



DEPARTMENT OF MANAGEMENT
SERVICES

4050 Esplanade Way • Tallahassee, Florida 32399-0950


LAWTON CHILES, GOVERNOR

WILLIAM H. LINDNER, SECRETARY

April 17, 1996

MEMORANDUM NO.: 17 (95/96)

TO: State Agency and Political Subdivision
Purchasing Offices

FROM:  George C. Banks, CPPO
Director, Division of Purchasing

SUBJECT: State of Florida Purchasing Manual Revisions

Please replace the following pages in the State of Florida Purchasing Manual dated January 1996, with the attached:

DELETE: Pages III-1-7 , III-1-8, III-1-13, III-1-14, III-1-29 and III-1-30

ADD: Pages III-1-7*, III-1-8, III-1-13, III-1-14*, III-1-29 and III-1-30**
(* Revised March 21, 1996 and **revised March 24, 1996)

The above pages reflect suggested language changes requested by Joint Administrative Procedures Committee and also corrects threshold amount in 60A.1.016. Should you have any questions, please call Buddy Barker at (904)488-8131, Suncom 278-8131

GCB/ab

(b) The following purchases are not subject to the competitive sealed bid/proposal requirements of Rule 60A-1.002(2), F.A.C. Purchases described in Section 287.057(3)(f) as well as those described below do not require approval from the Division of Purchasing.

1. Regulated Utilities and government franchised services.
2. Regulated Public communications, except long distance telecommunications services or facilities.
3. Artistic services, academic program reviews, lectures by individuals. Artistic services include any artistic work performed by an artist, as defined in Section 287.012(3), F.S., including cases in which the acquisition requires that the artist furnish a commodity created through the artistic work. An academic program review is a structured evaluation of the relative merits of an established university or secondary educational program or program component conducted by recognized experts in the field of study and resulting in a written report with specific recommendations. A lecture is a formal or methodical reading or presentation on any subject, but it is not intended to be used for the purpose of, or in connection with, training of personnel.
4. Auditing services, which are services provided by a licensee under Chapter 473, F.S., in which the licensee attests as an expert in accountancy to the reliability or fairness of presentation of financial information or utilizes any form of disclaimer of opinion which is intended or conventionally understood to convey an assurance of reliability as to matters not specifically disclaimed.
5. Promotional Services and Events purchased from donated funds by the Secretary of State for purposes provided in Section 15.18(7), F.S.
6. Payments for membership dues pursuant to Section 216.345, F.S.
7. Examinations approved in accordance with Section 455.217(1)(c), F.S.

(c) Agencies are delegated the conditional authority to purchase commodities\contractual services (except insurance). The conditions of this delegation are (i) that the agencies comply with the requirements of subsection 287.042(13) F.S.; (ii) that the Division retains the full supervisory authority provided by that subsection; and (iii) that the Division reserves the right to rescind the authority delegated to all agencies by amendment to this rule and reserves the right to rescind the authority delegated to an agency for failure to comply with that subsection. If the Division proposes to rescind an agency's authority, it shall give the agency notice pursuant to Rule 60-4.013(2).

(d) Except for those contracts initially procured pursuant to Section 287.057(3)(a) or (3)(c), F.S., contracts for commodities or contractual services may be renewed for an additional term not to exceed the original contract period unless the original contract period is 24 months or less, in which case the contract may be renewed up to 2 one year periods. Renewal of the contract shall be by mutual agreement in writing and shall be subject to the same terms and conditions set forth in the initial contract. If the commodity or contractual service is purchased as a result of the solicitation of bids or proposals, the cost of any contemplated renewals shall be included in the invitation to bid or request for proposals. Renewals shall be contingent upon satisfactory performance evaluations by the agency.

(3) (a) Legal Advertisements - All purchases of commodities/contractual services in excess of the threshold amount for Category Two shall be advertised in the Florida Administrative Weekly no less than ten (10) calendar days prior to the bid opening for invitations to bid and no less than twenty-eight (28) calendar days prior to the proposal opening for requests for proposals. This is only a minimal requirement and does not limit frequency, lapse time, or number of newspapers in which the advertisement may appear. If the head of an agency determines that an unusual problem exists so that the delay incident to giving opportunity for advertising would be detrimental to the interest of the agency, then, and in such event, the head of such agency shall, prior to the opening of the bids/proposals, file with the Division of Purchasing a certification of the conditions and circumstances using "Exceptional Purchase Request/Authorization/Certification" Form PUR 7006 (Rev. 1-9-95), hereby incorporated by reference. Upon receipt of such statement, the Division of Purchasing may, in writing, waive the advertising. The Division's intended decision shall be posted in accordance with the provisions of Section 120.53(5), Florida Statutes, within 21 days after receipt of Form PUR 7006 or within 14 days after receipt of additional materials, if requested. Failure of the Division to approve or disapprove the request promptly after expiration of the time periods provided for protests by the statute or within the 21-day period (as extended by the 14-day period when applicable), whichever is later, shall constitute prior approval unless a protest is filed. If a protest is filed, the running of the 21-day and 14-day periods are stopped until the protest is resolved by final agency action, subject to the provisions of Rule 60A-1.006(6), F.A.C.

(b) Advertisement in the Florida Administrative Weekly is not required for the reissuance of an invitation to bid or request for proposals if the agency advertised the original bid or proposal solicitation in the Florida Administrative Weekly and the agency mails notice of the reissuance of the bid or proposal solicitation to all vendors that were mailed notice of the original solicitation and to all bidders or offerors that responded to the original solicitation, excluding any vendor that responded with an indication of no interest in bidding or offering.

- (14) Bid Borrowing Commodities/Contractual Services - The practice of bid/proposal borrowing (the use of a bid/proposal received in response to another invitation to bid/request for proposals) does not satisfy the requirement of Section 287.057, F.S., and is prohibited.
- (15) Inspection or Examination of Sealed Bids/Proposals for Commodities/Contractual Services - Sealed bids/proposals are not public records, subject to the provisions of Section 119.07(1), F.S., until such time as the agency provides notice of a decision or intended decision pursuant to Section 120.53(5)(a), F.S., or within 10 days after bid or proposal opening, whichever is earlier. The 10-day period does not include the date of the notice or opening. When the invitation to bid or request for proposal requires the bid or proposal to be placed in two separately sealed envelopes to be submitted simultaneously and not opened on the same date, the 10-day period begins the day after the opening of the second envelope. Bid or proposal opening shall be public at the date and time and at the place specified in the solicitation. Pollution response action contracts as provided in Section 287.0595, F.S., are confidential and exempt from the provisions of Section 119.07(1) until selection is made and a contract signed, or until bids/proposals are no longer under active consideration. This exemption is subject to Section 119.14, F.S. The opening shall be conducted by an employee of the agency and witnessed by at least one other employee of the agency. Bid or proposal tabulation sheets shall be completed simultaneously with the public reading of prices whenever appropriate. Upon completion of the tabulation, a copy shall be made accessible for inspection by any interested party.
- (16) Cancellation Clause - Any lease contract of commodities must include a cancellation clause of 30, 60, or 90 days, whichever is determined by the agency to be the period of time necessary to procure a substitute contract. This only applies to fixed period lease contracts such as annual lease, two year lease, etc.
- (17) Installment Sale and Purchase Contracts - Installment sale and purchase contracts shall be accomplished on the State of Florida Contract for "Installment Sale and Purchase", Form PUR 7057 (Rev. 11-15-86) available through the Division of Purchasing and which is hereby incorporated and published by reference and is approved for use by all State agencies. The use of such contracts by State agencies shall be subject in each instance to preaudit review and prior approval of the Comptroller of the State and shall contain the statement, "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature". Refinancing Installment Sale and Purchase contracts are permitted only to take advantage of a lower interest rate than that of the initial transaction or other instances of lower overall cost to the State. Refinancing for a longer period than the term of the original financing is prohibited. Payment schedules shall provide for either quarterly or semi-annual payment in advance to minimize amount of interest paid. Initial payment may be made on a pro rata basis to accommodate fiscal year funding. Any exception to the provisions of this section requires justification to and prior approval of the Division.

- (18) No Substitute - Use of the term "no substitute" shall be used only when absolutely required. The term "or equivalent" shall be used wherever an identifiable brand name or process is included in the specification.
- (19) District Bidding - The Division has divided the State into four principal districts, as follows:
- (a) Western District, consisting of counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Liberty, Franklin, Gadsden, Wakulla, Leon, Jefferson, Taylor, Madison, Lafayette, Dixie.
 - (b) Northern District, consisting of the counties of Gilchrist, Alachua, Union, Bradford, Baker, Nassau, Duval, Clay, Putnam, St. Johns, Flagler, Volusia, Marion, Levy, Hamilton, Suwannee, Columbia.
 - (c) Central District, consisting of the counties of Citrus, Sumter, Lake, Hernando, Seminole, Orange, Pasco, Pinellas, Hillsborough, Polk, Osceola, Brevard, Indian River, Manatee, Hardee, Highlands, Okeechobee, St. Lucie, Sarasota, DeSoto, Charlotte, Lee.
 - (d) Southern District, consisting of the counties of Glades, Martin, Hendry, Palm Beach, Collier, Broward, Monroe, Dade.

The Division may modify the composition of these districts when deemed necessary for bidding purposes.

Specific Authority 15.18(7), 287.042(4), (13), 287.017, FS. Law Implemented 216.311, 287.012, 287.042(1), (4), (14), 287.057(1), (3), (4), 287.0595, 119.07(3), 287.133, 288.121(5), 288.703, 288.705, 695.25 FS. History - New 5-20-64, Amended 4-4-67, Revised 2-6-68, Amended 2-8-69, Revised 5-20-71, Amended 7-31-75, 10-1-78, Revised 11-14-79, Amended 8-18-80, 2-81, Amended 8-6-81, 10-13-83, 3-1-84, 3-14-84, 11-12-84, 2-28-85, 12-17-85, Formerly 13A-1.02, Amended 6-5-86, 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.002, Amended 4-24-94, 1-9-95, 1-1-96, 3-21-96.

60A-1.015 Insurance

- (1) Insurance shall be purchased for all agencies by the Division whenever any part of the premium is paid by the State with the exception of title insurance for land acquisition, the State Group Health, and Life Programs, administered by the Department of Administration and Self-Insurance Trust Fund administered by the Department of Insurance, Division of Risk Management. Agencies may make emergency purchases of insurance pursuant to Section 287.057(3)(a), F.S. All invitations to bid for the purchase of insurance coverage shall include the standard "State of Florida Invitation to Bid Insurance Coverage" Form PUR 7109 (Rev. 1/9/95), which is incorporated herein by reference. Requests for the purchase, renewal or endorsement of insurance and bonds shall be initiated in writing by authorized personnel of the requesting agency and submitted to the Division of Purchasing. No agency shall contact the agent of record representing the insurance carrier with the exception of reporting a claim.
- (2) All claims reports shall be submitted by the agency to the agent of record representing the insurance carrier. Any loss due to an alleged criminal act shall be reported immediately upon discovery to the appropriate law enforcement agency.
- (3) Invoices will be forwarded by the Division to the Department of Insurance for the initial rate approval. The Department of Insurance will transmit the invoice and rate approval to the State agency for payment. All renewals and endorsements with the same rate as previously approved by the Department of Insurance will be transmitted to the State agency by the Division. Covered agencies shall submit all premium payments directly to the agent of record representing the insurance carrier. Payments are to be made in accordance with Section 215.422, F.S.

Specific Authority 287.042 FS. Law Implemented 287.022 FS. History - New 8-6-81, Amended 11-4-82, Formerly 13A-1.15, Amended 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.015, Amended 8-24-93, 1-9-95.

Contract Terms - A written agreement in excess of the threshold amount of Category Two shall be signed by the agency head and the contractor prior to the rendering of the contractual services, except in the case of a valid emergency as certified by the agency head. If the agency chooses to procure contractual services by purchase order in lieu of a written agreement, then the purchase order shall be signed by the authorized purchasing or contracting personnel. When there is no emergency and the agency fails to have the written agreement signed as required prior to rendering of the service, the agency head, no later than 30 days after contractor begins rendering the service, shall certify the conditions and circumstances as well as action taken to prevent reoccurrence, to the Division using "Exceptional Purchase Request/Authorization/Certification" Form PUR 7006 (Rev. 1-9-95). Repeated instances of non-compliance will be reported to the Auditor General by the Division of Purchasing. A copy of the certification shall be furnished by the agency with the voucher to the Comptroller when submitted for payment.

Specific Authority 287.032, 287.042 FS. Law Implemented 287.042, 287.057, 287.058, 287.017, 287.133 FS. History, New 8-6-81, Amended 11-4-82, 2-13-83, 5-26-83, 10-13-83, 5-10-84, 11-12-84, 12-17-85, Formerly 13A-1.16, Amended 6-5-86, 2-9-87, 11-3-88, 1-18-90, 4-10-91, Formerly 13A-1.016, Amended 4-24-94, 1-9-95, 1-1-96, 3-24-96.