Contract under the Colorado Medical Assistance Act. See §25.5-4-101 through §25.5-6-101, et seq., C.R.S.;
  - 10.4.4.** Any State Contract under the Children's Basic Health Plan. See §25.5-8-101 et seq., C.R.S.; and
  - 10.4.5.** Any State Contract for Sponsored Projects

- 10.5.** State Agencies and Institutions of Higher Education shall comply with all requirements of State Controller Contract, Grant, and Purchase Order Policies regarding monitoring of State Contracts.

**11. INDEPENDENT CONTRACTOR RELATIONSHIP:**

State Agencies and Institutions of Higher Education shall take care in maintaining the distinctions between services performed by persons who are employees of the State and services performed by independent contractors, and their employees, agents and representatives, pursuant to a State Contract for personal services. The State's responsibilities and obligations with respect to employee/employer arrangements differ from its responsibilities and obligations with respect to independent contractors. The State may be liable to a third party for the actions of its employees, whereas independent contractors and their employees, agents and representatives are liable for their own actions. The State is responsible for social security taxes and benefits for its employees, whereas independent contractors are responsible for social security taxes and benefits of their employees. State Agencies and Institutions of Higher Education shall follow guidelines issued by the Internal Revenue Service, the Colorado Division of Human Resources, Colorado statutes, and opinions of the State Attorney General in determining whether an individual is an employee or independent contractor.

**12. EXCEPTIONS TO FISCAL RULE 3-3:**

- 12.1.** Personal Services – This Fiscal Rule does not apply to Commitment Vouchers for personal services paid through an authorized State payroll system, which are exempted from the State personnel system by the Colorado Constitution or Colorado statutes. See §24-50-135 C.R.S. Examples of exempted Commitment Vouchers include advices of employment engaging the services of the following:
- 12.1.1.** Appointees by Elective Officers and their administrative staffs;
  - 12.1.2.** Members of State boards or commissions;
  - 12.1.3.** Faculty and other exempted members of Institutions of Higher Education;
  - 12.1.4.** Attorneys-at-law serving as an assistant attorney generals; and
  - 12.1.5.** Employees of the Legislative and Judicial Departments of the State.
- 12.2.** Elective Officers – An Elective Officer acting within the scope of that Elective Officer's authority may elect to exempt any Commitment Voucher from the requirements of either or both of §24-30-202, C.R.S. including the Fiscal Rules, the Procurement Code and the Procurement Rules, by personally signing a State Contract or by having that person's next-in-command sign the State Contract. See §24-2-102(4), C.R.S. If the contract signed by the Elective Officer is outside the scope of that Elective Officer's authority, the Elective Officer may be personally liable for all claims arising therefrom.

**13. SPECIAL PROVISIONS:**

These Special Provisions apply to and shall be included in all State Contracts except where noted in italics.

1. **STATUTORY APPROVAL.** §24-30-202(1) C.R.S. This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.
2. **FUND AVAILABILITY.** §24-30-202(5.5) C.R.S. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated,



budgeted, and otherwise made available.

3. **GOVERNMENTAL IMMUNITY.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. 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, protections, or other provisions, contained in these statutes.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability, or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.**
5. **COMPLIANCE WITH LAW.** Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW, JURISDICTION, AND VENUE.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.
7. **PROHIBITED TERMS.** Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.
8. **SOFTWARE PIRACY PROHIBITION.** State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal

copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507 C.R.S. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202 (1) and 24-30-202.4 C.R.S. [*Not Applicable to intergovernmental agreements*] The State Controller may withhold payment under the State's vendor offset intercept system for debts owed to state agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in §39-21-101, et seq. C.R.S.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.
11. PUBLIC CONTRACTS FOR SERVICES. §8-17.5-101 C.R.S. [*Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services*] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to §8-17.5-102(5)(c), C.R.S. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (a) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, (b) shall notify the subcontractor and the contracting state agency or institution of higher education within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5) C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting state agency, institution of higher education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §8-17.5-101 et seq., C.R.S., the contracting state agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.
12. PUBLIC CONTRACTS WITH NATURAL PERSONS. §24-76.5-101 C.R.S. Contractor, if a

natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of §24-76.5-101, et seq., C.R.S., and **(c)** has produced one form of identification required by §24-76.5-103, C.R.S., prior to the effective date of this Contract.

## **RULE 3-4: GRANTS**

### **1. AUTHORITY:**

- §24-30-202(1-4) and (5)(a), C.R.S. (State Controller Authority)
- §24-106-103, C.R.S. (Centralized Contract Management System)
- §24-102-206, C.R.S. (Contract Performance Outside United States or Colorado)
- §24-106-106, C.R.S. (Right to Audit Records)
- §24-106-107, C.R.S. (Monitoring of Vendor Performance)

### **2. DEFINITIONS:**

- 2.1.** Grant – An agreement in which a State Agency or Institution of Higher Education as grantor transfers anything of value to a grantee to carry out a public purpose of support or stimulation authorized by law instead of acquiring property or services for the direct benefit or use of that State Agency or Institution of Higher Education. A Grant may include a distribution of funds. Grants do not include Donations, as defined in Fiscal Rule 2-1.
- 2.2.** Grantee – The recipient of a Grant.
- 2.3.** Modification Policies – See Fiscal Rule 3-3 (State Contracts).
- 2.4.** Procurement Official – See Fiscal Rule 3-1 (Commitment Vouchers).
- 2.5.** Small Dollar Grant Award – A unilaterally approved Commitment Voucher, the form of which has been approved by the State Controller, issued by a State Agency or Institution of Higher Education as a Grant, as described in this Fiscal Rule, when permitted under Fiscal Rule 3-1 (Commitment Vouchers).

### **3. RULE:**

- 3.1.** Each State Agency or Institution of Higher Education shall use a Grant as described in this Rule when Fiscal Rule 3-1 requires the use of a Grant as the Commitment Voucher.

### **4. CONTENTS OF GRANTS:**

- 4.1.** Standard Provisions – All Grants issued by State Agencies and Institutions of Higher Education shall include all of the following:
  - 4.1.1.** Identification of the State Agency or Institution of Higher Education and the Grantee;
  - 4.1.2.** A description of the work that the Grantee will perform under the Grant and the goals to be achieved under the Grant;
  - 4.1.3.** Payment or reimbursement terms, including the maximum dollar amount;
  - 4.1.4.** The effective date and termination date of the Grant;
  - 4.1.5.** The statutory or regulatory authority authorizing the Grant;
  - 4.1.6.** The Special Provisions, as described in Fiscal Rule 3-3; and
  - 4.1.7.** Any other content required under the State Controller Contract, Grant, and Purchase Order Policies.

## **5. APPROVED GRANT FORMS:**

All Grants and modifications to Grants shall be in a form approved by the State Controller. The State Controller has approved the following Grant forms and may approve additional forms in the State Controller's sole discretion.

- 5.1.** Model Grants – State Agencies and Institutions of Higher Education shall use the Grant forms as described in the State Controller Contract, Grant, and Purchase Order Policies.
- 5.2.** Grant Modifications – All modifications to a Grant, other than modifications to an Intergovernmental Grant described in §5.4 of this Fiscal Rule and Small Dollar Grant Awards issued in accordance with the State Controller Contract, Grant, and Purchase Order Policies, shall be made by a formal written amendment signed by the State Agency or Institution of Higher Education and the Grantee, and approved by the State Controller or a delegate of the State Controller, unless an alternative modification tool has been approved by the State Controller. A Grant cannot be amended or extended (revived) after the Grant term has expired. All such modifications to Grants shall use the amendment form and forms of alternative modification tools set forth in the Modification Policies related to modifications of Grants.
- 5.3.** Small Dollar Grant Award Modifications – All modifications to a Small Dollar Grant Award shall be made by a formal written change order approved by the State Controller or a delegate, unless an alternative modification tool has been approved by the State Controller. A Small Dollar Grant Award cannot be modified or extended (revived) after the award term has expired.
- 5.4.** Intergovernmental Grant Modifications – A Grant between a State Agency or Institution of Higher Education and a political subdivision of the State, such as a city, county, special district or authority, may be modified by any method available to modify any other Grant, as described in §5.2, or by issuing an updated Intergovernmental Grant Award Letter, as described in the State Controller Contract, Grant, and Purchase Order Policies, that replaces the existing Intergovernmental Grant Award Letter.
- 5.5.** Alternative Modification Tools and Forms – A State Agency or Institution of Higher Education may use an approved alternate modification tool to modify a Grant in lieu of a Grant amendment only in the specific circumstances identified in the Modification Policies. A State Agency or Institution of Higher Education shall obtain written approval from the Office of the State Controller prior to making a change to the form of an alternative modification tool, other than non-substantive changes necessary to match terminology to the Grant, or using an alternative modification tool in a manner not described in the Modification Policies. A Grant cannot be modified or extended after the expiration of the Grant term. Approved alternative modification tool forms are set forth in the Modification Policies.
  - 5.5.1.** Required Provision and Attachment – An approved modification tool may be included as a part of a Grant only if the Grant contains a provision referencing the specific modification tool and how it may be used in accordance with the Modification Policies, and the form of the specific modification tool is attached as an exhibit to the Grant.
  - 5.5.2.** Each modification tool shall be used only for its intended purposes, as set forth in the Modification Policies, and shall not be changed or combined with any other modification tool except as specifically allowed in the Modification Policies.
- 5.6.** Other Grant Forms – Any other Grant form which may be approved by the State Controller from time-to-time.

**6. GRANT LEGAL REVIEW:**

The State Controller may request the Office of the State Attorney General to review any Grant at the State Controller's sole discretion.

**7. STATE CONTROLLER REVIEW AND APPROVAL:**

**7.1. Performance of Controller Functions.**

**7.1.1.** Delegated State Agencies – Delegated State Agencies shall be responsible for determining the level of risk for their Grants. A Delegated State Agency shall classify the risk of each of its Grants in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval for delegated State Agencies. The individual or individuals at the Delegated State Agency who have a delegation from the State Controller to sign Grants may sign Grants on behalf of the State Controller that are not required to be sent to the Office of the State Controller in accordance with their delegation agreement and the State Controller Contract, Grant, and Purchase Order Policies.

**7.1.2.** Non-delegated State Agencies and Institutions of Higher Education – Non-delegated State Agencies and non-delegated Institutions of Higher Education shall submit all Grants to the Office of the State Controller for review and approval in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval for non-delegated State Agencies and Institutions of Higher Education.

**7.1.3.** Delegated Institutions of Higher Education – Delegated Institutions of Higher Education shall determine if a Grant requires legal review prior to execution in accordance with the State Controller Contract, Grant, and Purchase Order Policies regarding review and approval for delegated Institutions of Higher Education. The individual or individuals at the Delegated Institution of Higher Education who have a delegation from the State Controller to sign Grants may sign Grants on behalf of the State Controller that are not required to be sent to the Office of the State Controller and that either do not require legal review or have been signed by a Reviewing Attorney in accordance with their delegation agreement and the State Controller Contract, Grant, and Purchase Order Policies.

**7.2. Process for Review, Approval, and Signature**

**7.2.1.** Review – All Grants shall be reviewed by a Procurement Official or delegate, or a member of the unit or section in the Agency or Institution of Higher Education responsible for Grants, as determined by Agency policy. The State Controller or delegate signing the Grant shall also review all Grants to determine if the Grant complies with Fiscal Rule 3-1, §3.

**7.2.2.** Approval and Signature – Except for Grants issued as Small Dollar Grant Awards in accordance with the State Controller Contract, Grant, and Purchase Order Policies, the State Controller or delegate shall approve or disapprove the Grant, and, if approved, shall evidence such approval by signing the Grant. For Grants issued as a Small Dollar Grant Award in accordance with the State Controller Contract, Grant, and Purchase Order Policies, the State Controller, a Procurement Official, or a delegate of either shall approve or disapprove the Grant, and, if approved, shall evidence such approval by approving the Grant in the State Financial System or other such system used by the State Agency or Institution of Higher Education in accordance with Fiscal Rule 1-3, or by signing the Grant.

**7.3.** Grants Not Approved by State Controller

- 7.3.1.** Not Binding – A Grant is not binding on or enforceable against the State unless and until it is approved in accordance with §7.2.2 of this Fiscal Rule.
- 7.3.2.** Null and Void – Any Grant disapproved by the State Controller, a Procurement Official or a delegate or either is null and void.
- 7.3.3.** Statutory Violation – Any obligation created under a Grant that has not been approved in accordance with §7.2.2 of this Fiscal Rule or has been disapproved by the State Controller, a Procurement Official or a delegate or either constitutes a Statutory Violation as described in Fiscal Rule 3-1, §8.

## **RULE 3-5: INTERAGENCY AGREEMENTS**

### **1. AUTHORITY**

§24-30-202(1-4) and (5)(a), C.R.S. (State Controller Authority)

### **2. DEFINITIONS**

**2.1.** Encumbrance – See Fiscal Rule 3-1

**2.2.** Interagency Agreement – An agreement between two or more State Agencies, two or more Institutions of Higher Education, or any number of State Agencies and Institutions of Higher Education that involves a transfer of funds from one State Agency or Institution of Higher Education to another. The term Interagency Agreement does not include any agreement that has an entity that is not a State Agency or Institution of Higher Education as a party.

### **3. RULE**

Each State Agency or Institution of Higher Education shall use an Interagency Agreement as described in this Rule when Fiscal Rule 3-1 requires the use of an Interagency Agreement to document the transfer of funds.

### **4. CONTENT OF INTERAGENCY AGREEMENTS**

**4.1.** Standard Provisions – All Interagency Agreements shall include all of the following:

**4.1.1.** Identification of the State Agencies and Institutions of Higher Education involved in the Interagency Agreement;

**4.1.2.** A description of the work that will be performed;

**4.1.3.** A description of the amounts to be paid or how those amounts will be determined;

**4.1.4.** The effective date and termination date of the Interagency Agreement; and

**4.1.5.** Any applicable special terms and conditions required under a grant or by Federal or state laws, regulations, or policies.

**4.2.** Encumbrances – All Interagency Agreements that will transfer \$100,000.00 or more during a fiscal year shall be encumbered, except for Interagency Agreements charged to a special line item appropriation dedicated to that commitment. A delegate of the State Controller at a State Agency or Institution of Higher Education may choose, in that individual's discretion, to require an Encumbrance on any Interagency Agreement to ensure that proper funding is available for that Interagency Agreement.

### **5. APPROVED INTERAGENCY FORMS**

All Interagency Agreements shall be in a form approved by the State Controller. The State Controller has approved the following forms and may approve additional forms at the State Controller's sole discretion.

**5.1.** Statement of Work and Encumbrance Document – For Interagency Agreements that will be encumbered, State Agencies and Institutions of Higher Education may develop a mutually agreeable statement of work, which includes all standard provisions required in §4.1 of this Fiscal Rule and has been approved by each State Agency and Institution of Higher Education that is party to the agreement. The State Agency or Institution of Higher Education transferring funds under the Interagency Agreement shall attach that statement of work to the Encumbrance document in the State Financial System or other approved financial system used by that State



Agency or Institution of Higher Education. The statement of work may also be any type of invoice or quote, so long as that invoice or quote contains the standard provisions required in §4.1 of this Fiscal Rule.

- 5.2.** Statement of Work and Transfer Document – For Interagency Agreements that will not be encumbered, State Agencies and Institutions of Higher Education may develop a mutually agreeable statement of work, which includes all standard provisions required in §4.1 of this Fiscal Rule. The statement of work shall be approved by each State Agency and Institution of Higher Education that is party to the Interagency Agreement. The State Agency or Institution of Higher Education transferring funds shall attach that statement of work to the transfer document in the State Financial System or other approved financial system used by that State Agency or Institution of Higher Education. The statement of work may also be any type of invoice or quote, so long as that invoice or quote contains the standard provisions required in §4.1 of this Fiscal Rule.
- 5.3.** Work Completion Documentation – For Interagency Agreements under \$5,000.00, for which the State Agency or Institution of Higher Education will not encumber funds and will make payment outside of the State Financial System or other approved financial system, the State Agency or Institution of Higher Education may use an invoice or quote to document the transfer in the same manner that the State Agency or Institution of Higher Education would for Small Purchase Documentation as described in Fiscal Rule 3-1.
- 5.4.** Commitment Vouchers and Other Agreements - State Agencies and Institutions of Higher Education may develop a mutually agreeable statement of work, which includes all standard provisions required in §4.1 of this Fiscal Rule. The statement of work shall be approved by each State Agency and Institution of Higher Education and attached to any model Commitment Voucher form or any other form of agreement. In this event, the State Agencies and Institutions of Higher Education may make any modifications to such form as they determine is appropriate.

## **6. APPROVALS REQUIRED FOR INTERAGENCY AGREEMENTS**

- 6.1.** Approval of Transferring Entity – A State Agency or Institution of Higher Education shall obtain all of the following approvals for all Interagency Agreements for which the State Agency or Institution of Higher Education will engage in an exchange with another State Agency or Institution of Higher Education:
  - 6.1.1.** For all Interagency Agreements the approval of the State Controller or a delegate of the State Controller. This approval shall be evidenced either by the State Controller’s or a delegate’s signature on the document which contains the required items in §4.1 of this Fiscal Rule. Approval also may be evidenced by electronic scans of the signature, or by an approval of the Encumbrance or transfer document in the State Financial System or other financial system used by the State Agency or Institution of Higher Education to which the document which contains the required items in §4.1 is attached.
    - 6.1.1.1.** For Interagency Agreements of \$100,000 or less the State Controller delegate may further delegate this approval authority in that individual’s discretion.
  - 6.1.2.** For all Interagency Agreements the approval of an individual with authority to bind the State Agency or Institution of Higher Education to the amount to be paid. This authority shall be based on the policies of the State Agency or Institution of Higher Education and a proper delegation from the Chief Executive Officer of the State

Agency or Institution of Higher Education, if required by the policies of that State Agency or Institution of Higher Education. Approval shall be evidenced by the individual's signature, including electronic scans of the signature, on the document which contains the required items in §4.1 of this Fiscal Rule.

**6.2.** Approval of Receiving Entity – A State Agency or Institution of Higher Education shall obtain all of the following approvals for all Interagency Agreements for which the State Agency or Institution of Higher Education will receive funds from another State Agency or Institution of Higher Education:

**6.2.1.** For all Interagency Agreements the approval of an individual with authority to bind the State Agency or Institution of Higher Education to the work to be performed. This authority shall be based on the policies of the State Agency or Institution of Higher Education and a proper delegation from the Chief Executive Officer of the State Agency or Institution of Higher Education, if required by the policies of that State Agency or Institution of Higher Education. Approval shall be evidenced by the individual's signature on the document which contains the required items in §4.1 of this Fiscal Rule, including electronic scans of the signature.

## **7. RESOLUTION OF DISPUTES IN INTERAGENCY AGREEMENTS**

In the event of disputes concerning performance under or related to any Interagency Agreement, the State Agencies or Institutions of Higher Education that are parties to the Interagency Agreement shall attempt to resolve them at the divisional level. If that fails, the dispute shall be referred to senior State Agency or Institution of Higher Education management staff designated by each State Agency or Institution of Higher Education for resolution. If that fails, the dispute shall be referred to the Chief Executive Officers of the State Agencies or Institutions of Higher Education for resolution. If this fails, the matter shall be submitted for resolution, in writing by both parties, to the State Controller, whose decision shall be final.

## **CHAPTER 4: CONSTRUCTION**

RULE 4-1: CAPITAL CONSTRUCTION ADMINISTRATION

RULE 4-2: CAPITAL CONSTRUCTION PROJECTS

RULE 4-3: CAPITAL CONSTRUCTION CARRYFORWARDS AND REVERSIONS

## **RULE 4-1: CAPITAL CONSTRUCTION ADMINISTRATION**

### **1. AUTHORITY:**

- §24-30-1301, C.R.S. (State Buildings)
- §24-30-1303, C.R.S. (Office of the State Architect)
- §24-75-302, C.R.S., *et seq.*, C.R.S. (Capital Construction Fund)
- Title 24, Article 91, C.R.S. (Construction Contracts)
- 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)

### **2. DEFINITIONS:**

- 2.1.** Capital Construction – Any work defined as “Capital Construction” in §24-30-1301(2), C.R.S., regardless of the funding source for that work.
- 2.2.** 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, as described in §24-75-302, C.R.S.

### **3. 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 State Capital Construction Fund.

#### **3.1. Capital Construction Contracts**

- 3.1.1.** Formal State Contracts are required when expending funds in excess of \$150,000 appropriated for emergency maintenance projects including construction services or installation of fixed equipment unless previous approval has been obtained from the Office of the State Architect to use a Purchase Order.
  - 3.1.1.1.** Purchases of fixed equipment that do not require installation services may be purchased with a Purchase Order.
  - 3.1.1.2.** A Purchase Order may be used for construction not exceeding \$150,000 if the State Architect or a delegate records written approval on the face of the Purchase Order. Such approval by the State Architect or a delegate shall require compliance with approved building codes and signify compliance with bonding requirements in §§38-26-106 and 24-105-201 C.R.S. In addition, the Purchase Order shall be bilateral requiring written acknowledgment of acceptance by the contractor prior to beginning work.
- 3.1.2.** Capital Construction Contracts shall follow the State Contract routing procedures established by the State Controller's Office.

## **RULE 4-2: CAPITAL CONSTRUCTION PROJECTS**

### **1. AUTHORITY:**

§24-30-1301, C.R.S. (State Buildings)

§24-30-1404, C.R.S. (Professional Services Contracts)

Title 24, Article 75, Part 3, C.R.S. (Capital Construction Fund)

§24-91-103, C.R.S. (Retainage)

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)

### **2. DEFINITIONS:**

**2.1.** Capital Construction Fund – See Fiscal Rule 4-1

**2.2.** Capital Construction Project – A project for Capital Construction as described in §24-30-1301(2), C.R.S.

**2.3.** Controlled Maintenance Project – A project for Controlled Maintenance, as described in §24-30-1301(4), C.R.S.

### **3. RULE:**

#### **3.1. Capital Construction Projects**

**3.1.1.** Use of Funding – All funds 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 of the Capital Construction Project or Controlled Maintenance Project. Capital Construction funding may be used for personal services payments to independent contractors for activities within the scope of the Capital Construction Project or Controlled Maintenance Project, including design or construction services. The State Controller may create additional restrictions on the use of Capital Construction Funds in policy or the Fiscal Procedures Manual.

**3.1.2.** Six Month Rule – State Contracts for Capital Construction Projects shall be executed and the funds encumbered within the time limits established by and in accordance with the requirements of §24-30-1404(7), 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 General Assembly's Capital Development Committee to recommend to the State Controller that the deadline be waived. The State Controller may, but is not required to, grant the waiver. This Fiscal Rule does not apply to projects at Institutions of Higher Education that are funded solely from cash funds held by the Institution or other exemptions provided in statute.

**3.1.3.** Availability of Capital Construction Funds – Appropriated Capital Construction Funds are available immediately upon signature of the Governor, as current year

appropriations. Appropriated Capital Construction Projects must be initiated by the end of the fiscal year following the original appropriation and will remain available for a period of three years or, if encumbered, will remain available until completion of the project.

**3.2. Capital Construction Project Retainage**

- 3.2.1.** A State Agency shall withhold retainage for all construction and Controlled Maintenance Projects where the total amount of the Capital Construction Contract exceeds the limit established by §24-91-103, C.R.S. Institutions of Higher Education shall withhold this retainage for all projects that are not cash funded. 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.
- 3.2.2.** Partial retainage may be released as discrete portions of work are completed, accepted, and advertised for partial settlement. Final retainage shall be released by the State Agency or Institution of Higher Education only when the Capital Construction 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.
- 3.2.3.** The retainage requirement does not apply to Professional Services Contracts.

## **RULE 4-3: CAPITAL CONSTRUCTION CARRYFORWARDS AND REVERSIONS**

### **1. 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 Contracts)

### **2. DEFINITIONS:**

**2.1.** Capital Construction – See Fiscal Rule 4-1.

**2.2.** Capital Construction Project – See Fiscal Rule 4-2.

**2.3.** Encumbrance – See Fiscal Rule 3-1.

### **3. RULE:**

**3.1.** Carryforward of Capital Construction appropriations – Any unexpended Capital Construction budget is automatically carried forward for three fiscal years (the initial fiscal year of appropriation and the subsequent two fiscal years). If any amount of the available appropriation is restricted, the restricted amount must be carried forward as restricted.

**3.1.1.** At the end of the third fiscal year of a Capital Construction appropriation, the amount of a valid Encumbrance recorded on the State Financial System or on an approved State Agency or Institution of Higher Education accounting system may be carried forward until the Encumbrance has been fully liquidated.

**3.2.** Reversion of Capital Construction Appropriations – Upon completion of a Capital Construction Project or the end of a Project's three-year lifecycle, whichever comes first, the amount of any unexpended/unencumbered appropriation must be reverted.

## **CHAPTER 5: TRAVEL**

### **RULE 5-1: TRAVEL**



## **RULE 5-1: TRAVEL**

### **1. AUTHORITIES**

§24-9-104(2), C.R.S. (Mileage Allowances)

§24-30-202(20.1), C.R.S. (Travel Advance Limits)

§24-30-202(26), C.R.S. (State Controller's Authority)

U.S. Code, Title 26, §§162(a), 262, and 274(d) (Internal Revenue Code)

26 CFR Ch. 1, §1.274-5T Substantiation Requirements (Temporary) (Treasury Regulations)

Rev Rul. 99-7, 1999-5 C.B. 4, Deductibility of Daily Transportation Expenses

Internal Revenue Service Publication 463 – Travel, Entertainment, Gift, and Car Expenses

### **2. DEFINITIONS:**

- 2.1.** Approving Authority – An individual who has authority to approve travel for State Business and related matters.
- 2.2.** Commercial Card – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.3.** Commercial Card Program – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.4.** CONUS – The 48 continental United States, including the District of Columbia.
- 2.5.** 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.
- 2.6.** Expenses Incurred for the Benefit of the State – Expenses incurred that enable a State employee or state official to perform assigned duties or enable a State Agency or Institution of Higher Education to carry out responsibilities required by law.
- 2.7.** Foreign Travel – Travel to any out-of-country destination not included within the definitions of In-State Travel or Out-of-State Travel.
- 2.8.** 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.
- 2.9.** Incidental Expenses – Tips given to porters, baggage carriers, bellhops, hotel maids, and skycaps for airport check-in.
- 2.10.** Lodging – Any commercial accommodations available or offered for use for which a rate schedule has been established and payment is required, as described in the State Controller Travel Policies.
- 2.11.** Metropolitan Area – See Fiscal Rule 2-5 (Miscellaneous Compensation and Other Benefits (Perquisites)).
- 2.12.** One Card – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.13.** Out-of-State Travel – Travel within CONUS, other than In-State Travel, or within Alaska or Hawaii.
- 2.14.** 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.

- 2.15. Price Agreement – See Fiscal Rule 3-3 (State Contracts).
- 2.16. Procurement Card – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.17. Reimbursement Request – A request for reimbursement of travel expenses submitted by a Traveler pursuant to §9 of this Fiscal Rule.
- 2.18. State Business – Official State business or other duties undertaken for State purposes and for the benefit of the State.
- 2.19. State Commercial Card Program Manager – The individual designated to assist the bank in the administration of the Commercial Card Program and manager of the State Contract between the State and the bank. The liaison between entities participating in the program and the bank.
- 2.20. Temporary Work Location – A location where employment is expected to continue, and does continue, for one year or less that is not the Traveler’s Regular Work Location.
- 2.21. Travel Advance – The advance of funds to a Traveler for approved travel expenses by a State Agency or Institution of Higher Education pursuant to §5 of this Fiscal Rule.
- 2.22. Travel Card – See Fiscal Rule 2-7 (State Commercial Cards).
- 2.23. Traveler – A State employee who receives required approvals to travel on State Business.
- 2.24. Traveler's Regular Work Location – Generally, the primary location where the Traveler works, including the entire Metropolitan Area of the Traveler's regular work location. See State Controller Travel Policies for exceptions.
- 2.25. Traveler's Residence – The location where the Traveler maintains the Traveler’s primary family home.
- 2.26. Traveling Away from Home – A Traveler is traveling away from home if:
  - 2.26.1. The Traveler's duties require the Traveler to be away from the Traveler's Regular Work Location substantially longer than an ordinary day's work; and
  - 2.26.2. The Traveler needs to sleep or rest to meet the demands of the Traveler’s work while away from the Traveler's Regular Work Location.
- 2.27. Transportation – Travel by any means of conveyance as described in the State Controller Travel Policies.

**3. RULE:**

- 3.1. Scope – All Travelers shall comply with this Fiscal Rule when Traveling Away from Home and for all other situations included in this Fiscal Rule.
- 3.2. Reimbursement – A Traveler may be reimbursed for travel expenses only if the:
  - 3.2.1. Traveler is Traveling Away from Home, or meets the criteria in one of the special situations described in §11 of this Fiscal Rule;
  - 3.2.2. Travel is:
    - 3.2.2.1. For State Business – travel charged to the State, regardless of the funding source, shall be for the benefit of the State;
    - 3.2.2.2. Only for the time period necessary;
    - 3.2.2.3. Completed using the most economical means available which will satisfactorily accomplish the State Business; and



form for use by its Travelers.

- 5.2.** Amount of Advance – The amount of the advance shall be computed using the applicable per diem rates, set forth in §12 of this Fiscal Rule, and other allowable estimated out of pocket amounts. A Travel Advance shall not exceed the lesser of the \$2,500 statutory limit or the amount approved by the State Controller, or the State Controller’s designee, per Traveler per trip. See §24-30-202(20.1), C.R.S.
- 5.3.** Approval – Travel Advances requested from the State require prior authorization from the Approving Authority and approval by the Chief Fiscal Officer, or delegate, for the State Agency or Institution of Higher Education authorizing the travel.
- 5.4.** Settlement of Travel Advance – Upon completion of travel, a Traveler shall settle all Travel Advances made to the Traveler by following the requirements for timing, content and receipts set forth in §9 of this Fiscal Rule. The Traveler shall reimburse the State to the extent that the amount of a Travel Advance received by the Traveler pursuant to this §5 exceeds the actual expenditures for reimbursable items in §6 of this Fiscal Rule.

## **6. TRAVELING AWAY FROM HOME:**

A Traveler Traveling Away from Home shall be reimbursed for the items set forth in this §6, if all of the requirements of §3 of this Fiscal Rule are met.

- 6.1.** Lodging – Lodging may be booked using one of the State Commercial Cards. If a State Commercial Card is not available, the Traveler may use a personal card or personal funds, or a Travel Advance may be obtained by the Traveler, to pay for lodging. The Traveler shall submit receipts for Lodging as documentation of the expense.
- 6.2.** Meals and Incidental Expenses – Under regulations issued by the Internal Revenue Service, Travelers are required to use the method chosen by the State for reimbursement of meals and Incidental Expenses. The State has chosen to use the standard allowance method for meals and Incidental Expenses, rather than the actual cost method. Under the standard meal allowance method, a Traveler shall claim the authorized meal per diem rate for each meal the Traveler would normally have eaten while Traveling Away from Home. If a meal is included in a conference fee or is provided with the cost of Lodging, a Traveler shall not request reimbursement for the standard meal allowance, unless the meal provided is determined to be inadequate by the Traveler. The Traveler shall include the total Incidental Expense per diem rate for each overnight stay, but shall not request reimbursement for Incidental Expenses that do not include an overnight stay. Under no circumstances shall a Traveler request reimbursement for more than the applicable per diem rate. Because meals and Incidental Expenses are paid on a per diem basis, receipts for meals and Incidental Expenses are not required. See §12 of this Fiscal Rule for reference to the current standard per diem rates for meals and Incidental Expenses. Centrally billed Commercial Cards (i.e. One Cards, centrally billed Travel Cards, and Procurement Cards) shall not be used to pay for meals or Incidental Expenses while Traveling Away From Home. Individually billed Travel Cards may be used to pay for meals and Incidental Expenses while Traveling Away From Home.
- 6.3.** Meals and Incidental Expenses for Days Traveler Departs and Returns – A State Agency or Institution of Higher Education may use either of the following methods for an advance or reimbursement for meals during partial travel days, except each State Agency or Institution of Higher Education must use the same method for all of that State Agency’s or Institution of Higher Education’s Travelers:
  - 6.3.1.** A Traveler may claim 75% of destination city's per diem rate, including Incidental Expenses, for the day of departure, and 75% of the departing city's per diem rate,



shall be reimbursable as part of and shall be included in the cost of the Transportation.

**6.10.** Other Allowable Travel Expenses – In addition to Lodging, Meals, and Transportation, the actual expenses identified below, incurred as a part of approved travel, are allowable if necessary to complete State Business:

**6.10.1.** Commercial Transportation such as taxi and shuttle expenses – A receipt shall be required for each individual ride in a commercial vehicle costing over \$25, including tip;

**6.10.2.** Camping site fees paid for a commercial camp ground or a state or national park – A receipt shall be required for any fee over \$25;

**6.10.3.** Parking fees – A receipt shall be required for any single fee over \$25;

**6.10.4.** Airline baggage fees – A receipt shall be required for baggage fees in excess of the standard fee for a single bag.

**6.10.5.** Telephone, fax, internet access, and other similar miscellaneous business expenses paid for State Business – A receipt shall be required for any single charge over \$25;

**6.10.6.** Toll road charges – A receipt shall be required for charges over \$25; and

**6.10.7.** Transaction charges for the use of the State Commercial Card.

**6.11.** Summary of Allowable Travel Expenses

<b>Type of Travel Expense</b>	<b>Reimbursement</b>	<b>Receipt Required?</b>
Lodging	Actual	Yes
Meals (Standard)	Per Diem Rate	No
Meals (Camping)	60% of the applicable Per Diem Rate	No
Incidental Expenses	Per Diem Rate	No
Transportation (other than airfare)	Actual	Yes if over \$25
Rental Vehicles	Actual	Yes
Mileage for Personal Vehicles	The reimbursement rate in §24-9-104(2) C.R.S.	No
Airfare	Actual	Yes
Tips	Included in Per Diem Rate	No
Other Allowable Travel Expenses not Paid with a Commercial Card	Actual	Yes if over \$25
Other Allowable Travel Expenses Paid with a Commercial Card	Actual	Yes

**7. NON-ALLOWABLE TRAVEL EXPENSES:**

A Traveler shall not be reimbursed or use any State funds for the following expenses, which are not allowable travel expenses:

- 7.1. Alcoholic beverages or recreational marijuana;
- 7.2. Entertainment expenses;
- 7.3. Personal expenses incurred during travel that are primarily for the benefit of the Traveler and not directly related to State Business;
- 7.4. Political expenses;
- 7.5. Traffic fines and parking tickets;
- 7.6. Late fees for individually billed Travel Cards;
- 7.7. Premium add-on costs on airline tickets, unless pre-approved by the Traveler's State Agency or Institution of Higher Education, as defined in the State Controller Travel Policies; and
- 7.8. Certain insurance coverage – The State Commercial Card Program provides travel insurance for Travelers who use one of the State Commercial Cards listed in §10.2 of this Fiscal Rule, but the State does not provide insurance if a Traveler uses the Traveler's personal credit card. The cost of additional or other types of coverage shall not be reimbursed by the State, unless required by §6.6 of this Fiscal Rule or permitted by the policy of the Institution of Higher Education, including without limitation, expenses paid by a Traveler for the following:
  - 7.8.1. Collision damage waiver or loss-of-use waiver for rental vehicles, as this coverage is automatically provided with use of one of the State Commercial Cards;
  - 7.8.2. Additional or supplemental liability insurance on vehicles rented through a State Price Agreement Vendor;
  - 7.8.3. Trip cancellation insurance;
  - 7.8.4. Personal accident and personal effects insurance on rental vehicles; and
  - 7.8.5. Supplemental life insurance for airline or common carrier travel.

**8. CERTIFICATION AND APPROVAL:**

- 8.1. Certification – Each Travel Advance form or Reimbursement Request shall contain the following certification signed manually or electronically, if allowed by the Traveler's State Agency or Institution of Higher Education, by the Traveler:
 

"I certify that the statements in the above schedule are true and correct in all respects; that payment of the amounts claimed herein has not and will not be reimbursed or paid by any other source; that travel performed for which an advance or 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 paid to me in excess of my authorized expenses as provided by Fiscal Rule 5-1."
- 8.2. Approval – If approved, the Approving Authority shall endorse the Reimbursement Request or Travel Advance request manually, by electronic signature, or by approval through a dedicated approval system.

**9. REIMBURSEMENT REQUIREMENTS:**

- 9.1. Timing – A Reimbursement Request shall be filed within 60 days of completion of travel to allow for proper recording of expenses and to obtain reimbursement for approved travel

expenses. Reimbursement Requests submitted between 61-90 days of completion of travel must be accompanied by a justification as to why the submission was late, and the employee may be taxed in accordance with the Internal Revenue Code and its implementing regulations. Any Reimbursement Requests submitted after 90 days will not be reimbursed.

**9.2.** Content – Each State Agency and Institution of Higher Education shall develop a Reimbursement Request form for use by its Travelers. The Reimbursement Request form shall contain all of the following:

**9.2.1.** Amount – The amount of each separate expenditure incurred while Traveling Away from Home, such as the cost of Transportation or Lodging;

**9.2.2.** Time – Dates of departure for and return from the destination city and the number of days spent on State Business while Traveling Away from Home;

**9.2.3.** Place – Destinations or locality of travel, described by name of city or town or other similar designation; and

**9.2.4.** Purpose – Reason for travel or a description of the State Business being conducted during the travel.

**9.3.** Receipts

**9.3.1.** Receipts Required – Receipts are required for all expenses over \$25, except for meals, Incidental Expenses, and mileage for personal vehicles, which do not require receipts regardless of dollar amount. Receipts are required for Lodging, rental vehicles and airfare, regardless of the amount, and for other expenses as described in §6.10 of this Fiscal Rule. Receipts shall be itemized vendor receipts. Nonitemized charge card transaction slips shall not be accepted as proper documentation. If a receipt is not available, the Traveler shall provide documentation explaining why an itemized receipt is not available and each State Agency or Institution of Higher Education shall determine what documentation will be required in that circumstance.

**9.3.2.** Waiver – The Approving Authority may waive the requirement for a receipt in extenuating circumstances, upon receipt of a written certification from the Traveler, certifying that the cost was incurred and providing the reason why a receipt was not obtained or available. Further, the Approving Authority may establish alternative documentation requirements for recurring travel to certain locations (e.g. Foreign Travel) or for group travel, where compliance with the receipt requirement is determined to be impractical by the Approving Authority, with concurrence from the Office of the State Controller or State Controller delegate.

**9.4.** Application to Travel Advances – The requirements with respect to Timing, Content and Receipts set forth in this §9 shall apply to the settlement of Travel Advances as provided in §5 of this Fiscal Rule.

**9.5.** Compliance – A Traveler shall comply with the reimbursement requirements in this §9 regardless of the method of payment used.

## **10. PAYMENT OF TRAVEL EXPENSES:**

A State Agency or Institution of Higher Education shall use one or more of the methods set forth in this §10 to pay for travel expenses or reimburse Travelers.

**10.1.** Electronic Reimbursement – A State Agency or Institution of Higher Education shall pay a Traveler for expenses claimed on the Reimbursement Request form or the Travel Advance form by direct deposit using electronic funds transfer (EFT). State warrants shall not be used



for the payment of travel reimbursement for employees of a State Agency or Institution of Higher Education.

**10.2.** State Commercial Cards – State Agencies and Institutions of Higher Education may pay travel expenses directly or indirectly with State Commercial Cards.

**10.2.1.** Types of State Credit Cards Approved for State Travel

**10.2.1.1.** State Commercial Cards – When possible, travel arrangements (airfare, lodging, rental cars, and other Transportation) shall be booked using one of the State Commercial Cards.

**10.2.1.1.1.** Travel Cards – Travel Cards may be centrally billed (tax-exempt) or individually billed (not tax-exempt). Travel Cards may provide for corporate liability, joint/several liability or individual liability. A State Agency or Institution of Higher Education may issue a Travel Card to an individual employee or official for the purpose of State travel, or to a specific contractor in order to book travel (ghost account).

**10.2.1.1.2.** One Cards – A One Card may be used for travel subject to the policy of the State Agency or Institution of Higher Education. The State is liable for the use of the card and transactions paid for with the card are tax-exempt. A State Agency or Institution of Higher Education may issue a One Card to an individual employee or Elective Officer for State travel.

**10.2.1.1.3.** Procurement Card – The Procurement Card shall not be used to pay for travel expenses.

**10.2.2.** Use of Travel Cards and One Cards – Each State Agency and Institution of Higher Education shall develop its own policy regarding the appropriate use of State Travel Cards and One Cards, which shall:

**10.2.2.1.** Be consistent with the allowable charges for each type of card;

**10.2.2.2.** Have appropriate internal controls regarding the use of the cards and administration of the program;

**10.2.2.3.** Establish a single purchase limit standard for Travel Cards and One Cards. Institutions of Higher Education shall establish single purchase limits based on the small purchase limits determined by the Institution of Higher Education for Travel Cards and One Cards; and

**10.2.2.4.** Require the use of Travel Cards or One Cards whenever possible, with exceptions to be approved by the State Controller or a delegate of the State Controller.

**10.3.** Use of Personal Cards – Whenever possible travelers should use a State Commercial Card to pay for travel expenses. If the Traveler has a State Commercial Card, personal credit cards should not be used in lieu of the State Commercial Cards listed in this §10 to pay travel expenses. Use of personal cards for travel expenses are not tax-exempt, but taxes paid may be reimbursed to the Traveler.

**10.4.** Travel Advance – See §5 and §9 of this Fiscal Rule.

## **11. SPECIAL SITUATIONS:**

- 11.1.** Travel within a Single Day – If travel outside the Traveler’s Regular Work Location is completed wholly within a single day, reimbursement for lunch shall not be allowed. If, however, an employee or official leaves home at 5:00 A.M. or earlier on State Business that requires the employee to extend the workday, the Approving Authority may allow a meal per diem for breakfast. In addition, if an employee or official remains away from home until 8:00 P.M or later on State Business, the Approving Authority may allow a meal per diem for dinner. See State Controller Travel Policies.
- 11.2.** Travel to a Temporary Work Location – A Traveler may be reimbursed for Transportation expenses to a Temporary Work Location in accordance with the State Controller Travel Policies.
- 11.3.** Travel to Conferences, Meetings, Training Sessions, and Other Business-related Activities – A Traveler may be reimbursed for Transportation expenses for these activities in accordance with the State Controller Travel Policies regarding travel and mileage reimbursements.
- 11.4.** Allowances for Members of Statutory Boards or Commissions – Members of boards and commissions shall be paid in accordance with the statute establishing the board or commission. If the establishing statutes do not provide for reimbursement for members of a board or commission, members of boards and commissions may be reimbursed in accordance with the policies of the State Agency or Institution of Higher Education paying the expenses for that board or commission; which may include per diem or actual and necessary expenses, accompanied with receipts. Actual and necessary expenditures or per diem shall be reasonable under the circumstances and the members of the board or commission shall be made aware that public funds are the source of the reimbursement. Members of boards and commissions also may be reimbursed for childcare services. The Chief Executive Officer of a State Agency or Institution of Higher Education paying the expenses for that board or commission, or a delegate of that individual, shall determine the need for childcare reimbursement. Reimbursement shall not be made for services provided by a family member.
- 11.5.** Allowances for State Job Applicants – To obtain the best-qualified individual for a given State employment position, it may be necessary to pay interview related travel expenses for job applicants. At the discretion of the Chief Executive Officer of a State Agency or Institution of Higher Education, or delegate, such travel expenses, including the meal per diem rate established by the State Controller for Travelers, may be reimbursed to the applicant consistent with the expenses allowed for State employees.
- 11.6.** Allowances for Travel Not Solely for State Business – In some instances, the purpose of travel may be partially for State Business and partially for personal or political reasons. If a State employee obtains lower rates for Lodging because travel is extended for personal or political reasons, these lower rates shall also apply to the State Business portion of the travel. Any lodging, meals, or Transportation (other than airfare) for personal travel will not be reimbursed. Each State Agency or Institution of Higher Education shall develop a State Agency-wide or Institution-wide policy regarding allocation of airfare costs, if any, when an employee is extending State Business travel for personal or political purposes.
- 11.7.** Allowances for Travel Paid Directly by a Non-State Entity – In limited instances, State officials and employees may be invited to attend a meeting, seminar, conference, or other event concerning State Business where their travel expenses are paid directly or reimbursed by the sponsor of the meeting, seminar, conference, or event. In such instances the official or employee may accept the invitation if the travel has been approved by the appropriate Approving Authority and does not violate other State statutes, guidance provided by the

Colorado Independent Ethics Commission, or constitutional provisions.

**11.8.** 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. The State shall also not reimburse any incremental increases in costs associated with an employee's spouse or other person(s) accompanying the State employee on a business trip.

**11.9.** Allowances for Travel by Leased or Privately Owned Aircraft

**11.9.1.** 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. Prior written approval also is required for the lease of any replacement for aircraft currently operated by a State Agency or Institution of Higher Education.

**11.9.2.** A State Agency or Institution of Higher Education shall not authorize the use of a privately owned aircraft without prior written approval from the Office of Risk Management. Reimbursement for the use of a privately owned aircraft shall not be allowed unless the required prior written approval has been secured.

**11.10.** Allowances for Travelers Furnishing Their Own Lodging – Travelers will not be reimbursed any amount for lodging costs when furnishing their own Lodging.

**12. PER DIEM RATES – MEALS AND INCIDENTAL EXPENSES:**

The current maximum meal and Incidental Expense per diem rates are posted on the website of the Office of the State Controller. These rates include the following:

Appendix A1 – Domestic (CONUS) Per Diem Rates (if a specific City or County rate is not listed, the base rate for the state in which that City or County is located shall be used)

Appendix A2 – Allocation of Domestic (CONUS) Per Diem Rates

Appendix B – Alaska, Hawaii, and US Possessions Per Diem Rates

Appendix C1 – Foreign Per Diem Rates

Appendix C2 – Allocation of Non-CONUS Per Diem Rates Including Foreign, Alaska, Hawaii, and US Possessions

Appendix C3 – Footnote References for Foreign Per Diem Rates

## **CHAPTER 6: CASH**

RULE 6-1: CASH RECEIPTS AND DEPOSITS

RULE 6-2: CHANGE FUNDS AND PETTY CASH FUNDS

RULE 6-3: IMPREST CASH ACCOUNTS AND BANK ACCOUNTS

RULE 6-4: REFUNDS AND REIMBURSEMENTS

RULE 6-5: PAYMENTS RETURNED BY FINANCIAL INSTITUTIONS

RULE 6-6: FEDERAL CASH MANAGEMENT

## **RULE 6-1: CASH RECEIPTS AND DEPOSITS**

### **1. AUTHORITY:**

§24-36-103, C.R.S. (Moneys Transmitted to State Treasurer)

§24-36-104, C.R.S. (Moneys to Be Deposited)

### **2. DEFINITIONS:**

**2.1.** 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.

### **3. 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 within seven business days following calendar month-end. Deposits or transfers to the State Treasury from any bank account shall be made as required by the State Treasurer.

## **RULE 6-2: CHANGE FUNDS AND PETTY CASH FUNDS**

### **1. AUTHORITY:**

§24-36-103(2), C.R.S. (Moneys Transmitted to State Treasury)

§24-30-202 (20.1) C.R.S. (State Controller Authority)

### **2. DEFINITIONS:**

**2.1.** Change Fund – A fund established at a State Agency or Institution of Higher Education that receives cash to allow for making change.

**2.2.** Commercial Card – See Fiscal Rule 2-7 (State Commercial Cards).

**2.3.** Petty Cash Fund – A fund established at a State Agency or Institution of Higher Education to allow cash payment for small, incidental expenses.

### **3. RULE:**

**3.1.** Change Funds and Petty Cash Funds may be established based upon a written request from the Chief Fiscal Officer of a State Agency or Institution of Higher Education and approval of the State Controller, or the Controller's delegate. The request for approval shall state the purpose of the fund and contain justification for the amount requested.

**3.2.** 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.

**3.3.** Petty Cash Funds shall only be used for payment of incidental expenses of a nominal amount such as postage, parking or expenses not otherwise paid by Commercial Card or warrant. Petty cash expenditures shall be consistent with all applicable statutes, rules, regulations, and executive orders.

**3.4.** All Petty Cash Funds and all change funds shall be recorded on the State Financial System or on an approved State Agency or Institution of Higher Education accounting system.

## **RULE 6-3: IMPREST CASH ACCOUNTS AND BANK ACCOUNTS**

### **1. AUTHORITY:**

§24-36-103(2), C.R.S. (Moneys Transmitted to State Treasury)

§24-36-104, C.R.S. (Moneys to Be Deposited)

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

### **2. DEFINITION:**

**2.1.** Bank Account – An account that is established by a State Agency or Institution of Higher Education in any eligible financial institution for the purpose of conducting State business.

**2.2.** Imprest Cash Account – A cash account that is established by a State Agency or Institution of Higher Education for the purpose of paying operating expenses.

### **3. RULE:**

**3.1.** 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 or Imprest Account. All cash Imprest Accounts and Bank Accounts shall be recorded on the State Financial System or on an approved State Agency or Institution of Higher Education accounting system. The request for approval of an Imprest Account shall state the purpose and justification for the Imprest Account, methodology in calculating the estimated Account balance, and any other information that is pertinent to the establishment of this Account.

**3.2.** Bank Account balances shall be limited to the minimum amount necessary to be consistent with legal requirements and operating efficiency.

**3.3.** Deposits to cash Imprest Accounts shall be in the form of reimbursements for actual expenditures, other than deposits used to establish and maintain a minimum balance, and shall be consistent with all applicable statutes, rules, regulations, and executive orders. Request for reimbursements shall be made so that all disbursements are properly reported on the State Financial System or an approved State Agency or Institution of Higher Education accounting system.

## **RULE 6-4: REFUNDS AND REIMBURSEMENTS**

### **1. AUTHORITY:**

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

### **2. DEFINITIONS:**

- 2.1.** Non-augmenting Revenue Account – An account used to record a refund or reimbursement from a prior fiscal year. Such Non-augmenting Revenue Accounts do not serve as funding sources for appropriated expenditures.
- 2.2.** Refund – An amount or credit received because of an overpayment or the return of an item purchased.
- 2.3.** Reimbursement – Repayment received for amounts remitted on behalf of another party.

### **3. 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 may be credited against the original account coding if the recovery occurs in the same fiscal year as the original expenditure and is for activities that involve a routine State Agency or Institution of Higher Education function. If such recoveries are made in a subsequent fiscal year, such as an audit recovery or accounts payable reversion, they should be credited to a Non-augmenting Revenue Account.

### **4. EXCEPTIONS TO RULE:**

- 4.1.** Capital Construction Funds – Refunds or Reimbursements received for expenditures of Capital Construction Fund appropriations 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.
- 4.2.** 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 state 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, unless otherwise directed by the Federal government.
- 4.3.** 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.



## **RULE 6-5: PAYMENTS RETURNED BY FINANCIAL INSTITUTIONS**

1. **AUTHORITY:**

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

2. **RULE:**

A State Agency or Institution of Higher Education that receives a returned payment, such as insufficient or non-sufficient funds, ACH/credit card chargebacks, refer to maker, stop payment, or closed account, shall assess a reasonable fee against the person who issued the payment. 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.

## **RULE 6-6: FEDERAL CASH MANAGEMENT**

### **1. AUTHORITY:**

31 CFR, Part 205 (Rules and Procedures for Efficient Federal-State Funds Transfers)

§24-22-107 (6), C.R.S. (Duties of the State Treasurer)

### **2. RULE:**

**2.1.** Unless Federal funds have been advanced to the State Agency or Institution of Higher Education, State Agencies and Institutions of Higher Education shall make draws of Federal funds as closely as possible to the use of those funds and shall ensure compliance with applicable Federal and State laws, including any liability for interest payable to the Federal government for major Federal programs.

**2.2.** The State Treasurer shall be the State's cash management officer responsible for the efficient management of all State cash and shall perform the duties necessary to carry out such function, in consultation with the Governor.

## **CHAPTER 7: BUDGET**

RULE 7-1: SPENDING AUTHORITY

RULE 7-2: EXPIRATION AND ROLLFORWARD OF APPROPRIATIONS

RULE 7-3: OVEREXPENDITURES AND REQUIRED REPORTING

RULE 7-4: COMMON POLICY DISPUTES

## **RULE 7-1: SPENDING AUTHORITY**

### **1. AUTHORITY:**

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

§24-37-304, C.R.S. (Office of State Planning and Budgeting)

### **2. RULE:**

**2.1.** Spending authority shall be subject to approval by the State Controller under delegated authority from the Office of State Planning and Budgeting, unless the State Agency requesting spending authority is not subject to the authority of the Office of State Planning and Budgeting.

**2.2.** Spending authority requests must be supported by law (such as statute or legislation), certain grant awards, or other authority as determined by the State Controller.

### **3. EXCEPTIONS TO RULE:**

This Fiscal Rule does not apply to Institution of Higher Education expenditures not subject to appropriation by the General Assembly.

## **RULE 7-2: EXPIRATION AND ROLLFORWARD OF APPROPRIATIONS**

### **1. AUTHORITY:**

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

### **2. DEFINITIONS:**

- 2.1.** Carryforward – The remaining amount of a multi-year appropriation transferred into a subsequent fiscal year until the expiration of that multi-year appropriation.
- 2.2.** Encumbrance – See Fiscal Rule 3-1 (Commitment Vouchers).
- 2.3.** Multi-Year Appropriation – Funding that is legally authorized for use in more than one fiscal year, including, but not limited, to Capital Construction appropriations.
- 2.4.** Rollforward – The remaining amount of an appropriation transferred into a subsequent fiscal year that is beyond the expiration of that appropriation.

### **3. RULE:**

#### **3.1. Current Year Appropriations**

Unless otherwise authorized by law, unexpended appropriations expire at the end of each fiscal year and do not continue into a subsequent fiscal year. Open Encumbrances at the end of a fiscal year do not constitute an obligation against that year's appropriation. Open Encumbrances that are carried over to the next fiscal year and the resulting expenditures are charged against the next fiscal year appropriation, if available.

#### **3.2. Carryforward**

Unexpended appropriations authorized for more than one fiscal year may be carried forward into a subsequent fiscal year until the expiration of the appropriation. Authorization for more than one year may be in the form of express legislative intent enacted in legislation or a legislative action signed by the Governor or the Joint Budget Committee. Common forms of express legislative intent may be included in letternotes and footnotes in the Long Bill, Supplemental Bills, and Long-Bill add-ons.

#### **3.3. Carryforward of Capital Construction – See Fiscal Rule 4-3 (Capital Construction Carryforwards and Reversions)**

#### **3.4. Exceptions To Rule:**

**3.4.1.** Rollforward – The State Controller may approve the Rollforward of unexpended expiring appropriations based on either of the following:

**3.4.1.1.** Extenuating Circumstances – Extenuating circumstances must be beyond the control of the State Agency or Institution of Higher Education and mitigated to the greatest extent possible by advanced planning, documented early ordering, early and frequent order status monitoring, and documented goods or services delivery deadlines communicated to and acknowledged by the contractor. The following items do not qualify as extenuating circumstances and this list is not intended to be all inclusive:

**3.4.1.1.1.** Inadequate time to implement a new program before the statutory deadline,

**3.4.1.1.2.** Failure of the selected contractor to perform for any reason other than force majeure,

**3.4.1.1.3.** Shipping delays, or

**3.4.1.1.4.** Customs delays.

**3.4.1.2.** Purchases from Colorado Correctional Industries – The appropriated funds have been legally committed by Interagency Agreement with the Division of Correctional Industries, also known as Colorado Correctional Industries, and the order is placed by the ordering deadline set by Colorado Correctional Industries.

## **RULE 7-3: OVEREXPENDITURES AND REQUIRED REPORTING**

### **1. AUTHORITY:**

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

§24-75-109, C.R.S. (Overexpenditures)

§24-75-111(4), C.R.S. (Restriction)

§24-30-202(3), C.R.S. (Personal Liability)

§24-30-202(14), C.R.S. (Misdemeanor and Penalty)

### **2. DEFINITIONS:**

**2.1.** Overexpenditure of Funds – An overexpenditure of funds exists when:

**2.1.1.** Total expenditures charged to a specific line item, based on the accrual basis of accounting, or based on the cash basis of accounting if statute requires expenditures to be recorded on a cash basis, exceed the established spending authority, as defined in §24-75-109(1.5), C.R.S and reflected on the State Financial System or on an approved State Agency or Institution of Higher Education accounting system.

**2.1.2.** Non general funded appropriations within the General Fund have insufficient revenue to support expenditures.

**2.1.3.** Appropriations within a cash fund have insufficient revenue and fund balance to support expenditures.

### **3. RULE:**

**3.1.** Expenditures shall not exceed established spending authority unless specifically allowed by law. Expenditures shall not exceed the amount of either the accrued and collected revenue or the available fund balance at the end of the State fiscal year.

#### **3.2.** Required Notification of Overexpenditures

When the Chief Executive Officer becomes aware of an Overexpenditure of Funds within the State Agency or Institution of Higher Education, the Chief Executive Officer shall submit notice within 10 working days to the Governor through the Office of State Planning and Budgeting and to the State Controller.

#### **3.3.** Statutory Penalty

Unless the Overexpenditure of Funds is approved by the State Controller in accordance with §4.1.1 of this Fiscal Rule, any official, officer, or employee of the State convicted of knowingly causing an Overexpenditure of Funds shall be subject to statutory fines and/or imprisonment in county jail. In addition, the individual may be personally liable for the overexpenditure amount.

### **4. EXCEPTIONS TO RULE:**

**4.1.** Overexpenditure of Funds Approved by the Governor (§24-75-109 C.R.S.)

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

Overexpenditure of Funds shall only be approved between May 1 of any fiscal year and the close of that fiscal year. This authority is only valid so long as §24-75-109 C.R.S. remains in effect and is not repealed.

- 4.1.2.** For any Overexpenditure of Funds 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. Any amounts so restricted shall not be expended unless and until such restriction is released.
- 4.2.** Overexpenditure of Funds Approved by the Joint Budget Committee
  - 4.2.1.** Overexpenditures occurring when the General Assembly is not in session arising out of unforeseen circumstances may be authorized by the Joint Budget Committee.



## **RULE 7-4: COMMON POLICY DISPUTES**

### **1. AUTHORITY:**

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

### **2. DEFINITIONS:**

**2.1.** Common Policy – A policy adopted by the Joint Budget Committee that is consistently applied for State Agencies. For many line items affected by common policy, amounts are initially appropriated in individual departments and then transferred to another department where they appear a second time as reappropriated funds.

### **3. RULE:**

**3.1.** Common Policy funding shall only be disputed during the budgeting process. To dispute a Common Policy appropriation or budget, the State Agency that will be making the Common Policy payments shall submit its dispute to the State Agency that will be billing for the Common Policy payments. The billing State Agency shall review the dispute and determine if it can agree to a resolution with the paying State Agency. If the State Agencies cannot agree on a resolution to the dispute, then they shall submit the dispute to the Office of the State Controller for final resolution.

## **CHAPTER 8: REPORTING**

RULE 8-1: FINANCIAL STATEMENTS

RULE 8-2: QUARTERLY FINANCIAL REPORTING

## **RULE 8-1: FINANCIAL STATEMENTS**

### **1. AUTHORITY:**

§24-30-201(1)(d), C.R.S. (State Controller Approval of Financial Statements)

§24-30-204(1), C.R.S. (Financial Statement Due Date and Extension)

### **2. DEFINITIONS:**

- 2.1.** Financial Reports – Financial information compiled periodically to assist in management decision-making or for reasons other than financial statement purposes.
- 2.2.** GAAP – See Fiscal Rule 1-1 (Accounting Principles and Standards).
- 2.3.** Prepared Financial Statements – Comprehensive reports prepared in accordance with GAAP, as adopted by the Governmental Accounting Standards Board.
- 2.4.** System Generated Financial Statements – A balance sheet and an income statement for each State Agency or Institution of Higher Education that is generated by the State Financial System.

### **3. RULE:**

#### **3.1. State Agency or Institution of Higher Education Financial Statements**

- 3.1.1.** Any State Agency or Institution of Higher Education that has individual audits of its prepared financial statements by the Office of the State Auditor, or a contractor of the Office of the State Auditor, shall 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 shall be submitted to the Office of the State Controller at the same time.
  - 3.1.2.** Prepared Financial Statements shall be reconciled to the State Financial System. A copy of this reconciliation shall be provided to the State Controller.
  - 3.1.3.** Prepared Financial Statements and reconciliations to the State Financial System shall be subject to approval by the Office of the State Controller as required by statute.
  - 3.1.4.** Financial statements prepared by a State Agency or Institution of Higher Education for formal third party reporting shall be prepared in accordance with GAAP.
  - 3.1.5.** 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's or Institution of Higher Education's reporting requirement.
- 3.2.** Financial Statements for the State of Colorado – The Comprehensive Annual Financial Report (CAFR) for the State of Colorado shall be prepared by the Office of the State Controller in accordance with GAAP. The CAFR shall reflect all of the financial activities of State government and its component units.
  - 3.3.** Financial Reports – Financial Reports provided as required by statute or regulation, or upon written request, shall be based on financial data obtained from or reconciled to the State Financial System.
  - 3.4.** Other Reporting – State Agencies and Institutions of Higher Education shall comply with all Federal reporting requirements under Federal regulations and guidance, such as the OMB Uniform Guidance and FFATA, except to the extent that the State Agency or Institution of

Higher Education is exempt from reporting under those Federal regulations and guidance. All State Agencies and Institutions of Higher Education shall comply with all reporting requirements contained in State Controller Fiscal Policies.

**4. EXCEPTIONS TO RULE:**

- 4.1.** This Fiscal Rule does not apply to Medicaid cash-basis reporting or other instances identified in a subsequent statute which specifically authorize alternate treatment.

## **RULE 8-2: QUARTERLY FINANCIAL REPORTING**

### **1. AUTHORITY:**

§24-30-201, C.R.S. (Powers and Duties of the State Controller)

§24-30-204 (2), C.R.S. (Quarterly Report of Financial Information)

### **2. DEFINITIONS:**

**2.1.** Financial Reports – See Fiscal Rule 8-1 (Financial Statements).

### **3. RULE:**

All State Agencies and Institutions of Higher Education shall submit quarterly financial reports as required by the State Controller.

**3.1.** The State Financial System shall be used to record the State's financial information and prepare the standard Financial Reports, which shall be forwarded to the State Controller in compliance with the reporting requirements of this Fiscal Rule.

**3.2.** The State Controller shall determine what information is reasonable and necessary to be included in the Financial Report, including which funds and the due date.

**3.3.** 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.

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

## **CHAPTER 9: PAYROLL**

**RULE 9-1: USE OF THE STATE PAYROLL SYSTEM**

**RULE 9-2: DIRECT DEPOSIT PAYROLL FOR STATE EMPLOYEES PAID ON THE STATE PAYROLL SYSTEM**

**RULE 9-3: FINAL PAY FOR A TERMINATING STATE EMPLOYEE**

**RULE 9-4: OVERPAYMENTS TO STATE EMPLOYEES**

**RULE 9-5: MISCELLANEOUS COMPENSATION**

**RULE 9-6: ASSIGNMENT OF STATE-OWNED VEHICLES**

## **RULE 9-1: USE OF THE STATE PAYROLL SYSTEM**

### **1. AUTHORITY:**

§24-30-201(1)(e), C.R.S. (Authority to Manage Financial Affairs of the State)

§24-30-202(1) and (8.5), C.R.S. (Authority to Control Expenditures and Make Electronic Payments)

### **2. DEFINITIONS:**

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

### **3. RULE:**

All State Agencies 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.

**RULE 9-2: DIRECT DEPOSIT PAYROLL FOR STATE  
EMPLOYEES PAID ON THE STATE PAYROLL SYSTEM**

**1. AUTHORITY:**

§24-30-201(1)(e), C.R.S. (Authority to Manage Financial Affairs of the State)

§24-30-202(1) and (8.5), C.R.S. (Authority to Control Expenditures and Make Electronic Payments)

§24-50-104(8)(a), C.R.S. (Payment of Salaries)

**2. DEFINITIONS:**

**2.1.** 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.

**2.2.** State Payroll System – See Fiscal Rule 9-1 (Use of the State Payroll System).

**3. RULE:**

State employees paid through the State Payroll System shall be on the Direct Deposit Payroll Program, unless an exception is approved by the State Controller or delegate of the State Controller.



## **RULE 9-3: FINAL PAY FOR A TERMINATING STATE EMPLOYEE**

### **1. AUTHORITY:**

§24-30-201(1)(e), C.R.S. (Authority to Manage Financial Affairs of the State)

§24-30-202(1) and (8.5), C.R.S. (Authority to Control Expenditures and Make Electronic Payments)

§24-50-104(8)(a), C.R.S. (Payment of Salaries)

### **2. RULE:**

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

- 2.1.** When a State employee terminates employment with the State, with or without giving notice, final payment shall be made no later than the employee's next regular pay day, unless the payroll is already processing for that pay day, in which event it shall be made no later than the following regular payday.
- 2.2.** When a State Agency or Institution of Higher Education terminates a State employee, final payment shall be made within three business days of the date of termination. The 24-hour pay provision of §8-4-109, C.R.S., does not apply to public sector employees.
- 2.3.** A State Agency or Institution of Higher Education shall deduct any amounts a State employee owes the State from that State employee's final pay. If the State employee's final pay is insufficient to cover the amount the State employee owes the State, then the State employee shall be liable for the remaining outstanding balance.

## **RULE 9-4: OVERPAYMENTS TO STATE EMPLOYEES**

### **1. AUTHORITY:**

§24-30-201, C.R.S. (Powers and Duties of the State Controller)

§24-50-104(9)(a), C.R.S. (Liability for Overpayments to State Employees)

§24-30-203.5, C.R.S. (Recovery Audits)

### **2. DEFINITIONS:**

**2.1.** Overpayment – An overpayment is any payment that results from overstating the rate of pay, overstating the hours worked, understating the employee deductions, or any other payments to which the employee is not entitled.

### **3. RULE:**

**3.1.** If a State employee is paid more than the amount due, provisions shall be made for the repayment of the Overpayment.

**3.2.** If the Overpayment is nominal, it shall all be deducted from the State employee's next paycheck. However, in some cases the Overpayment may require a repayment schedule extending over a period of time. The Chief Executive Officer of the State Agency, or a delegate of that individual, shall establish a repayment schedule based on the particular facts involved in each case. Any repayment schedule extending for more than six months shall be subject to approval by the State Controller.

**3.3.** A State employee's maximum liability for repayment of a payroll-related Overpayment shall be limited to the total amount of the overpayment in the present calendar year plus the total amount of any Overpayment in the three prior calendar years. A State employee's maximum liability for repayment of a non-payroll-related Overpayment shall be limited to the total amount of the Overpayment in the present fiscal year plus the total amount of any Overpayment in the three prior fiscal years.

**3.4.** Any amount that an employee of a State Agency has not repaid in accordance with this rule is subject to the Accounts Receivable Collections Administrative Rule, set forth in 1 CCR 101-6. Any amount that an employee of an Institution of Higher Education has not repaid in accordance with this Fiscal Rule is subject to the accounts receivable policies of that Institution of Higher Education.

## **RULE 9-5: MISCELLANEOUS COMPENSATION**

### **1. AUTHORITY**

§24-30-201(1)(e), C.R.S. (Authority to Manage Financial Affairs of the State)

### **2. DEFINITIONS**

**2.1.** Honorarium – the payment of cash or a cash equivalent in recognition of services provided for no or a nominal charge

### **3. RULE:**

#### **3.1.** Honorariums

**3.1.1.** State officials and employees may be asked to address an audience for which they receive an Honorarium. If the State official or employee does so, the State official or employee may retain the Honorarium. Any travel expenses related to the engagement will qualify for reimbursement by the State if the engagement occurs during normal working hours, or within the State official's or employee's normal workload.

## **RULE 9-6: ASSIGNMENT OF STATE-OWNED VEHICLES**

### **1. AUTHORITY:**

§24-30-1112, C.R.S. (Permanent Assignment of Vehicles)

§24-30-1113, C.R.S. (Assignment of Vehicles to State Agency Officers or Employees)

Internal Revenue Service Publication 15-B (Employer's Tax Guide to Fringe Benefits)

Internal Revenue Service Publication 5137 (Fringe Benefit Guide, Office of Federal State and Local Governments)

### **2. DEFINITIONS:**

**2.1.** Eligibility – The State employee meets the eligibility requirements for assignment of a State vehicle as provided in this Fiscal Rule.

**2.2.** State Business – See Fiscal Rule 5-1 (Travel).

**2.3.** State Fleet – State Fleet Management, in the Division of Central Services, Department of Personnel & Administration.

**2.4.** Taxability – The use of the State-assigned vehicle may be either taxable or non-taxable, depending on the facts and circumstances.

**2.5.** Technical Guidance – Technical guidance on the Taxability of State-assigned vehicles prepared by the Office of the State Controller and based on the Internal Revenue Code and its implementing regulations.

**2.6.** Transportation – See Fiscal Rule 5-1 (Travel).

### **3. RULE:**

State Agencies and Institutions of Higher Education shall comply with Eligibility requirements for assigning State-owned vehicles. If a State employee does not meet the Eligibility requirements, the State Agency shall not assign a State-owned vehicle to that employee.

State Agencies shall comply with the Taxability of assignment of State-owned vehicles included in the Technical Guidance and the Internal Revenue Code and its implementing regulations.

State Agencies shall submit annual documentation of compliance with both Eligibility requirements and Taxability requirements for assignment of state-owned vehicles.

#### **3.1. Eligibility for Assignment of State-owned vehicles**

**3.1.1.** A State employee must meet all of the following conditions to be eligible for assignment of a State-owned vehicle:

**3.1.1.1.** Assignment of the vehicle is necessary to conduct official and legitimate State Business, and

**3.1.1.2.** Assignment of the vehicle satisfies at least one of the following requirements:

**3.1.1.2.1.** The vehicle meets the Internal Revenue Service definition of qualified nonpersonal use in 26 CFR 1.274-5(k), or

**3.1.1.2.2.** The assignment of the vehicle is the most cost-efficient means of Transportation, as defined in this Fiscal Rule.

**3.2. Responsibilities of State Agencies**

- 3.2.1.** A Chief Executive Officer or designee of a State Agency shall authorize the assignment of a State vehicle to a State employee of that State Agency.
- 3.2.2.** Each State Agency shall maintain documentation of the assignment of the State vehicle, including the Chief Executive Officer's justification for authorizing the assignment of the vehicle.
- 3.2.3.** Each year, on or before October 1, the Chief Executive Officer of a State Agency, or a designee of that individual, shall review each assignment of a vehicle to ensure the assignment complies with the Eligibility requirements in this Fiscal Rule, the Taxability requirements in the Technical Guidance, and the Internal Revenue Code and its implementing regulations. Each State Agency shall send this information to the Office of the State Controller and to State Fleet.

**3.3. Responsibilities of the Department of Personnel and Administration (DPA)**

- 3.3.1.** The Office of the State Controller and State Fleet shall review the information submitted by the State Agencies and Institutions of Higher Education for the initial application and for subsequent annual renewals. The Office of the State Controller and State Fleet shall:
  - 3.3.1.1.** Verify that the assignment of the vehicles complies with the Eligibility requirements of State vehicles; and
  - 3.3.1.2.** Verify that the Taxability is in compliance with the Technical Guidance and the Internal Revenue Code and its implementing regulations.
- 3.3.2.** If the verification process establishes that the assignment of a vehicle no longer complies with the Eligibility requirements of State vehicles, then DPA shall revoke the assignment of the vehicle.

**3.4. Cost Analysis**

- 3.4.1.** State Fleet has developed a spreadsheet for State Agencies to evaluate whether use of State vehicles or the use of the employee's personal vehicle is the most cost efficient means of Transportation.
- 3.4.2.** State Agencies shall submit this spreadsheet with the initial application and annual reviews to the Office of the State Controller and State Fleet.

**3.5. Taxability of State-Assigned Vehicles**

- 3.5.1.** Any Elective Officer or State employee who is assigned a State-owned vehicle because it is the most cost-efficient means of Transportation receives a taxable fringe benefit and the State Agency shall include the value of this fringe benefit in the income of the Elective Officer or State employee.
- 3.5.2.** The Technical Guidance the Office of the State Controller should be followed by all State Agencies, branches of government, and Institutions of Higher Education. Executive agencies shall follow policies on State-Assigned Vehicles issued by State Fleet and the Office of the State Controller.