

CF OPERATING PROCEDURE
NO. 75-1

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, January 29, 2007

Procurement and Contract Management

PURCHASING POLICY AND PROCEDURES

This operating procedure provides purchasing policy and procedures for the department and outlines duties and responsibilities for the purchasing staff. The information not derived directly from Florida Statutes, Department of Management Services Purchasing Rules and Regulations or the State Comptroller's Manual is furnished as guidance to enable the department to operate an efficient and effective purchasing program.

CONTENTS

Paragraph

Chapter 1 – GENERAL

Purchasing Management	1-1
Separation of Duties Management Principle	1-2
Code of Ethics and Conduct	1-3
Policy and Procedures	1-4
Purchasing Responsibilities	1-5

Chapter 2 – OFFICE PROCEDURES AND SYSTEMS

General.....	2-1
Requisition Filing System.....	2-2
Direct Order Filing System	2-3
Direct Order Log	2-4
Purchasing Card Log Filing System	2-5
Bid Log	2-6
State Commodity Contract Filing System.....	2-7
Systematic Follow-Up Procedures for Outstanding Direct Orders	2-8
Library of Purchasing-Related Publications.....	2-9
Vendor Reference File	2-10
Purchasing Related Forms.....	2-11
Records Retention	2-12

Chapter 3 – PURCHASE OF COMMODITIES

Legal.....	3-1
Definition of "Commodity".....	3-2
Purchase of Commodities/Services from Other Governmental Agencies	3-3
Purchase of Prosthetic or Orthopedic Devices	3-4
Circumventing Competitive Bidding	3-5

Chapter 4 – PURCHASE REQUISITION

General Instructions.....	4-1
Routing Instructions	4-2
Restriction of Expenditures	4-3
Documentation for Unauthorized Purchases.....	4-4
Records Retention	4-5

This operating procedure supersedes CFOP 75-1 dated July 1, 2005.

OPR: ASGP

DISTRIBUTION: B

Chapter 5 – BIDDING PROCEDURES

General.....	5-1
Special Conditions	5-2
MyFloridaMarketPlace Transaction Fee.....	5-3
Exemption From Transaction Fee	5-4
Minor Irregularities/Right to Reject	5-5
Bid, Performance and Payment Bonds	5-6
Discriminatory Vendor List	5-7
Cancellation Clauses	5-8
Bids for Contracts Spanning More than One Fiscal Year	5-9
Compliance with the Health Insurance Portability and Accountability Act (HIPAA)	5-10
Compliance with the Civil Rights Act.....	5-11
Non-Discrimination as to Handicapped Individuals.....	5-12
Non-Employment of Unauthorized Aliens.....	5-13
Public Entity Crime Clause.....	5-14
Pre-Bid Conferences.....	5-15
Bid Addenda	5-16
Advertisements	5-17
Bid Evaluation Teams	5-18
Bid Tabulations	5-19
Identical (Tie) Bids	5-20
Posting of Bid Tabulations	5-21
Electronic Posting of Intended Decisions and Awards.....	5-22
Commodity Inspections.....	5-23

Chapter 6 – CONTRACTS

General.....	6-1
Contract Document.....	6-2
Equipment Leases	6-3
Installment Sale and Purchase Contracts	6-4
Consolidated Equipment Financing Program	6-5
Limitation on Deferred Payment Purchases	6-6
Purchase of Maintenance or Custodial Services	6-7
Purchase of Administrative and Program Related Services	6-8
Purchase of Commodities and Related Services for Individual Clients/Patients	6-9
Architectural Engineering and Construction Related Services.....	6-10
Purchase of Real Property and Leased Space.....	6-11
Indemnification – Hold Harmless Clauses.....	6-12
Annual Appropriations.....	6-13
Invoicing, Payment, and Interest Penalties Requirement	6-14
Contractor Compliance with Civil Rights Act	6-15
Non-Discrimination as to Handicapped Individuals.....	6-16
Non-Employment of Unauthorized Aliens.....	6-17
Public Entity Crime Clause.....	6-18
Insurance Considerations in the Development of Contracts	6-19
Personal Liability Insurance	6-20
Federal Regulation Governing Purchasing (Contracting) Activities	6-21
Breach of Contract.....	6-22
Securing State Ownership of Copyrights and Royalties	6-23
Purchasing Categories, Threshold Amounts	6-24

Chapter 7 – CONTRACT PURCHASING

General.....	7-1
State Term Contracts.....	7-2

State Purchasing Agreement (SPA)	7-3
Departmental Contracts	7-4
Alternate Contract Sources	7-5
Other Contracts and Commodity Acquisition Methods	7-6
Chapter 8 – DIRECT ORDERS, BILLING FORMS AND PETTY CASH FUNDS	
General.....	8-1
Purchase of Commodities	8-2
Standard Direct Orders	8-3
Purchases Not Requiring Competitive Bidding and/or Direct Orders	8-4
Records Retention	8-5
Direct Order Distribution.....	8-6
Field Direct Orders.....	8-7
Annual Direct Orders	8-8
Blanket Direct Orders.....	8-9
Confirmation Direct Orders	8-10
Client Authorization and Billing Forms.....	8-11
Petty Cash Funds	8-12
Certified Minority Business Enterprises.....	8-13
Special Purchasing Procedures	8-14
Special Notes Concerning Purchasing	8-15
Chapter 9 – PURCHASING CARD PROCUREMENT GUIDELINES	
Purpose	9-1
Responsibility.....	9-2
Chapter 10 – EMERGENCY, SINGLE SOURCE, NO COMPETITIVE BID, LEGAL ADVERTISEMENT AND ROUTINE PURCHASING	
Purpose	10-1
Definitions	10-2
Emergency Purchases.....	10-3
Single Source Commodity Purchases	10-4
No Competitive Sealed Bids	10-5
Waiver of Legal Advertisement	10-6
Routine Purchasing Related Activities.....	10-7
Chapter 11 – SPECIAL PURCHASING PROCEDURES	
Purpose	11-1
Filing Equipment	11-2
Microfilm Services and Equipment	11-3
Information Technology	11-4
Operating Capital Outlay (OCO)	11-5
Motor Vehicles, Watercraft, and Aircraft.....	11-6
Rental Car Contract	11-7
Communication and Audio-Visual Equipment	11-8
Client-Related Purchases	11-9
Superintendent of Documents.....	11-10
Overdue Postage Account	11-11
Florida Statutes.....	11-12
Purchases Involving a Trade-In of Surplus Property (OCO)	11-13
Force Account Construction Purchases	11-14
Purchase of Institutional Mattresses	11-15
Purchase of Commodities and Services Available from Prison Rehabilitative Industries and Diversified Enterprises (PRIDE)	11-16

Purchase of Commodities Manufactured by the Blind and Severely Handicapped (RESPECT).....	11-17
Chapter 12 – PURCHASE OF PRINTING	
Legal.....	12-1
Definitions.....	12-2
Use of Recycled Paper	12-3
Printing Adjustments – Overruns/Underruns	12-4
Notification of Acceptance or Non-Acceptance	12-5
Printing Equipment Purchase.....	12-6
Publication Records	12-7
Chapter 13 – PURCHASE OF INSURANCE	
General.....	13-1
Fire and Extended Coverage	13-2
Automobile Liability Insurance	13-3
General Liability (Including Medical Malpractice Coverage)	13-4
Workers Compensation	13-5
Employee Honesty Bond.....	13-6
Boiler and Heavy Machinery (And Related Accessories)	13-7
Miscellaneous Insurance Coverages	13-8
Reporting Insurance Claims.....	13-9
Chapter 14 – MINORITY VENDOR PROGRAM	
Definitions.....	14-1
Reservation of Contracts and Subcontracts	14-2
Certified Minority Business Enterprise (CMBE) Policies and Procedures	14-3
Chapter 15 – STANDARD FORMS	
General.....	15-1
Standard Departmental Purchasing Forms	15-2
Chapter 16 – MYFLORIDAMARKETPLACE (MFMP) AND CONFIDENTIALITY	
General.....	16-1
MyFloridaMarketPlace Information Security and Electronic Attachments	16-2

Chapter 1

GENERAL

1-1. Purchasing Management.

a. Purpose. This operating procedure establishes the requirements for the Department of Children and Families procurement activity. Good public administration requires that commodities and services be purchased as economically and expeditiously as possible, consistent with good purchasing practices. In administering a purchasing program, employees who are authorized to expend public funds must be held to a high level of accountability. A purchasing official must be courteous and objective with vendor representatives; develop clear, concise bid conditions and specifications; keep competition fair and open; and remain free from obligations to vendors. All actions and documents related to this function are subject to internal and external audits.

b. Scope. This operating procedure applies to purchasing staff as well as employees and supervisors of those employees who have been authorized to use a Purchasing Card, approve Purchasing Card transactions, reconcile Purchasing Card transactions, or monitor the Purchasing Card program for compliance with purchasing rules and operating procedures.

c. Other Directions. Policies and procedures contained herein have been prepared as excerpts from current statutes and rules and do not in any way supersede any part of the Department of Management Services (DMS), State Purchasing, Rule 60A-1. CFOP 75-2, Contract Management System for Contractual Services, administered by the Office of Contract Administration, prescribes departmental policy and procedures for managing service contracts.

1-2. Separation of Duties Management Principle. The acquisition process for commodities and/or services requires close coordination and teamwork between several administrative units in the department. Good management principles dictate that each participating unit in this process performs its designated functions under an organizational structure that provides for an independent relationship between the units.

1-3. Code of Ethics and Conduct.

a. Ethical Concepts. Ethical concepts of public purchasing are addressed in Section 112 Part 3, Florida Statutes (F.S.) and CFOP 60-5, Chapter 5, thereby obligating every purchasing official to an irreproachable standard of ethics and conduct.

b. Statement of Financial Disclosure. In accordance with the provisions of Section 112.3145(2)(b), F.S., and CFOP 60-5, Chapter 5, Code of Ethics for Public Officers and Employees, "Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s.8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first." Questions or comments should be addressed to:

Bonnie J. Williams, Executive Director
P. O. Drawer 15709
Tallahassee, FL 32317-5709
or
3600 Maclay Boulevard, South, Suite 201
Tallahassee, FL 32312
phone: 850/488-7864
fax: 850/488-3077

c. Solicitation or Acceptance of Gifts. "No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby." Reference Section 112.313(2), F.S.

d. Doing Business with One's Agency. "No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (1) October 1, 1975.
- (2) Qualification for elective office.
- (3) Appointment to public office.
- (4) Beginning public employment." Reference Section 112.313(3), F.S.

e. Unauthorized Compensation. "No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity." Reference Section 112.313(4) F.S.

f. Misuse of Public Position. "No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31." Reference Section 112.313(6), F.S.

g. Conflicting Employment or Contractual Relationship. "No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality,

county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.” Reference Section 112.313(7)(a), F.S.

h. Disclosure or Use of Certain Information. “No public officer, employee of an agency, or local government attorney shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.” Reference Section 112.313(8), F.S.

1-4. Policy and Procedures. It is the policy of the department’s purchasing staff to provide purchasing services that are responsive to the needs of the programs and facilities that they support. These purchasing responsibilities will be accomplished within the framework of state and federal laws, administrative rules, departmental operating procedures and rules of State Purchasing and other divisions of DMS.

1-5. Purchasing Responsibilities.

a. “DMS, State Purchasing” Responsibilities. Section 20.22 F.S created DMS, State Purchasing. The powers, duties and functions of the division are stated in Sections 287.032 and 287.042 F.S. with additional clarification contained in the Rule 60-A-1.

(b) “Department of Children and Families, Administrative Services Support Center” (ASSC) Responsibilities. ASSC is responsible for:

(1) Developing and implementing rules, operating procedures and standards for departmental purchasing functions.

(2) Monitoring purchasing functions in all departmental entities.

(3) Providing technical assistance to all departmental entities with respect to the support functional area of purchasing.

(4) Developing training programs for department-wide use to implement and improve application of purchasing policies, operating procedures, and standards.

(5) Coordinating purchasing activities with other state and federal agencies.

(6) Coordinating audit and management review responses and corrective actions.

(7) Reviewing proposed purchasing related legislation and its impact on DCF.

(8) Representing DCF before other agencies on statewide purchasing issues.

(9) Developing and implementing automated systems for the department whenever feasible and economical.

(10) Assisting in budget preparation by providing cost information, appropriateness, and commodity availability.

(11) Developing departmental bids/contracts.

(12) Developing, maintaining, and disseminating a directory of DCF purchasing staff.

(13) Conducting special studies and projects relative to purchasing.

(14) Developing standard forms for purchases of commodities and equipment.

c. “Department of Children and Families, Institution and Administrative Services Support Center Purchasing (ASSCP)” Staff Responsibilities. It is the responsibility of the district/zone/institution and ASSCP purchasing staff to:

(1) Plan and coordinate all purchases to ensure that quality products and services are obtained in a timely manner from responsible vendors on a competitive basis.

(2) Develop, implement, and refine operating procedures which provide for Direct Order follow-up and ensure the smooth and orderly flow of administrative paperwork related to the purchasing process.

(3) Within statutory limitations, prescribe methods of purchasing which will meet the unique and diversified needs of the district/zone/institution and/or central office.

(4) Establish uniform procedures for performing purchasing activities which require “agency head” approval and initiate letter of justification and certifications relative to these purchases.

(5) Report any violations of state and departmental purchasing policies and procedures to ASSC and recommend corrective actions necessary to preclude the recurrence of such violations.

(6) Provide technical assistance and consultation to staff in the evaluation of commodities and services required by the district/zone/institution and central office operations.

(7) Ensure that all vendors doing business with the department are treated equally and fairly in the awarding of bids and contracts.

(8) Conduct periodic staff training sessions and work reviews to ensure that purchasing staff have a working knowledge of the body of information relative to state purchasing.

(9) Develop and maintain within each purchasing office a complete file of all laws, rules, operating procedures, forms, and correspondence related to state purchasing activities.

(10) Develop a district/zone/institution/central office communications system that is supportive of the department’s purchasing effort through the expeditious collection and dissemination of purchasing related information.

(11) Maintain data files necessary to keep management fully informed of activities within the district/zone/institution and ASSCP. Prepare purchasing reports as required.

(12) Investigate all complaints related to purchasing activities within the district/central office and coordinate responses with ASSCP where necessary.

(13) Evaluate new or substitute products delivered to or under consideration for use within the district/zone/institution and central office.

(14) Conduct periodic meetings of district/zone/institution or central purchasing staff to discuss purchasing topics of mutual concern and promote professionalism within the department.

(15) Make recommendations to ASSCP to improve purchasing office operations.

(16) Review professional and trade publications to determine market trends and product information that could affect district/zone/institution and central office purchasing operations.

(17) Maintain a library of purchasing related information including commodity contracts, vendor performance data, and other purchasing related information.

(18) Ensure that technical assistance and administrative guidance are available to the district/zone/institution and central office purchasing staff. Prepare or supervise the preparation of bid documents. This responsibility should include institution and central office personnel as necessary.

(19) Serve as district liaison for purchasing operations in audit conferences.

(20) Greet vendors and serve as the focal point for the dissemination of product information to appropriate staff.

(21) Ensure that the appropriate ASSC staff is provided necessary bid contract information for the prompt payment of invoices and favorable audit reports.

d. “Department of Children and Families Purchasing Director or other Designee” Responsibilities. It is the responsibility of the department’s purchasing directors or other designees to:

(1) Ensure that personnel under their supervision who are involved with purchasing activities are in full compliance with applicable laws, rules, and operating procedures.

(2) Involve the purchasing staff in plans for new programs or unusual purchases to ensure that sufficient lead-time is provided for commodity evaluation, prior approvals, bidding, and delivery.

(3) Assist purchasing by ensuring that requisitions are properly completed, to include adequate descriptions of items requested, and justification and special approval documentation as necessary.

(4) Consult with purchasing on matters that fall within their area of expertise.

(5) Ensure that personnel under their jurisdiction make no obligations against the department until the purchasing staff has completed all required activities.

(6) Review their budgets and commodity purchasing requirements sufficiently in advance of the close of each fiscal year to ensure that the purchasing workload is more evenly distributed and all purchasing requirements are met.

e. “Department of Children and Families Requisitioner” Responsibilities. It is the responsibility of the department’s requisitioner to:

(1) Ensure that all requisitions are completed in their entirety in the DCF Automated Requisition Tracking System (ARTS), attaching supplemental justifications or authorizations, prior to submission to Purchasing.

(2) Ensure that adequate time is provided for approval and purchasing activities to be accomplished.

(3) Confirm that identified vendors are registered to do business with the state in MyFloridaMarketPlace.

Chapter 2

OFFICE PROCEDURES AND SYSTEMS

2-1. General. The effective management of a purchasing operation can best be achieved through implementation of office procedures and systems that provide for flexibility, orderly paper flow, effective control and a reasonable degree of standardization. The auditor general requires that supportive documentation for each purchase be maintained in an organized manner at a central location. To achieve this objective and ensure favorable audits, the office procedures and systems described in this chapter are guidelines for your use in setting up efficient, standardized office procedures.

2-2. Requisition Filing System. A properly prepared Purchase Requisition must initiate every commodity purchase as well as every request for a Change Order to a Direct Order, formerly called a Purchase Order. This is normally accomplished in ARTS. However, a letter of request may suffice in unusual circumstances. The ARTS system record will include the method of procurement as well as the receiving report data.

2-3. Direct Order Filing Systems.

a. Filing by Direct Order Numbers. One method of filing both outstanding and completed Direct Orders is by sequential Direct Order numbers cross-referenced to the Direct Order log and authorizing requisition. Supporting documentation such as requisitions, Direct Orders, original bids, quotations, prior approvals and related correspondence must be included in the Direct Order filing system.

b. Filing by Alphabetized Vendor Name. In large purchasing operations involving numerous transactions, a Direct Order filing system by vendor name may be desirable. This system can easily be expanded into a purchasing history file, enabling the purchasing staff to quickly research a purchase when only the vendor's name or product category is known.

c. Filing by Organization Code Numbers. Another acceptable system, especially where numerous budget entities are involved and the purchasing office is in close proximity to the fiscal office, is filing Direct Orders by organization codes.

d. Electronic Procurement. With the advent of Electronic Procurement (eProcurement) through MyFloridaMarketPlace (MFMP) and the utilization of ARTS, the necessity to maintain paper files will be rendered obsolete as the electronic files will be the files of record.

2-4. Direct Order Log.

a. This record of the disposition of all Direct Orders assigned by a particular purchasing office includes information such as Direct Order numbers, dates of issuance, vendor identification, brief commodity description, and fiscal date. Other relevant information, including contract references, bid/quotations obtained, or authorizing correspondence, may also be incorporated through reference entries. This log may be manual or automated (computer generated) and should be confirmed with SPURSVIEW reports. The records retention requirements for this log are three (3) years for the record copy or until applicable audit release. Duplicates must be retained until obsolete, superseded, or administrative value is lost.

b. The key advantage of the Direct Order log, which is posted by Direct Order number, is that it accounts for each Direct Order and consolidates all information relative to a particular purchase into one record.

c. With the advent of Electronic Procurement (eProcurement) through MyFloridaMarketPlace (MFMP), the necessity to maintain paper logs will be rendered obsolete, as the electronic file will be the file of record.

2-5. Purchasing Card Log Filing System. This record of all purchasing card transactions incurred by an individual purchasing cardholder includes information such as requisition number, date of transaction, vendor identification, and a brief commodity description. With the implementation of ARTS this process will be fully automated and the file of record will be retained in ARTS.

2-6. Bid Log. This log includes information such as sequential bid number, bid title (subject), and significant dates such as date advertisement posted or mailed, pre-bid conference and bid opening. Other pertinent data such as bid addendum, award information, final disposition and any correspondence should be reflected and incorporated through reference entries. Any Direct Order generated by the bid and the authorizing requisition should be cross-referenced to the bid log. The records retention requirements for this log are five fiscal years after awarded provided applicable audits have been released and for duplicates until obsolete, superseded, or administrative value is lost.

2-7. State Commodity Contract Filing System.

a. Current Year Contracts. Section 287.042(1) and (2), F.S. requires State Purchasing to establish commodity contracts for mandatory use by all state agencies and optional use by counties, municipalities, and other local public agencies. Each purchasing office is responsible for maintaining an up-to-date file of pertinent department and local commodity contracts either by a numerical system or contract subject matter. For standardization purposes, the system should be based on the Contract Index Listing that is maintained by the State Purchasing on the Florida Communities Network website. The Children and Families purchasing staff in the institutions and central office will be responsible for advising State Purchasing of needed changes in state term contract requirements to meet their organizational structure requirements. All State Purchasing contracts are available on the Purchasing Direct website for viewing or printing. Contract copies should be retained for audit purposes for each contract utilized by the purchasing office.

b. Expired Contracts. State and federal auditors require retention of prior-year contracts for auditing purposes.

c. Bids and Direct Orders. These documents also require retention for auditing purposes.

d. Records Disposal. CFOP 15-4, Records Management, prescribes procedures for disposal of records. No records may be disposed of without appropriate authorization through the district records management liaison officer (RMLO).

2-8. Systematic Follow-Up Procedures for Outstanding Direct Orders. Each purchasing office should maintain a periodic follow-up system to monitor deliveries on outstanding Direct Orders. This system should include telephone contacts and/or form letters and usage of State Purchasing Complaint to Vendor Form (PUR 7017), whichever is appropriate for the situation. A definitive and realistic delivery date is critical to effective follow-up procedures.

2-9. Library of Purchasing-Related Publications. Each purchasing office should maintain a library of current purchasing related publications including state policy and procedure manuals, Children and Families operating procedures, state and local government purchasing manuals, commodity catalogs, comptroller's procedures manual, and reference publications such as the *Thomas Register* and *Sweet's Catalog File*. The staff should also have access to the latest edition of the Florida Statutes and a local city directory.

2-10. Vendor Reference File. The official vendor file of the department shall be the vendor file maintained in MyFloridaMarketPlace. In addition each purchasing office may maintain a reference file of those vendors who express an interest in doing business with the department. The local file would include an objective record of past vendor experiences and justify or substantiate any controversial bid awards. State Purchasing at DMS and the ASSCP should be advised of unusual vendor problems.

2-11. Purchasing Related Forms. Frequently used purchasing forms are listed in Chapter 15 of this operating procedure and available electronically on the DMS, State Purchasing website. Insurance claims reporting forms are referenced in CFOP 75-3, Insurance.

2-12. Records Retention. Current records retention schedules for state related procurements are available in CFP 15-7 or for certain federally funded procurements use 45 CFR 164.528(a)(1).

Chapter 3

PURCHASE OF COMMODITIES

3-1. Legal.

a. Section 287.057(1)(a), F.S. provides that “Unless otherwise authorized by law, all contracts for the purchase of commodities or contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO shall be awarded by competitive sealed bidding. An invitation to bid shall be made available simultaneously to all vendors and must include a detailed description of the commodities or contractual services sought; the time and date for the receipt of bids and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the bid. If the agency contemplates renewal of the contract, that fact must be stated in the invitation to bid. The bid shall include the price for each year for which the contract may be renewed. Evaluation of bids shall include consideration of the total cost for each year as submitted by the vendor. Criteria that were not set forth in the invitation to bid may not be used in determining acceptability of the bid.” Bid requirements and procedures are discussed in Chapter 5. Additional requirements and restrictions are discussed in Chapters 12 and 13. Purchases with values below \$2,500 shall be carried out using good purchasing practices which may include either written quotations or written records of telephone quotations or both to include at least two quotes whenever possible. Purchases which meet or exceed \$2,500, but are less than the threshold of Category One, will be made after receiving two or more written quotations whenever practical. If at least two quotations are not received, a statement as to why they were not received must be shown. Purchases with a dollar value of the threshold of Category One, but less than the threshold of Category Two shall be carried out using three or more written quotations or informal bids to be opened upon receipt.

b. Section 287.057(2)(a), F.S. provides that “If an agency determines in writing that the use of an invitation to bid is not practicable, commodities or contractual services shall be procured by competitive sealed proposals. A request for proposals shall be made available simultaneously to all vendors, and must include a statement of the commodities or contractual services sought; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria, which shall include, but need not be limited to, price, to be used in determining acceptability of the proposal. The relative importance of price and other evaluation criteria shall be indicated. If the agency contemplates renewal of the commodities or contractual services contract, that fact must be stated in the request for proposals. The proposal shall include the price for each year for which the contract may be renewed. Evaluation of proposals shall include consideration of the total cost for each year as submitted by the vendor.”

c. Section 287.057(3)(a), F.S. provides that “If the agency determines in writing that the use of an invitation to bid or a request for proposals will not result in the best value to the state, the agency

may procure commodities and contractual services by competitive sealed replies. The agency's written determination must specify reasons that explain why negotiation may be necessary in order for the state to achieve the best value and must be approved in writing by the agency head or his or her designee prior to the advertisement of an invitation to negotiate. An invitation to negotiate shall be made available to all vendors simultaneously and must include a statement of the commodities or contractual services sought; the time and date for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the reply. If the agency contemplates renewal of the contract, that fact must be stated in the invitation to negotiate. The reply shall include the price for each year for which the contract may be renewed."

d. Section 287.057(20), F.S. provides that "In any procurement that costs more than the threshold amount provided for in s. 287.017 for CATEGORY TWO and is accomplished without competition, the individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected."

e. When a solicitation for bids or proposals may exceed \$519,000, the bid must be advertised for 40 days under the terms of Florida's participation in the World Trade Organization.

3-2. Definition of "Commodity". Section 287.012(5), F.S. provides that "Commodity" means any of the various supplies, materials, goods, merchandise, food, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure with floor space of less than 5,000 square feet, purchased, leased, or otherwise contracted for by the state and its agencies. "Commodity" also includes interest on deferred-payment commodity contracts approved pursuant to s. 287.063 entered into by an agency for the purchase of other commodities. However, commodities purchased for resale are excluded from this definition. Further, a prescribed drug, medical supply, or device required by a licensed health care provider as a part of providing health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration for clients at the time the service is provided is not considered to be a "commodity." Printing of publications shall be considered a commodity when let upon contract pursuant to s. 283.33, whether purchased for resale or not."

3-3. Purchase of Commodities/Services From Other Governmental Agencies. Section 287.057(5)(f)13, F.S. provides that "Services or commodities provided by governmental agencies" are exempt from competitive procurement requirements.

3-4. Purchase of Prosthetic or Orthopedic Devices. Section 287.057(5)(c)2e, F.S. provides that "Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are excepted from competitive-solicitation requirements and shall be procured pursuant to an established fee schedule or by any other method which ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the department a description of the purchases and methods of procurement." Such acquisitions are exempt from competitive procurement requirements.

3-5. Circumventing Competitive Bidding. Section 287.057(10) provides that "An agency shall not divide the procurement of commodities or contractual services so as to avoid the requirements of subsections (1) through (5)."

Chapter 4

PURCHASE REQUISITION

4-1. General Instructions. An automated purchase requisition is completed following a determination that a specific item is needed and provided for in the unit-operating budget using the Automated Requisition Tracking System (ARTS). A "User Profile" is the first step in getting logged into the system. The user will provide specific information regarding their budget, location, approvers and contact phone numbers. An email address is required to become an authorized user. Notification is performed by agency email address and the address must adhere to the naming convention of this department. Staff of the requesting office, facility or supply center prepares the requisition, to contain the following information:

a. User Profile.

(1) Complete the "User Profile" including name, unit and acronym, organizational code with expansion option and OCA, complete location information and telephone number.

(2) Insure that the five (5) digit code and delivery address that is used for the most frequent purchases is input. Indicate multiple delivery points or edit the necessary fields if "Ship To" is different from the "Originator". Multiple delivery addresses require multiple requisitions.

b. Body of Form.

(1) Vendor's section – formerly completed by the purchasing staff. The requesting unit must enter a suggested vendor's name. If the suggested vendor is changed you will be notified via Email that this change has occurred.

(2) Line number – each line item is pre-numbered and ten line items are provided. When additional line items are required, additional requisitions must be created.

(3) Quantity – prior usage and budget limitations must be considered.

(4) Unit of issue – indicate standard packaging such as ream, pound or dozen.

(5) Object code – if you know the object code and/or it is available enter it in this field.

(6) Description – be specific, including information such as size, color, material, brand name, model number, and/or catalog number. If you are entering information that is used to initiate a blanket Direct Order or maintenance renewal, remember to include the term of this contract as well as the maximum value.

(7) Estimated cost – indicate the estimated cost per unit. The extended total will be automatically generated once you have tabbed past this field.

c. Signature Section.

(1) Requestor's signature – electronically generated by the use of your User Name and Password. By logging into the system and generating documents, ARTS tracks your activity within the system.

(2) Authorized approval signature – electronically generated by the use of your User Name and Password. This individual must be a staff administrator or an individual delegated (in writing) by appropriate authority to administer the expenditure in an organization code and will approve

documents in the prescribed manner set forth. Routing the documents within the system by “approving” the documents affixes your approval of said document and is included in the record. A Budget reviewer is required to complete the approval process who will certify that adequate funds are available for the purchase. If approvals do not occur on the appropriate levels no purchase will result from the associated purchasing office.

4-2. Routing Instructions. ARTS routes the purchase requisition through the appropriate approvers until it arrives at the servicing purchasing office. The requestor can check the status at any time by consulting their in-box in ARTS. Upon completion of the purchase by the appropriate staff in your associated purchasing office, the requestor will be notified by Email the disposition of their request and if the procurement was by Purchasing Card or by a Direct Order.

4-3. Restriction of Expenditures.

a. The following purchases are disallowed by the Comptroller:

- (1) Congratulatory telegrams.
- (2) Flowers and/or telegraphic condolences.
- (3) Presentment of plaques for outstanding service except in conjunction with an approved award program.
- (4) Entertainment for visiting dignitaries.
- (5) Refreshments such as coffee and doughnuts.
- (6) Decorative items (globes, statues, potted plants, picture frames, wall hangings, etc.).
- (7) Greeting cards (Section 286.27, F.S.).
- (8) Alcoholic beverages.
- (9) Portable heaters/fans, refrigerators, stoves, microwave ovens, coffee pots, coffee mugs, etc.
- (10) Clocks for private offices.
- (11) Meals except those served to inmates and clients in state institutions.

b. Employees may not purchase items for their personal convenience with state funds without specific or implied statutory authority or approval by the appropriate official. Funds may not be expended to satisfy the personal preference of employees. For example, an agency may not purchase more expensive office furniture or equipment than is necessary to perform its official duties because the employee using the furniture or equipment prefers the more expensive items. See Comptroller's Memorandum No. 21 (1995-96).

4-4. Documentation for Unauthorized Purchases. Any acquisition of goods or services prior to completion of a valid Direct Order or contract will require either submission of an “After-The-Fact” letter to purchasing or, under certain conditions, a Settlement Agreement with the vendor.

4-5. Records Retention. Records maintained in ARTS will not be deleted. They will be archived and shall be retained actively for a minimum of three fiscal years or until applicable audits have been released. Supporting documentation can be saved as a PDF File and kept on your local server that

adheres to the prescribed backup protocol. Paper copies are to be retained for a minimum of three fiscal years or until released by audit. Duplicates must be retained for at least one fiscal year.

Chapter 5

BIDDING PROCEDURES

5-1. General. Rule 60A-1.002(7) provides "All formal solicitations issued by an agency shall include the standard "General Contract Conditions" Form PUR 1000 (11/04), and the standard "General Instructions to Respondents" Form PUR 1001 (11/04), each of which is hereby incorporated by reference. The forms are available on the internet at <http://dms.myflorida.com/purchasing>.

a. PUR 1001 contains instructions explaining the solicitation process and the actions necessary to respond. The agency shall attach additional materials specific to each particular solicitation, including but not limited to contact information, a solicitation timeline, a location for the public opening, evaluation criteria, required information regarding renewal of the contract, and any other necessary information.

b. PUR 1000 contains standard terms and conditions that will apply to the contract which results from the solicitation event. The agency shall attach additional contract terms and conditions specific to each particular solicitation. These additional terms are commonly referred to as "Special Conditions." In the event of any conflict between the PUR 1000 form and any Special Conditions attached by the agency, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the Florida Statutes, in which case the term contained in PUR 1000 shall take precedence."

5-2. Special Conditions. Pursuant to 60A-1.002(7)(b), F.A.C., an agency may attach additional contractual and technical terms and conditions. These "special conditions" shall take precedence over this form PUR 1000 unless the conflicting term in this form is statutorily required, in which case the term contained in the form shall take precedence.

5-3. MyFloridaMarketPlace Transaction Fee. In compliance with PUR 1000 Section 15, "The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to section 287.057(23), Florida statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C."

5-4. Exemption From Transaction Fee. Rule 60A-1.032 stipulates,

"(1) The following transactions are exempt from the Transaction Fee that would otherwise apply under Rule 60A-1.031, F.A.C. Exemption from paying the Transaction Fee does not in itself exempt the vendor or an agency from the registration requirements of Rule 60A-1.030, F.A.C.

(a) Procurements under Section 337.11, F.S.; provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(b) Procurements under Section 287.055, F.S.

(c) Procurements under Chapter 255, F.S.; provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(d) Transactions with an entity designated as non-profit under the Internal Revenue Code or by the Florida Secretary of State, unless such entity is awarded a contract following a competitive

solicitation involving for-profit entities and the contract, if awarded to a for-profit entity, would be subject to the transaction fee.

(e) Transactions with another governmental agency, as defined in Section 163.3164, F.S., with a private university in Florida, with an agency of another state, or with another sovereign nation, unless such entity is awarded a contract following a competitive solicitation involving private entities and the contract, if awarded to a private entity, would be subject to the transaction fee.

(f) Transactions in which law or government regulation requires that the commodity or service be provided by a sole provider (e.g., regulated utilities, legislatively mandated transactions, etc.) and transactions in which the price paid and the payee are established by federal or private grant.

(g) Payments to unregistered vendors under subsection 60A-1.030(3), F.A.C.

(h) Payments to a vendor in exchange for providing health care services at or below Medicaid rates, even if the vendor is otherwise registered in MyFloridaMarketPlace.

(i) Disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, Section 215.97, F.S.; disbursements of federal awards to sub-recipients as defined in Circular A-133 of the U.S. Office of Management and Budget; payments of State dollars to satisfy federal Maintenance of Efforts requirements; and payments of State dollars for matching federal awards.

(2) With the Department's prior written approval an agency may exempt a particular transaction from the Transaction Fee. As a necessary condition to obtaining this approval, the requesting agency shall provide to the Department its agency head's (or designee's) written (or electronic) determination, with all supporting facts and circumstances, that:

(a) The transaction is critical to the agency's mission or necessary for the public health, safety, or welfare; and

(b) Imposition of the fee would prevent the consummation of the transaction.

The requesting agency shall direct the request and supporting documentation to the Director of State Purchasing, who shall respond to the agency within fourteen days, granting approval, denying approval, or requesting additional information. Requests outstanding for more than fourteen days shall be deemed approved. Once the Department has approved a transaction under this subsection, the agency need not seek approval of subsequent directly related transactions (e.g., individual payments under a multi-year contract or under a blanket Direct Order).

(3) An agency may exempt a particular transaction from the Transaction Fee if:

(a) The governor suspends purchasing regulations due to an emergency; or

(b) The agency head declares an emergency under Section 287.057(5)(a), F.S., or other statutory basis. In case of an agency-declared emergency under Section 287.057(5)(a), F.S., the agency shall identify every transaction that it has exempted from the Transaction Fee in the documentation it submits to the Department."

5-5. Minor Irregularities/Right to Reject. A minor irregularity is defined as a variation from the bid and/or conditions which does not affect the price of the commodities or services, or give the bidder or offeror an advantage or benefit not enjoyed by other bidders or offerors, and does not adversely impact the interests of the agency. Language in reference to this matter is contained in PUR 1001, Section 15.

5-6. Bid, Performance and Payment Bonds. Bid bonds and performance and payment bonds are financial guarantees to a state agency that a vendor or contractor will fulfill all contractual obligations. Because these bonds insure contracts involving vendor performance, it is imperative that the bid specifications and contracts contain clear and definitive language stating the intentions of the purchaser. Recovery on potential claims against a vendor or contractor depends entirely on the language contained within the bid specifications and purchase contracts.

a. A bid bond guarantees the purchaser that a party bidding for a contract will, if the bid is accepted, enter into a contract and furnish required performance and payment bonds or pay the purchaser the difference between the amount of the bid and that of the bid accepted. The penalty of the bid bond is usually equal to five percent of the bid price unless otherwise stated. When the bid

bonds are required as a bid specification, they should accompany each bid submitted and be returned to the unsuccessful bidders after the award has been made. The successful bidder may request the return of the bid bond after furnishing the purchaser with signed contracts, performances and payment bonds.

b. In lieu of a bid bond, a vendor or contractor may submit a bid guarantee in the form of a cashier's check or cash equal to five percent (unless otherwise stated) of the amount of the bid and made payable to the Department of Children and Families.

c. A performance bond guarantees the purchaser that the work will be completed according to the contract specifications. This is considered the key bond because the purchaser is guaranteed that the contractor or vendor will comply with all requirements contained within the contract and pay for all labor and materials used in the fulfillment of the contract.

d. The contractor or vendor will furnish the state of Florida a 100 percent performance and payment bond written by a surety company acceptable to the purchaser and authorized to do business in the state of Florida. The bond must be signed by a Florida resident agency. The bond will not be dated earlier than the contract agreement. It is recommended that the department legal counsel or the Department of Insurance review all bonds, both bid and performance, prior to making a bid award or entering into any formal contractual agreement.

e. Although there are no established criteria except as provided for public works contracts in Section 255.05, F.S., as to when a vendor or contractor must furnish the state a bid and performance bond, the accepted practice is to require such bonds when purchasing commodities requiring services and/or installation. In addition, when purchasing service/maintenance contracts these bonds should be required in the bid conditions when the total bid is in excess of \$100,000.

f. The purchase of commodities that are covered by warranties where the only vendor service is delivery usually precludes the use of performance and payment bonds. This is also true of the purchase of commodities where the state is not required to make any payments until the commodity has been delivered and accepted by the purchaser.

5-7. Discriminatory Vendor List. Section 287.134(1)(c), F.S. states "'Discriminatory vendor list' means the list required to be kept by the department pursuant to paragraph (3)(d)". Section 287.134(3)(d) states "1. Upon receiving reasonable information from any source that an entity has discriminated, the department shall investigate the information and determine whether good cause exists to place that entity or an affiliate of that entity on the discriminatory vendor list. If good cause exists, the department shall notify the entity or affiliate in writing of its intent to place the name of that entity or affiliate on the discriminatory vendor list, and of the entity's or affiliate's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the entity or affiliate does not request a hearing, the department shall enter a final order placing the name of the entity or affiliate on the discriminatory vendor list. No entity or affiliate may be placed on the discriminatory vendor list without receiving an individual notice of intent from the department." Section 287.134(2)(a) states "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity." Section 297.134(3)(a) states "All invitations to bid, requests for proposals, and invitations to negotiate, as defined by s. 287.012, and any written contract document of the state must contain a statement informing entities of the provisions of paragraph (2)(a)." Mandatory language in compliance with this requirement is contained in PUR 1001, Section 8.

5-8. Cancellation Clauses.

a. 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. and does not include "definite quantity" or "term" contracts since the intended purpose of such contracts is to purchase commodities.

b. Contracts that contain no provision to purchase the contractual commodity must include a cancellation clause of 30, 60 or 90 days, whichever is determined to be in the best interest of the state. This provision does not include "definite quantity" or "term" contracts since their intended purpose is to purchase commodities.

5-9. Bids for Contracts Spanning More than One Fiscal Year. Rule 60A-1.016(2)(b) provides that any contract which binds the state or its executive agencies for purchases for a period continuing beyond the fiscal year shall include an annual appropriations statement. Mandatory language in reference to this requirement is contained in PUR 1000, Section 44.

5-10. Compliance with the Health Insurance Portability and Accountability Act (HIPAA). The following provisions shall be included in their entirety in all contracts executed by the department that may involve the use or disclosure of protected health information (PHI) for medical, mental health, substance abuse, pharmaceutical, dental, or other health-related services:

a. Provider Unique Activities. If required by 45 CFR Parts 160, 162, and 164, the following provisions shall apply:

(1) The Provider hereby agrees not to use or disclose protected health information (PHI) except as permitted or required by this contract, state or federal law.

(2) The Provider agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this contract or applicable law.

(3) The Provider agrees to report to the Department any use or disclosure of the information not provided for by this contract or applicable law.

(4) The Provider hereby assures the Department that if any PHI received from the Department, or received by the Provider on the Department's behalf, is furnished to Provider's subcontractors or agents in the performance of tasks required by this contract, that those subcontractors or agents must first have agreed to the same restrictions and conditions that apply to the provider with respect to such information.

(5) The Provider agrees to make PHI available in accordance with 45 C.F.R. 164.524.

(6) The Provider agrees to make PHI available for amendment and to incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526.

(7) The Provider agrees to make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528.

(8) The Provider agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from the Department or created or received by the provider on behalf of the department available for purposes of determining the provider's compliance with these assurances.

(9) The Provider agrees that at the termination of this contract, if feasible and where not inconsistent with other provisions of this contract concerning record retention, it will return or destroy all PHI received from the department or received by the provider on behalf of the department, that the provider still maintains regardless of form. If not feasible, the protections of this contract are hereby extended to that PHI which may then be used only for such purposes as make the return or destruction infeasible.

(10) A violation or breach of any of these assurances shall constitute a material breach of this contract.”

b. Direct Orders against contracts or agreements that include the above wording or where the above wording would apply should include buyer message “HI” which reads:

“If HIPAA applies to this transaction the seller agrees to be bound by all applicable provisions. (See 45 CFR Parts 160, 162, and 164)”

5-11. Compliance with the Civil Rights Act. In rendering services to or for Children and Families and in hiring employees for such purposes, each contractor must agree to comply with Title VI and Title VII of the Civil Rights Act of 1964, respective federal regulations, and Executive Order 11246 as amended by Executive Order 11375. Florida Statute 760.01(2) states “The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.” Compliance consists of the following:

- a. Prohibits discrimination under any program activity or service funded through the contract.
- b. Prohibits the contractor from discriminating against any employee or applicant because of race, color, religion, sex or national origin.
- c. Requires the contractor in all solicitations or advertisements to state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- d. Allows the department or appropriate federal officials to require the contractor to submit such compliance and certification reports, if necessary, as well as access during normal business hours to books, records, accounts and other sources to ascertain compliance.
- e. Executive Order 11246 as amended by Executive Order 11375 requires that a contractor with more than 50 employees and a contract with the department in excess of \$50,000 must be prepared to furnish appropriate documentation certifying that he is in compliance with the above cited executive order and implementing instructions. To comply with this requirement, a form for signature of the bidder should be included in each bid package.

5-12. Non-discrimination as to Handicapped Individuals. Section 504 of the Rehabilitation Act of 1973 requires that there be no discrimination against otherwise qualified handicapped individuals under any program or activity receiving federal financial assistance. Also, a 1974 amendment to the Rehabilitation Act requires that any state agency funded under the act take affirmative action to employ and promote qualified handicapped individuals. To ensure compliance with this law, each Children and Families bid package should include a provision prohibiting contractors from discriminating against otherwise qualified handicapped individuals. Unless the nature of the contract makes its inclusion

irrelevant or inapplicable, the following clause should appear in each Children and Families bid package involving federal funds:

“No otherwise qualified mentally or physically handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be refused employment under, be denied the benefits of, or be subjected to discrimination under this contract. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices. In the event of contractor non-compliance with the requirements of this clause, the contract may be terminated or suspended in whole or part.”

5-13. Non-employment of Unauthorized Aliens. Executive Order 96-236, dated October 1, 1996, requires the inclusion of language in reference to not employing unauthorized aliens. To comply with the requirements of DMS Memorandum No. 22 (96-97), the following language must be included in all contracts and bid offerings:

“NOTICE TO CONTRACTOR: The employment of unauthorized aliens by any contractor is considered a violation of Section 274 of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.”

5-14. Public Entity Crime Clause. To comply with Section 287.133(3)(a), F.S. which states “All invitations to bid, requests for proposals, and invitations to negotiate, as defined in s. 287.012, and any contract document described by s. 287.058 shall contain a statement informing persons of the provisions of paragraph (2)(a)”, the following wording should be included in every Bid invitation.

“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”

NOTE: Mandatory language in compliance with this requirement is found in PUR 1001, Section 7.

5-15. Pre-Bid Conferences. Section 287.057(4) provides that “Prior to the time for receipt of bids, proposals, or replies, an agency may conduct a conference or written question and answer period for purposes of assuring the vendor’s full understanding of the solicitation requirements. The vendors shall be accorded fair and equal treatment.” You may require that all questions be submitted in writing in a manner that allows research before the conference. All questions and answers discussed at that conference should be distributed to each participating vendor, either in person or having requested a copy of the bid, in writing.

5-16. Bid Addenda. Occasionally, after a bid invitation has been posted and/or mailed, it becomes necessary to make a change or modification to the bid requirements. Changes should be accomplished through a bid addendum explaining the revised requirement and delivered in the most practical manner to all potential bidders. Properly advertised and delivered, this modification becomes a legal part of the bid. If changes necessitate delaying the bid opening date in order to allow sufficient

time for responses, this should be accomplished in the addendum. Late or improper notification to the bidders will give cause for a re-bid. If practical, verbal notification should precede the delivery of a bid addendum.

5-17. Advertisements. Rule 60A-1.002(4) states, “all purchases for which the total contract value is in excess of the threshold amount for Category Two for a commodity or group of commodities or contractual service shall be made by first securing formal competitive solicitations, unless an exemption applies.” Further, Rule 60A-1.021 states “All competitive solicitations issued by agencies pursuant to Sections 287.057(1)-(3), F.S., shall be advertised by electronic posting for no less than 10 calendar days prior to the date for receipt of responses, unless the department or agency determines in writing that a shorter period of time is necessary to avoid harming the interests of the state.” Under the terms of Florida’s participation in the World Trade Organization, any Invitation to Bid or Request for Proposal that may exceed \$519,000 must be advertised for forty calendar days instead of ten.

5-18. Bid Evaluation Teams. The purpose of a bid evaluation team is to review all responses for compliance with the specifications as well as to determine whether the responsive bidders met or exceeded the requirements. Evaluation teams usually consist of the involved program personnel, and available individuals with expertise. The bid evaluation should contain the name of the team participants.

a. Section 287.057(16) F.S. states “For requests for proposals, a selection team of at least three employees who have experience and knowledge in the program areas and service requirements for which contractual services are sought shall be appointed by the agency head to aid in the selection of contractors for contracts of more than the threshold amount provided in s. 287.017 for CATEGORY FOUR.”

b. Section 287.057(19) F.S. states “Each agency shall establish a review and approval process for all contractual services contracts costing more than the threshold amount provided for in s. 287.017 for CATEGORY THREE which shall include, but not be limited to, program, financial, and legal review and approval. Such reviews and approvals shall be obtained before the contract is executed.”

5-19. Bid Tabulations. The Bureau of Auditing, Office of the Comptroller, requires the following information in order to verify agencies’ compliance with the legal bid requirements for its pre-audit of claims against the state:

a. A bid tabulation if the purchase was made upon receiving two or more competitive bids.

b. Agency head certification and State Purchasing approval if the purchase was made from a single source.

5-20. Identical (Tie) Bids. To assure compliance with Rule 60A-1.011 and Civil Action Number 4:03CV59-SM, identical responses to bids or proposals shall be broken in the following precedence:

a. A bid certifying a drug-free workplace has been implemented in accordance with Section 287.087, F.S.

b. A bid submitted by a vendor with the lowest number of valid vendor complaints on file.

c. A bid from a vendor providing commodities manufactured within this state.

d. A bid from a foreign manufacturer with a factory in the State employing over 200 employees shall have preference over another foreign vendor.

e. By lot.

5-21. Posting of Bid Tabulations. Bid tabulations are to be included in the posting of the Intended Decision. PUR 7004 may be used.

5-22. Electronic Posting of Intended Decisions and Awards. PUR 1001, Section 12, stipulates “Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcf.state.fl.us/owa_vbs/owa/vbs_main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.”

5-23. Commodity Inspections. The majority of all commodities purchased for the department are delivered to supply rooms or warehouse centers where supply personnel inspect them for conditions and compliance with the contract specifications. (See Receiving and Inspection, CFOP 45-7.)

Chapter 6

CONTRACTS

6-1. General. The purpose of this chapter is to define specific areas of contracting responsibility within the department and to review commodity-contracting procedures as prescribed by state and federal law, rules and operating procedures. The process of contract development is established by the activity involved in bid development covered in Chapter 5 of this operating procedure.

a. The department’s purchasing staff is primarily concerned with the purchase of commodities and related services through the use of Direct Order contracts. Contracting for administrative and program related services are delineated in CFOP 75-2 and administered by the Contracted Client Services unit.

b. Records retention is delineated in CFP 15-7.

6-2. Contract Document. Section 287.058(2), F.S. states “The written agreement shall be signed by the agency head and the contractor prior to the rendering of any contractual service the value of which is in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except in the case of a valid emergency as certified by the agency head. The certification of an emergency shall be prepared within 30 days after the contractor begins rendering the service and shall state the particular facts and circumstances which precluded the execution of the written agreement prior to the rendering of the service. If the agency fails to have the contract signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head shall, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the department as well as describe actions taken to prevent recurrence of such noncompliance. The agency head may delegate the certification only to other senior management agency personnel. A copy of the certification shall be furnished to the Comptroller with the voucher authorizing payment. The department shall report repeated instances of noncompliance by an agency to the Auditor General. Nothing in this subsection shall be deemed to authorize additional compensation prohibited by s. 215.425. The procurement of contractual services shall not be divided so as to avoid the provisions of this section.” The written agreement reference above is the formal document establishing method of payment, not correspondence with the vendor.

a. Section 287.058(1), F.S. states “Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be

evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:"

(1) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(2) A provision that invoices for any travel expenses is submitted in accordance with Section 112.061, F.S. A state agency may establish rates lower than the maximum provided in Section 112.061, F.S.

(3) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and s. 119.07(1).

(4) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(5) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(6) A provision specifying that the contract may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer, specifying the renewal for the contractual service as set forth in the bid, proposal, or reply, specifying that costs for the renewal may not be charged, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to s. 287.057(5)(a) and (c) may not be renewed.

b. In lieu of a written agreement, the department may authorize the use of a Direct Order for classes of contractual services, if the provisions of paragraphs (1)-(6) are included in the Direct Order or solicitation. The Direct Order must include, but need not be limited to, an adequate description of the services, the contract period, and the method of payment. In lieu of printing the provisions of paragraphs (1)-(6) in the contract document or Direct Order, agencies may incorporate the requirements of paragraphs (1)-(6) by reference.

c. Inclusion of PUR 1000 is mandatory per Rule 60A 1.002(7)(b).

6-3. Equipment Leases.

a. Section 287.063(2)(a), FS, states “No funds appropriated shall be used to acquire equipment through a lease or deferred-payment purchase arrangement unless approved by the Comptroller as economically prudent and cost-effective.” This restriction may not apply to equipment that requires an IRR. It includes month-to-month leases (rentals) as well as all other leases (rentals) for whatever period of time. When computing the total lease costs for determination as to whether the annual lease costs exceeds the Threshold for Category Two, maintenance and other periodic costs to be incurred by the lessee for the equipment must be added to the lease (rental) payments. Requests for the Comptroller’s approval to lease equipment above the Threshold for Category Two must be submitted with the “Checklist for Requesting Comptroller’s Approval to Lease Equipment” (Rev. 8/95) and addressed to:

Office of the Comptroller
Bureau of Special Programs (44-10-16)
Room 1001, The Capitol
Tallahassee, Florida 32399-0350

b. For purposes of complying with this requirement, leases do not include the following:

(1) A casual rental of equipment for less than 30 calendar days, provided that the daily lease (rental) fee is less than one-thirtieth of the monthly maximum; or,

(2) Leases (rentals) of equipment for more than 30 days for which the annual lease (rental) cost is less than the Threshold for Category Two. If the monthly lease cost of an item of equipment meets this requirement, each voucher submitted for payment should include documentation indicating that the annual cost of the equipment leased will be less than the Threshold for Category Two. These vouchers should be submitted directly to the Bureau of Auditing.

6-4. Installment Sale and Purchase Contracts. Section 287.063(1)(a) states “When any commodity contract requires deferred payments and the payment of interest, such contract shall be submitted to the Chief Financial Officer for the purpose of preaudit review and approval prior to acceptance by the state.” Use the “Checklist for Requesting Comptroller’s Approval to Installment Purchase Equipment” form. In accordance with DMS requirements, the installment sale contract shall be accomplished on the State of Florida Contract for “Installment Sale and Purchase”, Form PUR 7057 (Rev. 11/15/86 and in hard-copy only), available through State Purchasing. Installment purchases that have been approved by the comptroller in prior fiscal years need not be resubmitted for economically prudent and cost-effective approval.

6-5. Consolidated Equipment Financing Program. The Consolidated Equipment Financing Program (CEFP) is available to state agencies and universities for the purchase of equipment at low, tax-exempt interest rates that are normally much lower than vendor or third party financing. The Department of Banking and Finance administers the program. Additional information is available at http://www.dbf.state.fl.us/aadir/cefp_web/index.htm.

6-6. Limitation on Deferred Payment Purchases. Section 287.063(2)(b)2, F.S., requires that “No deferred payment purchase shall be approved for less than \$30,000, unless it can be satisfactorily demonstrated and documented to the Chief Financial Officer that failure to make such deferred payment purchase would adversely affect an agency in the performance of its duties. However, the Chief Financial Officer may approve any deferred-payment purchase if the comptroller determines that such purchase is economically beneficial to the state.” In addition, Section 287.063(2)(b)3, F.S., states “No agency shall obligate an annualized amount of payments for deferred payment purchases in excess of current operating capital outlay appropriations, unless specifically authorized by law or unless

it can be satisfactorily demonstrated and documented to the Chief Financial Officer that failure to make such deferred payment purchase would adversely affect an agency in the performance of its duties.”

6-7. Purchase of Maintenance or Custodial Services. Contracts providing for the maintenance or custodial service of office machines, equipment, vehicles, buildings and grounds, elevators, water systems, and similar activities that are customarily associated with general services are developed by the department’s purchasing staff in close coordination with personnel assigned to the specific areas of responsibility.

6-8. Purchase of Administrative and Program Related Services. Contracts for the purchase of professional and technical services primarily involving the department’s client/patient programs and various administrative services are administered by ASFMR. These contracts are developed and implemented under the provisions of Section 287.057, F.S., and policy and procedures outlined in CFOP 75-2, Contract Management System for Contractual Services.

6-9. Purchase of Commodities and Related Services for Individual Clients/Patients. The acquisition of commodities and related services for individual clients/patients of the department may be accomplished under the provisions of Section 287, Part I, F.S., through the use of various authorization and billing forms. Designated program staff in the department issue these client purchasing forms under criteria established in the respective program offices in consultation with Central Procurement.

6-10. Architectural Engineering and Construction Related Services. Procedures for the acquisition of professional, architectural, engineering, landscape architectural, or land surveying services are addressed in Section 287.055, F.S. Design and Construction (ASGDC) purchases construction related professional services under the provisions of these statutes, CFOP 70-4, Fixed Capital Outlay Projects Management and Coordination, and portions of Chapter 60D-2, F.A.C., that are promulgated by DMS.

6-11. Purchase of Real Property and Leased Space. Contracts for the purchase of real property (land and buildings) are coordinated by ASPFS in conjunction with the Facilities, DMS. The acquisition of leased space is coordinated by ASGDC in accordance with CFOP 70-1, Leasing, and portions of Chapter 60H-1, F.A.C., that are promulgated by DMS.

6-12. Indemnification – Hold Harmless Clauses. In AG Opinion 95-12, dated February 9, 1995, the Florida Attorney General ruled in part that “the department may not enter into an agreement containing indemnification or hold harmless provisions that alter the state’s waiver of immunity in tort or otherwise impose liability on the department for which it would not otherwise by law be responsible.” See Section 768.28, F.S. and AGO 90-21.

6-13. Annual Appropriations. Section 216.311(1), F.S. (Planning and Budgeting), imposes strict financial controls over contracting state agencies by requiring that “No agency or branch of state government shall contract to spend, or enter into any agreement to spend, any moneys in excess of the amount appropriated to such agency or branch unless specifically authorized by law, and any contract or agreement in violation of this chapter shall be null and void.” Mandatory language in this regard is included in PUR 1000, Section 44.

6-14. Invoicing, Payment, and Interest Penalties Requirement. PUR 1000, Section 16, contains the invoice requirements and submission methods available to the vendor as well as the payment requirements of the state.

6-15. Contractor Compliance With Civil Rights Act. In rendering services to or for Children and Families and in hiring employees for such purposes, each contractor must agree to comply with Title VI and Title VII of the Civil Rights Act of 1964, respective federal regulations, and Executive Order 11246 as amended by Executive Order 11375. Florida Statute 760.01(2) states “The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from

discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state." Compliance requirements are listed in paragraph 5-11 of this operating procedure.

6-16. Non-discrimination as to Handicapped Individuals. Section 504 of the Rehabilitation Act of 1973 requires that there be no discrimination against otherwise qualified handicapped individuals under any program or activity receiving federal financial assistance. Also, a 1974 amendment to the Rehabilitation Act requires that any state agency funded under the act take affirmative action to employ and promote qualified handicapped individuals. To ensure compliance with this law, each Children and Families contract should include a provision that prohibits contractors from discriminating against otherwise qualified handicapped individuals. Unless the nature of the contract makes its inclusion irrelevant or inapplicable, the following clause shall appear in each Children and Families contract involving federal funds:

"No otherwise qualified mentally or physically handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be refused employment under, be denied the benefits of, or be subjected to discrimination under this contract. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices. In the event of contractor non-compliance with the requirements of this clause, the contract may be terminated or suspended in whole or part."

6-17. Non-employment of Unauthorized Aliens. Section 448.09(1) states "It shall be unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States." To comply with the above statute, the following language should be included in all contracts and bid offerings:

"NOTICE TO CONTRACTOR: The employment of unauthorized aliens by any contractor is considered a violation of Section 1324A of Title 8, Chapter 12, Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract."

6-18. Public Entity Crime Clause. In compliance with Section 287.133(3)(a), F.S., PUR 1001, Section 7 provides "person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- a. Submitting a bid on a contract to provide any goods or services to a public entity;
- b. Submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- c. Submitting bids on leases of real property to a public entity;
- d. Being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- e. Transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes."

6-19. Insurance Considerations in the Development of Contracts. Several insurance programs administered by State Purchasing offer a range of coverages for the department's numerous assets, both personnel and material. These coverages, however, are not generally available or transferable to individuals or firms engaged in contractual relationships with the department. PUR 1000, Section 34, provides that "During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida." PUR 1000, Section 21, further stipulates "For all claims against the Contractor under any individual Direct Order, and regardless of the basis on which the claim is made, the Contractor's liability under a Direct Order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the Direct Order, or two times the charges rendered by the Contractor under the Direct Order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement. Unless otherwise specifically enumerated in the Contract or in the Direct Order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Direct Order requires the Contractor to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State."

6-20. Personal Liability Insurance.

a. Section 768.28(9)(a), F.S., states that "No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property." The intent of this section is to protect the employee from personal liability and interpose the state as the defendant in the case so as to provide the plaintiff with an alternative remedy to suit against the employee.

b. The aforementioned liability coverages are afforded state officers, employees or its agents pursuant to the provisions contained in Section 284, Part II, F.S., State Casualty Claims.

6-21. Federal Regulations Governing Purchasing (Contracting) Activities.

a. The federal office of management and budget (OMB) has published two circulars that contain administrative directives to federal agencies prescribing uniform policy and procedures for the administration of federal grants. OMB Circular A-102 details "Grants and Cooperative Agreements With State and Local Governments" and OMB Circular A-122 details "Cost Principles for Non-Profit Organizations". Federal purchasing regulations for all recipients of federal grants are addressed in these two circulars and individual federal agencies develop additional federal purchasing regulations pursuant to these criteria.

b. Federal regulations establishing procurement standards for recipients of DHHS grants are prescribed in the Code of Federal Regulations (CFR), Title 45 (Public Welfare), Part 74 (Administration of Grants), Subpart P. Administrative regulations published in the CFR are originally circulated among interested organizations in a daily publication entitled the Federal Register. These regulations may be compared on the state level to administrative rules promulgated by state agencies.

c. Because Florida's purchasing laws and rules are comprehensive, federal grants incorporating commodity purchases generally specify that state-purchasing procedures will govern the commodity acquisition process. Each department administrator of a federal grant should ensure that purchase requisitions issued pursuant to the grant are in full compliance with the grant conditions and budget and that any unusual purchasing restrictions or requirements are relayed to the purchasing director/agent.

6-22. Breach of Contract. A properly executed Direct Order constitutes a legally enforceable and binding contract. Should circumstances arise which cause a vendor to default, the department may elect to initiate legal proceedings to recover any damages resulting from the default. The decision and subsequent actions should be closely coordinated with the department's legal services staff and ASSCP. Per Rule 60A-1.006(3):

a. The agency shall notify, in writing, any vendor who fails to adhere to contract terms and conditions. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure (such reasonable time should not generally be less than 10 days after receipt of such notice). The notification will also provide that, should it fail to perform within the time provided, the vendor will be found in default and removed from the agency's approved vendor list.

b. Unless the vendor corrects its failure to perform within the time provided, or unless the agency determines on its own investigation that the vendor's failure is legally excusable, the agency shall find the vendor in default and shall issue a second notice stating (i) the reasons the vendor is considered in default, (ii) that the agency will reprocure or has reprocured the commodities or services, and (iii) and the amount of the reprocurement if known.

c. The defaulting vendor will not be eligible for award of a contract by the agency until such time as the agency is reimbursed by the defaulting vendor for all reprocurement costs. Reprocurement of substitute commodities or contractual services may be accomplished by first attempting to contract with the next eligible awardee under the original solicitation, when applicable. If the agency fails to contract with the next eligible awardee, it may continue in this manner sequentially through all eligible awardees until a vendor willing to perform at acceptable pricing under the solicitation's terms and conditions is found. Alternatively, an agency may elect to disregard previous solicitations, if any, and reprocure the commodity or contractual service pursuant to all applicable requirements of Chapter 287, F.S.

d. Pursuant to Section 120.57, F.S., the defaulting vendor will be advised of the right to petition for an administrative hearing on the intended decision to remove the vendor from the list and shall be given a time certain within which to submit the petition.

e. Until such time as it reimburses the agency for all reprourement costs and the agency is satisfied that further instances of default will not occur, the defaulting vendor shall not be eligible for award of a contract by the agency. To satisfy the agency that further instances will not occur, the defaulting vendor shall provide a written corrective action plan addressing the original grounds for default.

f. The foregoing provisions do not limit, waive or exclude the State's remedies against the defaulting contractor at law or in equity.

6-23. Securing State Ownership of Copyrights and Royalties. In compliance with 286.021, F.S. "The legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, now owned or held, or as may hereafter be acquired, owned and held by the state, or any of its boards, commissions or agencies, is hereby granted to and vested in the Department of State for the use and benefit of the state; and no person, firm or corporation shall be entitled to use the same without the written consent of said Department of State."

6-24. Purchasing Categories, Threshold Amounts.

a. Section 287.017, F.S. states "The following purchasing categories are hereby created:"

- (1) Category one: \$15,000
- (2) Category two: \$25,000
- (3) Category three: \$50,000
- (4) Category four: \$150,000
- (5) Category five: \$250,000

b. The category limits are aggregate amounts for the fiscal year and it is the responsibility of the purchasing office to monitor these thresholds.

Chapter 7

CONTRACT PURCHASING

7-1. General. State term contracts are established by DMS, State Purchasing, to provide efficiency and economies in the purchase of commodities that are frequently used by state agencies and institutions. Rule 60A 1.044 stipulates

"(1) State Term Contracts. State term contracts are indefinite quantity contracts competitively procured by the Department pursuant to Section 287.057, F.S., available for use by eligible users.

(2) Usage and Exclusivity. Section 287.056(1), F.S., mandates state term contract usage and exclusivity as follows:

(a) Agencies. Agencies are required to use state term contracts, except as provided in this rule.

(b) Other Entities. The Department encourages its vendors to offer state term contract pricing to additional entities, particularly charitable entities recognized under Section 501(c)(3) of the Internal Revenue Code. These entities are encouraged to review state term contracts and request identical pricing, which the vendor may grant at its discretion. Other entities purchasing from state term contracts assume and bear complete responsibility with regard to performance of any contractual obligation or term.

(3) Exceptions. An agency may purchase commodities or contractual services from other than the state term contract vendor(s) if:

(a) The purchase amount does not exceed the greater of \$250 or any threshold amount established in the state term contract; or

(b) The agency determines in writing that the contract item cannot meet an agency need because of one of these factors: critical delivery schedules, the need for compatibility with existing equipment, non-availability of service, applications of unique technical requirements, product quality, or specifications that differ from those of the contract commodities or services; or

(c) The state term contract expressly designates that it is a non-exclusive contract, which designation may be conditional, e.g., require any off-contract vendors to match or beat the contract price.”

7-2. State Term Contracts. Each contract consists of a certification of contract transmittal letter, general and special bid conditions, a list of contract vendor(s), ordering instructions and a presentation of items available on the contract. A master list of state term contracts is available for viewing and/or printing at <http://www.myflorida.com/myflorida/business/learn/statecontracts.html>. Agency contract selections are made from the list and copies may be printed on site.

7-3. State Purchasing Agreement (SPA). State Purchasing may establish purchasing agreements for commodities and/or services with one or more suppliers for a term not to exceed one year. Individual purchases from a SPA agreement may not exceed \$25,000. Annual total purchases from any one SPA agreement by a purchasing office must be less than \$150,000. SPA agreements may be used instead of quotations but not to circumvent the bid process. Rule 60A-1.025 provides:

a. Requesting a State Purchasing Agreement. State Purchasing Agreements are driven by eligible users' requirements, and eligible users shall request that the Department establish such agreements by submitting to the Department PUR 7721 (02/04), "Request for State Purchasing Agreement," which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/purchasing>. The commodity or service the eligible user wishes to acquire must be valued at less than Category Two in order to comply with the competitive solicitation requirement of Section 287.057, F.S.

b. Establishing a State Purchasing Agreement. After receiving PUR 7721 for an eligible user, the Department will attempt to establish a State Purchasing Agreement with a supplier offering the best value for the requested commodity or service. The supplier must agree to the terms contained in PUR 7722 (02/04), "State Purchasing Agreement," which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/purchasing>.

7-4. Departmental Contracts. Departmental contracts will be developed on those commodities that are not covered under state term contract and on which a price advantage and other efficiencies may be realized through consolidated volume purchasing or where total purchasing office purchases are anticipated to exceed Category Two in a fiscal year.

7-5. Alternate Contract Sources. Rule 60-A 1.047 provides:

“(1) Requests for alternate contract source approval. Agencies may request permission from the Department to purchase commodities or services from term contracts or requirements contracts competitively established by other governmental entities. Agencies must submit Form PUR 7102 (03/04), "Agency Request for Review of Alternate Contract Source," which is hereby incorporated by reference, in order to request permission. This form is available on the internet at <http://dms.myflorida.com/purchasing>. The contract must contain specific language or other legal authority authorizing third parties to make purchases from the contract with the vendor's consent.

(2) Approval of alternate contract source requests. If the Department determines that the agency's alternate contract source is cost-effective and in the best interest of the State, the Department

shall approve the contract for use by the requesting agency. The Department reserves the right to approve the contract for a single transaction or multiple transactions.

(3) Department identification of alternate contract sources. The Department shall independently identify term contract or requirements contracts awarded by other governmental entities, and approve such alternate contract sources for use by agencies. The Department shall only approve those alternate contract sources that are cost-effective and in the best interest of the State.

(4) Alternate contract sources available online. The Department shall maintain on its website a list of all current alternate contract sources and the agencies authorized to use such contracts. The Department's website is <http://dms.myflorida.com>.

(5) Cooperative Purchasing. An agency may include language in a term contract authorizing the Department to approve the contract as an alternate contract source if requested by another agency. The Department recommends the following sentence: As provided in Section 287.042(16)(a), F.S., other state agencies may purchase from the resulting contract, provided that the Department of Management Services has determined that the contract's use is cost-effective and in the best interest of the State. Upon such approval, the Contractor may, at its discretion, sell these commodities or services to additional agencies, upon the terms and conditions contained herein."

7-6. Other Contracts and Commodity Acquisition Methods. Several DCF programs and facilities qualify for benefits made available to all the states by the federal government. These commodity acquisition benefits include:

a. Donated food products from the United States Department of Agriculture (USDA) as contracted with and administered by the USDA.

b. Purchase of federal and state surplus property items.

c. General Services Administration commodity contracts may also be used for commodities under a federal grant if this is specifically authorized in the grant.

Chapter 8

DIRECT ORDERS, BILLING FORMS AND PETTY CASH FUNDS

8-1. General. This chapter explains when it is appropriate to use standard department Direct Orders, field Direct Orders, blanket Direct Orders, confirmation Direct Orders, client authorization and billing forms, and petty cash funds.

8-2. Purchase of Commodities. Contracting authority for the acquisition of "commodities" has been delegated, in part, by the State Purchasing to state agencies. The agency heads have further delegated this authority and responsibility to their respective purchasing directors/agents as an explicit delegation of authority.

8-3. Standard Direct Orders. The Children and Families standard Direct Order, formerly called a Purchase Order, should be used for the acquisition of all "commodities" and "purchases" as defined in Section 287, Part I, F.S., and associated administrative rules of State Purchasing unless otherwise excluded by this operating procedure. The use of various clarifying attachments to accompany Direct Orders will be at the discretion of the purchasing staff. If used, however, they should be clearly referenced on the Direct Order. CFOP 75-2, Contract Management System for Contractual Services, outlines departmental policy and procedures for acquisition of program related client services from contracts not requiring a Direct Order.

a. Direct Order Description. The standard Children and Families Direct Order is the electronic Direct Order generated by MyFloridaMarketPlace (MFMP).

b. Preparation of Direct Orders. Following the receipt and evaluation of an approved ARTS requisition, the purchasing director/agent will complete those actions that precede the preparation of a Direct Order contract. One of several purchasing methods may be applied, including the use of the Purchasing Card in lieu of a Direct Order, depending on the nature of the requested commodity and the dollar amounts involved. When the appropriate purchasing method has been determined and required preliminary action has been completed, a Direct Order contract may be prepared. This is a legal document that, upon acceptance by the vendor, authorizes the purchase of and payment for the specified commodity and/or service. As discussed in Chapters 5 and 6 of this operating procedure, it constitutes a binding contract enforceable by law. The order must be carefully worded and accurately prepared to minimize errors and the possibility of misunderstanding. The methods and procedures include:

- (1) Preparation of bid invitations to solicit formal competitive bids.
- (2) Ordering the commodity from a Children and Families or state “term” or “definite quantity” contract.
- (3) Requesting competitive price quotations from several vendors merchandising the requisitioned or equivalent item.
- (4) Ordering the item directly from the recommended vendor after verifying the price and researching product availability.
- (5) Renting or leasing the commodity.

c. Direct Order Procedure. Direct Orders are entered and electronically signed and transmitted by the purchasing director/agent. Funds are automatically encumbered in FLAIR for Children and Families direct orders unless the purchasing agent overrides the automatic setting.

d. Direct Order Change Order. Because Direct Orders are legal contracts, it is important that any significant changes to an existing Direct Order to cancel or otherwise change quantity, description, or price be formally documented through both ARTS and MFMP and copies distributed to the same parties who received the original Direct Order. When practical, minor changes may be handled orally with appropriate notations made on the direct order.

8-4. Purchases Not Requiring Competitive Bidding and/or a Direct Order. In accordance with Section 287.057(5), F.S., when the purchase price of commodities or contractual services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, no purchase of commodities or contractual services may be made without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies unless:

a. Per Section 287.057(5)(a), F.S. “The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action. After the agency head makes such a written determination, the agency may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies. However, such emergency procurement shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the agency determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state. The agency shall furnish copies of all written determinations certified under oath and any other documents relating to the emergency action to the department. A copy of the statement shall be furnished to the Comptroller with the voucher authorizing payment. The individual purchase of personal clothing, shelter, or supplies which are needed on an emergency basis to avoid institutionalization or placement in a more restrictive

setting is an emergency for the purposes of this paragraph, and the filing with the department of such statement is not required in such circumstances. In the case of the emergency purchase of insurance, the period of coverage of such insurance shall not exceed a period of 30 days, and all such emergency purchases shall be reported to the department.”

b. Per Section 287.057(5)(b), F.S. “The purchase is made by an agency from a state term contract procured, pursuant to this section, by the department or by an agency, after receiving approval from the department, from a contract procured, pursuant to subsection (1), subsection (2), or subsection (3), by another agency.”

c. Per Section 287.057(5)(c), F.S. “Commodities or contractual services available only from a single source may be excepted from the competitive-solicitation requirements. When an agency believes that commodities or contractual services are available only from a single source, the agency shall electronically post a description of the commodities or contractual services sought for a period of at least 7 business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. If it is determined in writing by the agency, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the agency shall:

(1) Provide notice of its intended decision to enter a single-source purchase contract in the manner specified in s. 120.57(3), if the amount of the contract does not exceed the threshold amount provided in s. 287.017 for CATEGORY FOUR.

(2) Request approval from the department for the single-source purchase, if the amount of the contract exceeds the threshold amount provided in s. 287.017 for CATEGORY FOUR. The agency shall initiate its request for approval in a form prescribed by the department, which request may be electronically transmitted. The failure of the department to approve or disapprove the agency’s request for approval within 21 days after receiving such request shall constitute prior approval of the department. If the department approves the agency’s request, the agency shall provide notice of its intended decision to enter a single-source contract in the manner specified in s. 120.57(3).”

d. Per Section 287.057(5)(d), F. S. “When it is in the best interest of the state, the secretary of the department or his or her designee may authorize the Support Program to purchase insurance by negotiation, but such purchase shall be made only under conditions most favorable to the public interest. “

e. Per Section 287.057(5)(e), F. S. “Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are excepted from competitive-solicitation requirements and shall be procured pursuant to an established fee schedule or by any other method which ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the department a description of the purchases and methods of procurement.”

f. Per Section 287.057(5)(f), F. S. “The following contractual services and commodities are not subject to the competitive-solicitation requirements of this section:

- (1) Artistic services.
- (2) Academic program reviews.
- (3) Lectures by individuals.
- (4) Auditing services.

(5) Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

(6) Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.

(7) Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the United States Internal Revenue Code or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

(8) Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Agency for Health Care Administration. However, this exception shall be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed by the agency.

(9) Family placement services.

(10) Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

(11) Training and education services provided to injured employees pursuant to s. 440.49(1).

(12) Contracts entered into pursuant to s. 337.11.

(13) Services or commodities provided by governmental agencies.”

g. Per Section 287.057(5)(g), F. S. “Continuing education events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program are exempt from requirements for competitive solicitation.”

8-5. Records Retention. The records retention for all Direct Orders is three fiscal years provided applicable audits have been released for the record copy and one fiscal year for all duplicates. The Department of State must authorize destruction of the record copy. (See CFP 15-7.)

8-6. Direct Order Distribution. The Direct Order established in MFMP sends the Direct Order to the vendor electronically. Printed copy(s) may be required as follows:

a. Accounting. Until such time as disbursements occurs in the electronic environment, one copy should be provided to the accounting office.

b. Requestor. The requester will be notified concerning the completion of the request within the ARTS system. The receiving report is also produced and distributed within that system.

c. Purchasing Section. A copy may be retained for possible auditing purposes and be filed utilizing one of the systems identified in Chapter 2 of this operating procedure. For research and audit purposes, the requisition and Direct Order filing system should be cross-referenced.

8-7. Field Direct Orders. With the inception of the Purchasing Card and the ARTS requisition system, this method of procurement should no longer be in use in DCF.

8-8. Annual Direct Orders.

a. Definition. A Direct Order providing continuity of service at fixed rates based upon a contract.

b. Details Required. The requisition submitted must contain as much detail as available at time of request. Rates, units, and anticipated usage should be indicated.

8-9. Blanket Direct Orders. A blanket Direct Order system is optional. It can be an efficient method for purchasing the small day-to-day commodity requirements for an organizational unit because it decreases the number of Direct Orders and communications necessary to make the acquisition. However, in the electronic environment it creates workload issues for Accounting. Use of the PCard for these types of transactions is strongly encouraged.

a. Definition of a Blanket Direct Order. A Direct Order with no fixed rate(s), only a dollar limit.

b. Authority to Use Blanket Direct Orders.

(1) Blanket purchase arrangements are recommended when:

(a) A wide variety of low unit cost items in a broad class (such as hardware items) are purchased from local suppliers but the exact times, quantities, and delivery requirements are not known in advance and may vary considerably.

(b) There is a need to provide local commercial sources of supply for one or more offices or projects in a given area that do not have authority to purchase using other methods.

(c) In any other case where the writing of numerous Direct Orders for small amounts can be avoided through the use of this procedure.

(2) Blanket purchase arrangements should be made with local firms from whom numerous individual purchases are likely to be made in a given period. For example, where past experience has shown that numerous small purchases are usually made from certain firms selling supplies in a local area and those firms are dependable and consistently lower in price than competing firms selling the same commodities it would be advantageous to establish blanket purchase arrangements with these firms. The proper use of this purchasing method should minimize or eliminate any need for confirmation purchasing.

(3) The purchasing unit may make these arrangements with several suppliers for the same class or classes of items.

(4) If it is determined that blanket purchase arrangements with certain suppliers would be advantageous, such suppliers should be contacted, preferably in person. The necessary arrangements with respect to securing maximum discounts should be made, to include documenting individual purchasing transactions, establishing inclusive dates of Direct Orders, identifying department personnel authorized to pick up materials, establishing invoicing procedures, etc. The conditions and details of the agreement should be confirmed in writing to the supplier prior to issuing the first blanket Direct Order and subsequent Direct Orders that should reference this agreement.

(5) Any documentation and procedure that assure the following, with respect to individual purchase transactions, are acceptable:

(a) That the vendor and purchaser are in agreement as to what is being purchased, including Direct Order dates and pick-up procedures.

(b) That at the time of pick-up, a record of sale and receipt is prepared by vendor's firm with a legible copy provided to the employee receiving the goods.

(c) That at the time of delivery to the designated receiving unit, a receiving document is prepared/signed by the unit supervisor with copies transmitted immediately to the fiscal office and, where required, the purchasing office. These copies will be used to substantiate subsequent invoice payments and update outstanding Direct Order files.

(d) That at the time of billing for payment, the foregoing requirements have provided evidence of the items obtained, quantity, price, date sold, and other relevant data.

(6) The issuance of a formal Direct Order to document blanket purchase arrangements is required.

c. Limitations. Non-contract blanket Direct Orders cannot exceed the threshold for Category Two (2) and cannot be increased beyond that threshold. The use of a blanket purchase arrangement does not authorize purchases not otherwise authorized by law or existing rules. For example, the blanket purchase arrangement, being a method of simplifying and expediting individual small purchases, may not be used to avoid the bidding requirement established by Section 287, Part I, F.S. Each blanket Direct Order will be issued for a specified dollar amount and will not be exceeded without issuing a change order. This purchasing method should be monitored and periodically evaluated by the purchasing staff and the Children and Families unit requesting this accommodation.

8-10. Confirmation Direct Orders. This method of purchasing should be kept to a minimum, since control may be easily lost under such a system. There are a few occasions, however, when it is impractical for a requisition and Direct Order to precede a purchase. On these urgent or emergency occasions, the purchasing staff should authorize or make the purchase and the following notation should appear on the Direct Order: "Confirmation Direct Order – Do Not Duplicate Shipment, Reference verbal order of (date)." The MFMP requisition should also be marked "Do Not Send to Vendor".

8-11. Client Authorization and Billing Forms. These client purchasing and billing forms are controlled and issued by program staff to purchase commodities and services for Children and Families clients/patients. District purchasing staff are responsible for providing staff training and technical assistance to the program staff using these forms for commodity purchases. Vendors used for these purchases who are not registered in MFMP may be added directly to SPURS to facilitate the disbursements unit.

8-12. Petty Cash Funds. This section prescribes policy and procedures for making small purchases of commodities and related services through the use of petty cash funds. The availability of Purchase Cards to Program Offices should reduce the need for utilization of petty cash funds.

a. District/Zone/Region/Institution Responsibility. Each district/zone/region/institution using petty cash funds for small purchases of supplies and related services will periodically review the process and determine whether there is a continuing need for such funds and that the petty cash amounts are not in excess of actual needs. Further, each district should study its small purchasing requirements and develop procedures necessary to ensure proper usage and control of the fund.

- b. Records Retention. Consult CFP 15-7.

8-13. Certified Minority Business Enterprises.

a. One of the competitive quotes obtained in the procurement process is strongly encouraged to be from a Certified Minority Business Enterprise (CMBE). The commodity or service is strongly encouraged to be purchased from a minority when economically feasible.

b. District purchasing directors/agents can provide a Certified Minority Vendor listing or vendor information is available on the Internet in SPURView and on the Office of Supplier Diversity web page at <http://osd.dms.state.fl.us/default.htm>.

8-14. Special Purchasing Procedures.

a. For purchase of commodities and services available from Prison Rehabilitative Industries and Diversified Enterprises (PRIDE), see Chapter 11, paragraph 11-15, of this operating procedure.

b. For purchases of commodities and services provided by the Blind and Severely Handicapped, see Chapter 11, paragraph 11-16, of this operating procedure.

8-15. Special Notes Concerning Purchasing.

a. Operating Capital Outlay (OCO) Purchases. When furniture, equipment, or books are purchased from the OCO category, an advisory copy of the purchase order should be made by purchasing staff and forwarded to the property office or unit librarian as appropriate.

b. Warranties and Guarantees. Any warranties or guarantees received should also be forwarded to the property office for filing and appropriate follow-up actions. This responsibility may be assumed by users of the equipment whenever practical.

c. Receiving Documents. The auditor general and the state comptroller require that a receiving document be prepared to substantiate commodity deliveries. The Receiving Report will be generated electronically in ARTS and the records retention will be complied with by the ARTS system.

d. Rate Approvals for Insurance Premiums. The state comptroller requires that a rate approval form prepared by the Department of Insurance accompany each insurance premium submitted for payment.

e. Shipping Documents. Reasonable charges for airfreight, UPS, or parcel post that are prepaid by vendors and added to the invoice may be paid without a supporting document. Other shipping charges must be substantiated through the use of carriers' bill of lading or other proof of shipment.

Chapter 9

PURCHASING CARD PROCUREMENT

9-1. Purpose. The department is committed to improving the way we purchase small dollar commodities and services. One of the steps we have taken to improve this process is participation in the Purchasing Card (P-Card) Program. This process enables the cardholder to procure commodities and some services without issuance of a Direct Order. Under the P-Card Program, the cardholder may order commodities or services within procurement guidelines provided by your purchasing office and an

authorized monthly or single transaction dollar limit established by the Purchasing Card Administrator. Using the P-Card will:

- a. Expedite the delivery of commodities and services.
- b. Reduce the number of small dollar value Direct Orders.
- c. Reduce paperwork for vendors and provide immediate payment to vendors.
- d. Permit purchasing in emergency situations when Direct Orders may be unavailable.
- e. Lower overall purchasing transaction costs and increase accountability.
- f. Provide electronically certain management information that is currently unavailable.

9-2. Responsibility.

- a. When a Purchasing Card is issued to an employee, it constitutes a delegation of purchasing responsibilities to that employee. Therefore, cardholders must follow good purchasing practices and comply with all applicable purchasing statutes and procedures.
- b. For more detailed information regarding use of the State of Florida Purchasing Card, please refer to the Department of Children and Families Purchasing Card Program User Guidelines, incorporated here by reference.

Chapter 10

EMERGENCY, SINGLE SOURCE, NO COMPETITIVE BID, LEGAL ADVERTISEMENT AND ROUTINE PURCHASES

10-1. Purpose. This chapter prescribes procedures for preparing and certifying emergency, single (sole) source, no competitive bids on first call, legal advertisements, and routine commodity purchases.

10-2. Definitions.

- a. Agency Head. Section 287.012(2), F.S. states "Agency head" means, with respect to an agency headed by a collegial body, the executive director or chief administrative officer of the agency.
- b. Competitive Sealed Bids. Section 287.012(6), F.S. states "Competitive sealed bids," "competitive sealed proposals," or "competitive sealed replies" means the process of receiving two or more sealed bids, proposals, or replies submitted by responsive vendors and includes bids, proposals, or replies transmitted by electronic means in lieu of or in addition to written bids, proposals, or replies.
- c. Emergency Purchase. An emergency purchase is any purchase made when "The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action." (Section 287.057(5)(a), F.S.)
- d. Single (Sole) Source Purchase. A single (sole) source purchase is the purchase of a commodity or contractual service that is available from only one source. Section 287.057(5)(c). F.S. requires that "When an agency believes that commodities or contractual services are available only from a single source, the agency shall electronically post a description of the commodities or contractual services sought for a period of at least 7 business days. The description must include a

request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described.”

10-3. Emergency Purchases. When the requirements delineated in the definition of an emergency, see 10-1(c), have been met, the purchase shall be accomplished as described in paragraph 8-4a of this operating procedure.

10-4. Single Source Commodity Purchases. When the requirements delineated in the definition of an emergency, have been met, the purchase shall be accomplished per Rule 60A-1.045, which follows:

“Single source purchases are purchases of commodities or contractual services available only from a single source. Pursuant to Section 287.057(5)(c), F.S., such purchases are excepted from the competitive solicitation process.

(1) Posting of Description of Intended Single Source Purchase. If an agency believes that a commodity or contractual service is available only from a single source and the total cost is in excess of the threshold for Category Two, the agency shall electronically post Form PUR 7776 (02/04), “Description of Intended Single Source Purchase,” which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/purchasing>. This notice shall be posted for at least seven (7) business days.

(2) Written Determination of Single Source Purchase. After posting the Description of Intended Single Source Purchase for at least seven (7) business days, the agency must determine in writing that the commodity or service is only available from a single source. If any information is received from prospective vendors as a result of the posted Description of Intended Single Source Purchase, the agency’s written determination must address each prospective vendor’s submission and explain why such submission does not meet the agency’s requirement(s).

(3) Final Determination if Total Cost does not exceed Category Four. After making the written determination required by subsection (2) above, if the total cost of the single source purchase does not exceed Category Four the agency shall provide notice of its decision to enter into a single source purchase by utilizing Form PUR 7778 (02/04), “Notice of Intended Decision to Enter Into a Single Source Contract,” which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/purchasing>. This notice must be electronically posted in accordance with Section 120.57(3), F.S.

(4) Final Determination if Total Cost exceeds Category Four. After making the written determination required by subsection (2) above, if the total cost of the single source purchase exceeds Category Four the agency shall file a certification with the Department for the single source purchase and receive approval of such certification before posting the notice of intended decision under Section 120.57(3), F.S. A purchasing office shall not divide its purchases or its purchasing operations to circumvent these requirements.

(a) Certification Filed with Department. The certification and request for approval must be submitted to the Department using Form PUR 7777 (02/04), “Single Source Certification and Request for Approval,” which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/purchasing>. The submission must be made via electronic mail and must be addressed to singlesource@dms.state.fl.us.

(b) Department Review of Certification. The Department shall review all requests properly submitted and shall approve or disapprove all requests within 21 days of receipt. Failure by the Department to respond to a request within 21 days of receiving a request or receiving additional requested information shall constitute approval of the request. The Department shall approve all requests submitted if the agency has provided all required documentation in accordance with Section 287.057(5)(c), F.S., and this rule. The requesting agency retains authority and responsibility to determine whether or not a single source is justified. Agencies are encouraged to review Section 838.22(2), F.S., regarding circumvention of competitive bidding processes.

(c) Notice of Intended Decision. If the Department approves the certification request, the agency shall provide notice of its decision to enter into a single source purchase by

utilizing Form PUR 7778. This notice must be electronically posted in accordance with Section 120.57(3), F.S.

(5) Modifications. An agency issuing a single source modification that increases the originally advertised award amount in excess of Category Two must process the modification in accordance with subsections (1) through (4) above.

(6) Recordkeeping. The circumstances surrounding the purchase and the agency's final determination shall be maintained in the agency's contract file. The Department shall maintain a record of all PUR 7777 certifications and related materials submitted to or issued by the Department.

(7) Renewal Not Permitted. Agencies shall not renew, as that term is defined in Section 287.012(20), F.S., contracts made pursuant to Section 287.057(5)(c), F.S. If an agency believes the commodity or service continues to be available only from a single source, the agency must re-initiate the single source exemption process."

10-5. No Competitive Sealed Bids. The purchasing office shall review the situation in order to determine why no competitive sealed bids/proposals were received before issuing a second invitation to bid. If the purchasing office determines that the commodities/contractual services are available only from a single source, the procedures delineated above shall be followed. Section 287.057(6) provides "If less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, the department or other agency may negotiate on the best terms and conditions. The department or other agency shall document the reasons that such action is in the best interest of the state in lieu of resoliciting competitive sealed bids, proposals, or replies. Each agency shall report all such actions to the department on a quarterly basis, in a manner and form prescribed by the department."

10-6. Waiver of Legal Advertisement. Advertisement on the Florida Communities Network, Vendor Bid System is mandatory for any acquisition in excess of the threshold for Category two (2) except for those purchases not requiring competitive procurement. Details of those exceptions may be found in paragraph 8-4 of this operating procedure.

10-7. Routine Purchasing-Related Activities. Purchasing related activities requiring routine correspondence with other governmental units or companies and individuals in the private sector will be transmitted over the appropriate purchasing director/agent's signature as an explicit delegation of authority to the position. Advisory copies of other than routine correspondence will be transmitted to appropriate Department of Children and Families staff for information and review.

Chapter 11

SPECIAL PURCHASING PROCEDURES

11-1. Purpose. This chapter includes information in reference to procurement of specific items that have unique department specific restrictions or requirements.

11-2. Filing Equipment. In accordance with CFOP 15-4, Records Management, the purchase or lease of filing equipment (including file cabinets, open-shelf filing units, and/or powerfile equipment), regardless of design or type, must have prior approval by the district records management liaison officer (RMLO).

11-3. Microfilm Services and Equipment. To assure compatibility department-wide and in accordance with CFOP 15-4, Records Management, the purchase or lease of any microfilm service, equipment or supplies must have prior approval by the district records management liaison officer (RMLO).

11-4. Information Technology. Section 282.0041(7), F.S. states "'Information technology' means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and

related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form." All acquisitions of information technology require close coordination as well as approval of office of information systems (IS). All requisitions will be accompanied by a completed "Information Resource Request" (IRR), form CF 1631.

a. Procedure.

(1) The user/requestor in conjunction with the Zone IT Manager or, if it is a central office request, program planning and administration (PMT) should make the determination of need and type equipment required. All staff sections of IS are available for technical consultation and assistance, if required.

(2) The most appropriate method of procurement must be determined with the assistance of the appropriate district or purchasing director/agent. The criteria used in determining the choice of equipment as well as the determination of the procurement method should be documented in the IRR. If the procurement method is rental, lease, lease purchase, or installment purchase, the provisions of "The State of Florida Contract for Installment Sale and Purchase" should be used. The inclusion of interest in a federally reimbursed installment purchase contract is not an allowable cost. Acquisition of this equipment through lease, lease purchase, or installment purchase arrangements in excess of thirty (30) days also requires approval by the comptroller, as outlined in paragraph 3-2 of this operating procedure.

b. Approval Process. When the requirement has been identified and the procurement method has been determined, an IRR is initiated by the user/requestor. The IRR must contain detailed hardware and software information. The completed IRR with supporting documentation then requires one of the following approvals:

(1) All IRRs requesting resources which will connect to the Children and Families mainframe data center involve a transfer of funds to the Working Capital Trust Fund and require Information Resources Manager (IRM) approval.

(2) All IRRs requesting departmental standard resources that have a total cost less than \$500,000 may be approved at the local level, districts by the District Administrator (DA) and central office by the appropriate Program Manager (PM).

(3) All IRRs requesting departmental standard resources that have a total cost greater than \$500,000 require delegation of authority to and final approval of the IRM. A "Decision Paper" must be submitted by the requestor to the Secretary via the IRM. The Decision Paper should be sent to the IRM with an Approve/Disapprove space for their signature and the Secretary's signature.

(4) IRRs for resources not covered by existing standards will be approved at the district/central office program office level up to \$50,000. IRRs above \$50,000 require the approval of the IRM.

(5) IRRs for non-standard resources, regardless of dollar value, require the approval of the IRM.

c. Disposition of Approved IRR. When the IRM approves an IRR, IS will notify the originator by memo signed by the IRM.

d. Procurement and Installation. It is the responsibility of the requestor to arrange for hardware procurement through the appropriate purchasing director/agent. The appropriate purchasing section will also purchase the acquisition of related materials/supplies and equipment maintenance contracts.

Installation acceptance and testing are also the responsibility of the requestor. IS technical personnel are available to provide assistance upon request. Extension or renewal of existing contracts should be coordinated between district or purchasing and the user for cost-benefit analysis.

11-5. Operating Capital Outlay (OCO). OCO means equipment, fixtures, and other tangible property of a nonconsumable and nonexpendable nature, the value or cost of which is \$ 1000 or more and the normal expected life of which is 1 year or more, and hardback-covered bound books that are circulated to students or the general public, the value or cost of which is \$ 25.00 or more, and hardback-covered bound books, the value of cost of which is \$ 250.00 or more. Budgetary approval is required prior to purchase.

11-6. Motor Vehicles, Watercraft, and Aircraft. Section 287.14(3), F.S. states "It is unlawful for any state officer or employee to authorize the purchase or continuous lease of any motor vehicle to be paid for out of funds of the state or any department thereof unless funds therefore have been appropriated by the Legislature. This subsection does not apply to motor vehicles needed to meet unforeseen or emergency situations, if approved by the Executive Office of the Governor after consultation with the legislative appropriations committees."

a. Section 287.14(4) states "Motor vehicles for which replacement funds have been appropriated may not be retained in service unless they are required to meet emergency or major unforeseen needs. All replaced vehicles which are retained to meet emergency or unforeseen needs shall be reported to the Legislature in subsequent agency budget request documents, detailing the specific justification for the retention of each vehicle."

b. Section 287.14(5) states "Motor vehicles shall not be acquired on a deferred payment contract which requires the payment of interest or its equivalent, except when specifically approved by the Executive Office of the Governor after consultation with the legislative appropriations committees as in the best interest of the state."

c. Agencies desiring to lease motor vehicles must submit a copy of the proposed lease agreement to the Bureau of Auditing, Comptroller's Office, for approval prior to execution of the agreement. The request should be submitted in accordance with the procedures communicated in Comptroller's Memorandum No.4 (1995-96). The request should include evidence that the funds were specifically appropriated by the Legislature for the lease. The request should also include the Bureau of Motor Vehicles and Watercraft Management, DMS' approval. If the lease is for an automobile in a class other than the subcompact class, an explanation of how this acquisition qualifies for an exception shall accompany the request.

d. The acquisition of aircraft, motor vehicles and watercraft in the categories listed below requires prior written approval from the Bureau of Motor Vehicles and Watercraft Management, DMS:

- (1) Aircraft.
- (2) Automobiles/trucks - passenger cars, trucks, vans, jeeps, busses.
- (3) Tractors – farm, industrial, wheel, and crawler.
- (4) Utility vehicles – gas or electric, three or four wheel (trucksters etc.).
- (5) Golf carts.
- (6) Motorcycles.
- (7) Forklifts.

- (8) Street sweepers.
- (9) Motor graders.
- (10) Compaction and roller equipment.
- (11) Draglines, cranes, excavators, etc.
- (12) Loader – wheel and crawler.
- (13) Refuse collection vehicles.
- (14) Trailers – utility, lowboy flatbed, can tank, boat, etc.
- (15) Mobile homes and offices.
- (16) Mowers – PTO operated.
- (17) Watercraft – boats, engines, airboats, and canoes.

e. Request to Purchase. Requests to purchase aircraft, motor vehicles, or watercraft must be submitted to ASSCP for prior approval using “Request for Purchase of Mobile Equipment” form MP 6301 and, when appropriate, form MVW 105, “Sub-Compact Exemption”. Bid specifications are evaluated for compliance with technical requirements of the equipment.

f. Request to Lease. Requests for the lease of aircraft, regardless of duration, and all motor vehicles and watercraft leases for periods exceeding 30 days or Threshold for Category Two must be submitted to the Bureau of Motor Vehicles and Watercraft Management for prior approval as to purpose and need using “Request for Purchase of Mobile Equipment” form MP 6301. Bid specifications are evaluated for compliance with technical requirements of the requested equipment.

g. Equipment Contracts. State term contracts are established annually by State Purchasing on recommendations of the Bureau of Motor Vehicles and Watercraft Management for all classes of vehicular equipment where such contracts can be practical and beneficial. Approvals to purchase or lease from contracts will be issued by the Bureau of Motor Vehicles and Watercraft Management directly to requesting agencies.

h. Purchases or Leases Not Made Under Contract or Consolidated Bid. The Bureau of Motor Vehicles and Watercraft Management will grant approvals to purchase or lease vehicular equipment directly to requesting agencies. The acquisition will be accomplished by the requesting agency in accordance with State Purchasing, Section 60A-1.002, F.A.C., utilizing vehicle specifications furnished by the Bureau of Motor Vehicles and Watercraft Management in conjunction with approvals. The Bureau of Motor Vehicles and Watercraft Management may require that complex acquisitions be reviewed by motor pool specialists to assure bidder compliance with technical specifications prior to making a bid award. Vendor lists for vehicles may be obtained upon request from State Purchasing, DMS, 4050 Esplanade Way, Tallahassee, Florida 32399-0950.

i. Disposal. Disposal of aircraft, motor vehicles, and watercraft requires prior written approval from the Bureau of Motor Vehicles and Watercraft Management, DMS, 4050 Esplanade Way, Tallahassee, Florida 32399-0950. For additional information and procedures, see CFOP 80-2, Property Management.

11-7. Rental Car Contract. DMS, Bureau of Motor Vehicles and Watercraft Management, establishes an annual rental car contract with a commercial carrier. This contract is used primarily by traveling state employees and includes several classes of automobiles ranging from subcompacts to station wagons. In certain instances, the state motor pool located in Tallahassee has automobiles available for leasing at standard motor pool rates. Automobiles rented/leased under the rental car contract or from the state motor pool do not require prior approval from DMS. Terms, prices, and conditions are available from the division.

11-8. Communications and Audio-Visual Equipment.

a. Section 282.101, F.S. states that “information technology or information technology system means any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by all agencies and political subdivisions of state government, and a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.” The DMS Communications Division, Information Technology Program has agreed not to require prior approval for the purchase of dictation equipment, entertainment AM/FM receivers, entertainment television receivers, fire alarm equipment and film equipment. They require, however, that all other communications equipment purchases and leases be approved in accordance with the division’s Communications Regulations Manual, copies of which may be obtained from DMS, 4050 Esplanade Way, Tallahassee, Florida 32399-0950.

b. Special care should be taken to obtain required Federal Aeronautical Administration (FAA) and Federal Communications Commission (FCC) approvals and licenses prior to installing or moving a communications base station. The DMS Communications Division and/or the local FAA and FCC offices can provide technical assistance in these areas.

11-9. Client-Related Purchases. Several programs in the department purchase professional services such as evaluations, medical treatment, hospitalization and training based on predetermined fee schedules, per diem rates and tuition. In addition, orthopedic and prosthetic devices, which are prescriptive and non-competitive in nature, are purchased for clients. These purchases are exempt from standard purchasing procedures; however, occupational tools and equipment, and initial stock for small business enterprises, if not purchased for “resale”, must be purchased in accordance with state purchasing procedures. These commodities are authorized and billed on individual authorization and billing invoices. It is the responsibility of the district purchasing director/agent to:

- a. Develop procedures for client related commodity purchases.
- b. Provide technical assistance to program staff in the preparation of bid conditions and specifications.
- c. Develop a training program that will ensure that program personnel have a working knowledge of purchasing law and procedures as they relate to client/patient purchasing operations.

11-10. Superintendent of Documents.

a. Establishing a deposit account with the Superintendent of Documents can facilitate frequent purchases of federal publications. The deposit amount should be based on prior expenditures. A letter of request accompanied by a state warrant to establish or replenish the account should be made payable and directed to:

Superintendent of Documents
Government Printing Office
Washington, D.C. 21402

b. Copies of this correspondence should be retained in the district's purchasing and fiscal offices.

11-11. Overdue Postage Account. The establishment of an overdue postage account in a local post office will preclude mail being returned for insufficient postage. The local postmaster will provide assistance in determining a deposit amount and advise the district by postcard when the account needs reimbursement. The state warrant to establish or replenish the account should be payable to the U.S. Postmaster.

11-12. Florida Statutes. The Florida Statutes can be ordered in accordance with CFOP 5-7.

11-13. Purchases Involving a Trade-In of Surplus Property (OCO). The property must be certified surplus using a form CF 25, Surplus Property Certification and the request to dispose must be approved. The approval process for purchasing the replacement item must be completed. Procedures for sale, transfer, or trade-in of supply items are covered in CFOP 80-2, Chapter 6. The property manager/clerk must be advised of all trade-in transactions so that property records can be adjusted accordingly.

11-14. Force Account Construction Purchases.

a. The term "force account" is used to describe a fixed capital outlay construction method or procedure whereby DCF is authorized by statute or DMS to assume the role of a general contractor for specified construction project(s). Following force account procedures, the department uses in-house resources to purchase building materials, provide on-site job supervision, and accomplish those segments of the construction work for which it has a personal capability. Sub-contracts are awarded to specialty contractors for those portions of the work that the department cannot perform with in-house resources.

b. The Office of Design and Construction (ASGDC) in the DCF Office of General Services coordinates force account construction projects in DCF. Departmental policy governing all fixed capital outlay construction, including force account, is contained in CFOP 70-4, Fixed Capital Outlay Projects Management and Coordination.

11-15. Purchase of Institutional Mattresses. The purchase of institutional mattresses for DCF facilities will be in full accordance with the criteria and recommendations set forth in the governors institutional mattresses fire safety committee's report dated October 6, 1975. The recommendations are as follows:

a. Existing polyurethane mattresses with treated covers will be utilized in open type housing and medium/minimum custody areas where the likelihood of intentionally set fires is minimal, and where non-ambulatory patients require the use of a polyurethane product to minimize compression sores.

b. Utilize existing cotton mattresses, some of which are treated cotton, in areas of high risk of intentional ignition or where rescue or evacuation will be impeded. Wherever appropriate, cover existing cotton mattresses with a fire-retardant outer cover.

c. Future purchases and contracting efforts shall be for fire-retardant cotton cores with durable fire-retardant outer covers and/or treated polyurethane with fire-retardant outer covers for special applications requiring that product.

11-16. Purchase of Commodities and Services Available from Prison Rehabilitative Industries and Diversified Enterprises (PRIDE).

a. Section 946.515(2), F.S., states “No similar product or service of comparable price and quality found necessary for use by any state agency may be purchased from any source other than the corporation if the corporation certifies that the product is manufactured by, or the service is provided by, inmates and the product or service meets the comparable performance specifications and comparable price and quality requirements as specified under s. 287.042(1)(f) or as determined by an individual agency as provided in this section. The purchasing authority of any such state agency may make reasonable determinations of need, price, and quality with reference to products or services available from the corporation. In the event of a dispute between the corporation and any purchasing authority based upon price or quality under this section or s. 287.042(1)(f), either party may request a hearing with DMS and if not resolved, either party may request a proceeding pursuant to ss. 120.569 and 120.57, which shall be referred to the Division of Administrative Hearings within 60 days after such request, to resolve any dispute under this section. No party is entitled to any appeal pursuant to s. 120.68.”

b. Section 946.515(6), F.S. states “If, pursuant to a contract between any legislative, executive, or judicial agency of the state and any private contract vendor, a product or service is required by DMS or on behalf of any state agency, is certified by or is available from the corporation identified in this chapter, and has been approved in accordance with subsection (2), the contract must contain the following language:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in section 946.515(2), and (4), F.S.; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.”

c. The provisions of Part 1 of Section 287, F.S., do not apply to any purchases of commodities or contractual services made by any state agency from the corporation. Printing as defined in Section 283, F.S., is not included in this exemption and must be competitively bid if over \$25,000.

11-17. Purchase of Commodities Manufactured by the Blind and Severely Handicapped (RESPECT). Section 413.031(2), F.S. states “State institutions and agencies shall, where possible, purchase brooms, mops, rugs, rubber mats and other supplies (other than the products of prison labor) from sheltered Florida workshops operated by accredited nonprofit corporations, provided that such goods and supplies are of standard quality and price.” The designated central non-profit agency RESPECT of Florida distributes a “Procurement List” similar to a state term contract. The list identifies the available commodities and services and contains ordering instructions, damaged goods instructions and a certification of exemptions procedure to be observed by the designated vendor when orders cannot be filled in a timely manner.

Chapter 12

PURCHASE OF PRINTING

12-1. Legal. Section 283.33(2), F.S., states “All printing of publications that cost in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO and purchased by agencies shall be let upon contract to the vendor that submits the lowest responsive bid and that will furnish all materials used in printing. Such contract shall specify a definite term and a definite number of copies.”

12-2. Definitions.

a. Section 283.30(3), F.S., states “Duplicating means the process of reproducing an image or images from an original to a final substrate through the electrophotographic, xerographic, laser, or offset process or any combination of these processes, by which an operator can make more than one copy without rehandling the original.”

b. Section 283.30(4), F.S., states “Printing is the transfer of an image or images by the use of ink or similar substance from an original image to the final substrate through the process of letterpress, offset lithography, gravure, screen printing, or engraving. Printing shall include the process of and the materials used in binding. Printing shall also include duplicating when used to produce publications.”

c. Section 283.30(6), F.S., states “Publication means any document, whether produced for public or internal distribution.”

12-3. Use of Recycled Paper. Section 283.32(1), F.S. states “Each agency shall purchase, when economical, recycled paper if and when recycled paper can be obtained that is of adequate quality for the purposes of the agency.” Section 283.32(2), F.S., states “Each agency shall require a vendor that submits a bid for a contract for printing and that wishes to be considered for the price preference described in s. 287.045 to certify in writing the percentage of recycled content of the material used for such printing. Such vendor may certify that the material contains no recycled content.” An agency may allow up to 10 percent price preference, as provided in Section 287.045, F.S., to a responsive bidder who has certified printing materials containing the minimum percentage of recycled material established quarterly by DMS. Section 283.32(3) states “Upon evaluation of bids for each printing contract, the agency shall identify the lowest responsive bid and any other responsive bids in which it has been certified that the materials used in printing contain at least the minimum percentage of recycled content that is set forth by the department. In awarding a contract for printing, the agency may allow up to a 10-percent price preference, as provided in s. 287.045, to a responsible and responsive vendor that has certified that the materials used in printing contain at least the minimum percentage of recycled content established by the department. If no vendors offer materials for printing that contain the minimum prescribed recycled content, the contract shall be awarded to the responsible vendor that submits the lowest responsive bid.”

12-4. Printing Adjustments – Overruns/Underruns. No adjustment may be accepted by an agency on any item of printing, unless specifications of the bid expressly provide for it.

12-5. Notification of Acceptance or Non-acceptance. Section 283.425, F.S., states “No printing may be accepted as in compliance with the contract when the printing is not of the grade of workmanship which is usually employed by professional printers on printing of such class, or when the printing is not of the full quantity or acceptable quality for which it has been contracted. If immediate necessity and lack of time to procure printing elsewhere compel the use of defective printing furnished by a contractor, it shall be accepted without approval, and one-half of the contract price thereon shall be deducted as liquidated damages for breach of contract. The agency which contracted for printing shall notify the contractor within a reasonable time after delivery of said printing as to acceptance or nonacceptance, and such reasonable time shall be specified in the contract. The contract shall also provide that a

contractor has a reasonable time to correct any defects if delivery is made by a date specified in the contract, unless such a provision is not practicable because of time constraints.”

12-6. Printing Equipment Purchase. Printing equipment for initial purchase, or for enhancement or expansion of existing printing equipment, not including replacement equipment must be specifically approved by the legislature prior to purchase.

12-7. Publication Records. Section 283.31, F.S., states “Each agency shall maintain a record of any publication the printing of which costs in excess of the threshold amount provided in s. 287.017 for CATEGORY THREE, at least part of which is paid for by state funds appropriated by the Legislature. Such record shall also contain the following: written justification of the need for such publication, purpose of such publication, legislative or administrative authority, sources of funding, frequency and number of issues, and reasons for deciding to have the publication printed in-house, by another agency or the Legislature, or purchased on bid. In addition, such record shall contain the comparative costs of alternative printing methods when such costs were a factor in deciding upon a method. The record of the corporation operating the correctional industry printing program shall include the cost of materials used, the cost of labor, the cost of overhead, the amount of profit made by the corporation for such printing, and whether the state agencies that contract with the corporation for printing are prudently determining the price paid for such printing.”

Chapter 13

PURCHASE OF INSURANCE

13-1. General. Section 287.022(1), F.S., states “Insurance, while not a commodity, nevertheless shall be purchased for all agencies by the department, except that agencies may purchase title insurance for land acquisition and may make emergency purchases of insurance pursuant to s. 287.057(5)(a). The procedures for purchasing insurance, whether the purchase is made by the department or by the agencies, shall be the same as those set forth herein for the purchase of commodities.” The procedures for purchasing insurance, whether the purchase is made by the State Purchasing or by the department, shall be the same as those set forth for the purchase of commodities. See CFOP 75-3, Insurance, for additional information concerning the purchase and claims reporting procedures for state and departmental insurance programs.

a. The department’s insurance programs are administered by the Office of General Operations (ASGO) in coordination with the Division of Risk Management, Department of Insurance.

b. The majority of the department’s coverages is purchased on a consolidated basis and represent statewide protection. The Division of Risk Management administers workers compensation, fire insurance, automobile liability, and general liability (including medical malpractice). Employee honesty bonds, boiler and heavy machinery, and other coverages are purchased and administered by State Purchasing. Various rules, operating procedures and reports developed and coordinated by both departments govern the composite activities associated with the department’s total insurance program. (See CFOP 75-3, Insurance, and CFOP 60-5, Chapter 8, Bonding of Employees.)

13-2. Fire and Extended Coverage.

a. This state program is administered by the Bureau of Property Risk Retention in the Division of Risk Management. The coverage is available for all state-owned fixed and tangible property. Also, the coverage is available for non-state-owned buildings when it is a lease requirement.

b. Fire insurance coverage on non-state owned tangible property can not be obtained through the Bureau of Property Risk Retention. This coverage must be requested through State Purchasing. A

copy of the approved DMS lease, a listing of property, and the building location should be forwarded by the property office to the purchasing office in accordance with CFOP 80-2, Property Management.

13-3. Automobile Liability Insurance. This program is administered by the Bureau of State Liability Claims in the Division of Risk Management and provides automobile liability insurance coverage of \$100,000 to \$200,000 on all state owned or leased vehicles. Collision insurance is prohibited for state owned vehicles.

13-4. General Liability (Including Medical Malpractice Coverage). This program is administered by the Bureau of Casualty Risk Retention and provides state agencies with \$100,000/\$200,000 liability coverage for general liability and medical malpractice protection. The 1974 legislature enacted the Tort Claims Act that waived the state's sovereign immunity status to these limits. The Division of Risk Management subsequently developed a comprehensive liability insurance program which provides state agencies with the following: "to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any officer, employee or agent of the insured while acting within the scope of his office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant in accordance with the general laws of this state, pursuant to the provisions and subject to the limitation specified in Section 768.28, F.S."

13-5. Workers' Compensation. The Bureau of State Employee Workers' Compensation, Department of Insurance administers this program, and covers all state employees for injuries sustained in job related accidents. The servicing personnel office processes workers compensation claims.

13-6. Employee Honesty Bond. The State Purchasing purchases this blanket coverage for all state agencies. It insures the agencies against loss sustained through any fraudulent or dishonest act or acts committed by any employee, acting alone or in collusion with others, during the bond period, to an amount not exceeding in the aggregate, the amount stated in the table of limits of liability in the applicable policy. The present coverage is \$250,000 per employee with a \$500 deductible on each claim. (See CFOP 60-5, Chapter 8, Bonding of Employees.)

13-7. Boiler and Heavy Machinery (and Related Accessories). This blanket state policy insures the department's boiler and heavy machinery equipment against accidental loss. This coverage, however, excludes fire and deterioration damage. Any claims against the policy should be presented in writing to ASGO as soon as possible following the loss.

13-8. Miscellaneous Insurance Coverages. In addition to the coverages described above, several other types of insurance may be purchased through State Purchasing if a need exists in any of the department's diversified programs. These policies include, but are no limited to, the following: marine, inland marine, aircraft, money and securities (theft) and all types of bonds, accident and health, electronic data processing, and property (fire and extended coverage and other allied lines on buildings and contracts not covered by the state fire fund).

13-9. Reporting Insurance Claims. Departmental procedures for reporting all types of insurance claims and incidents are covered in CFOP 75-3, Insurance, and CFOP 60-5, Chapter 8, Bonding of Employees.

Chapter 14

MINORITY VENDOR PROGRAM

14-1. Definitions.

a. Minority Vendor Definition. Section 288.703(2), F.S., states “Minority business enterprise means any small business concern as defined in subsection (1) which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin, which has been subjected historically to disparate treatment due to identification in and with that group resulting in an underrepresentation of commercial enterprises under the group’s control, and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession. Ownership by a minority person does not include ownership which is the result of a transfer from a nonminority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subsection, the term “related immediate family group” means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.” Section 288.703(1), F.S., states “Small business means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.”

b. Certified Minority Business Enterprise (CMBE) Definition. A CMBE is a business that has been certified to be a minority business enterprise by DMS pursuant to Section 287.09451, F.S. If commodities or services are procured from a CMBE, purchasing staff should verify certification in SPURS and ensure that the proper minority vendor codes are used on purchasing documents.

14-2. Reservation of Contracts and Subcontracts. In compliance with Executive Order 99-281, all price preferences and set asides are strictly prohibited.

14-3. Certified Minority Business Enterprise (CMBE) Policies and Procedures. The Department of Children and Families has adopted the following policies and procedures in order to increase participation by CMBEs in the procurement programs.

a. Including CMBEs in the prospective bidder’s list to receive the department’s formal and informal solicitations or participate in single source or emergency purchases.

b. Furnishing applications for eligibility to any small or minority business enterprise seeking to become certified by the Office of Supplier Diversity. Forms can be obtained from ASSCP or district purchasing offices.

c. Including a statement in all bid solicitation documents that encourage minority business enterprise participation in any bidders conferences, pre-solicitation, or pre-bid meetings that are scheduled. (See Section 287.09451(4)(a)1, F.S.)

d. Providing adequate information about the plans, specifications, and requirements of contracts to interested minority business enterprises or minority persons.

e. Providing copies of bid solicitation documents, and any subsequent amendments, to all interested minority business enterprises or minority persons who respond to bid solicitation notices.

f. Forwarding copies of any Invitation to Bid (ITB) or Request for Proposal (RFP) for all commodity and contractual services purchases in excess of the threshold for Category Two to the Office of Supplier Diversity.

g. When possible, soliciting telephone quotes from CMBEs on purchases under the threshold for Category Two.

h. Identifying large contracts that can be divided into smaller units to afford opportunities to CMBEs, wherever possible.

i. Encouraging contractors to utilize CMBEs as subcontractors or subvendors, whenever possible. (See Section 287.057(7), F.S.)

j. Utilizing minority focused media to identify minority vendors, advertise opportunities, and encourage minority vendor participation and certification, whenever possible. (See Section 287.09451(4)(b)2, F.S.)

k. Submitting all bids estimated to exceed the threshold for Category Four to the Office of Supplier Diversity for review before advertisement. (See Section 287.09451(5)(a), F.S.)

Chapter 15

STANDARD FORMS

15-1. General. To provide uniformity throughout state government, standard forms have been developed by the Department of Management Services, the Department of State, the Department of Banking and Finance, and the Comptroller's Office for all state agencies to use. Copies of these forms are available either on the Vendor Bid System or from the respective departments. The following list provides form number and title for forms used in the purchasing office that are not available electronically.

MP 6301	Request for Purchase of Mobile Equipment
DMS 9001	Communications Service Authorization
DBF-AA-410	Consolidated Equipment Financing Program
(no number)	Checklist for Requesting Comptroller's Approval to Lease Equipment

15-2. Standard Departmental Purchasing Forms. The department's standard purchase requisition is electronically established and submitted through the Automated Requisition Tracking System (ARTS). Every acquisition, either by PCard or MFMP Direct Order, is instituted by an ARTS requisition.

Chapter 16

MYFLORIDAMARKETPLACE (MFMP) AND CONFIDENTIALITY

16-1. General. To protect the confidential information of clients and employees and in compliance with Rule 60A-1.033 and HIPPA, any information that could enable a citizen, business or organization to identify a client, such as a name or a case number or a complete Social Security number (SSN), will not be included in the line item description, in the comments field or on any attachment that is part of the MFMP acquisition document (DO). The client's initials and/or the last four digits of the SSN may be included. An employee's name may be included in an MFMP document or the employee's first initial and last name and the last four digits of the employee's SSN, as in Jane Doe or J Doe, XXX-XX-1234.

16-2. MyFloridaMarketPlace Information Security and Electronic Attachments. In accordance with Rule 60A-1.033, if an agency discovers that confidential information has been entered into any MyFloridaMarketPlace comment field or discovers that an agency's supporting documentation attachment in MyFloridaMarketPlace contains confidential information, the agency shall complete and submit to the Department of Management Services Form PUR 3785, MyFloridaMarketPlace Confidential Information Removal Request Form (10/06), which is hereby incorporated by reference. This form is available on the internet at <http://dms.myflorida.com/dms/purchasing>.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

MELISSA JAACKS
Assistant Secretary for
Administration

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure has been revised to add Chapter 16 to comply with a recent audit of MFMP.