



Alert #145

DPA

Department of Personnel
& Administration

Division of Finance and Procurement
State Controller's Office
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Denver, Colorado 80203
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To: Department Controllers
Fiscal Officers
Other Interested Parties

From: Arthur L. Barnhart *ALB*
State Controller

Date: November 21, 2002

Subject: Commitment Voucher Violations
Requests for Fiscal Rule Waivers
Fiscal Rule Changes
2002 Reporting for the Financial Responsibility and Accountability Act
Travel Reports
FAST Agency Assignments

Commitment Voucher Violations

Effective immediately the State Controller has consolidated approval/ratification of procurements in violation of CRS 24-30-202 (1) and (3), also referred to as statutory violations, informal commitments, and after-the-fact (ATF) purchases, in the State Controller's Office (SCO). In the past the State Purchasing Director approved violations where a purchase order should have been used as the commitment voucher, and John Ivy in the SCO approved violations where a state contract should have been used as the commitment voucher.

A new consolidated SCO policy, Managing Commitment Vouchers That Violate State Statutes, dated November 22, 2002, has been issued. A copy is attached for your information and for distribution to your staff. John Ivy has been delegated to review and approve/ratify all violations of CRS 24-30-202 (1) and (3). Please review this policy and discuss it with your procurement staff. Questions concerning the policy should be directed to John Ivy. John can be reached via e-mail at john.ivy@state.co.us or by phone at 303-866-3765 or by fax at 303-866-4233 or by mail at 1525 Sherman Street, Room 250, Denver, CO 80203.

Requests for Fiscal Rule Waivers

Beginning Monday, December 2, 2002, the Field Accounting Services Team will be responsible for reviewing requests for fiscal rule waivers. Please submit all requests for fiscal rule waivers via e-mail to your field accounting specialist, a current listing of agency assignments for the field account specialists is attached. The process to review and approve waivers will not change.

Fiscal Rule Changes

The State Controller is seeking input on potential changes to the State Fiscal Rules. The Field Accounting Services Team is coordinating this process. Please send or e-mail any proposed changes for the Fiscal Rules to Linda Bradley by December 2, 2002. Her e-mail address is linda.bradley@state.co.us; she may be reached by phone at 303-866-4162.

When we have compiled the proposed changes, the SCO will share the list with stakeholders for additional input and comment via e-mail and our website. After the changes are finalized by the State Controller, they will be submitted to the Secretary of State for publication in the February Colorado Register and a hearing will be scheduled in early March.

2002 Reporting for the Financial Responsibility and Accountability Act

In the near future we will be sending a letter to all departments and higher education institutions requesting the statement of compliance as required by the State's Department Financial Responsibility and Accountability Act. The statement is due December 31, 2002. Any questions regarding the act should be directed to your field accounting specialist.

Travel Reports

The deadline for submitting your turnaround report for travel expenditures has passed. If you have not submitted your turnaround report, please do so as soon as possible. If you have a problem, please call your field accounting specialist.

FAST Agency Assignments

Effective December 2, 2002 three agency assignments will change for the Field Accounting Services Team. Linda Bradley will be responsible for the Department of Personnel and Administration, Roger Cusworth will have the Department of Local Affairs, and Dave Grier will have the Department of Transportation. All other agency assignments will remain the same. The following page is an updated complete list of FAST agency assignments.

Field Accounting Services Team (FAST) Agency Assignments

(Updated 12/02/02)

LINDA BRADLEY	303-866-4162
PERSONNEL	G AAA-ARA
UNC	B GKA
HUMAN SERVICES	D IHA-ILF
LEGISLATIVE BRANCH	G MAA-MEA
HEALTH CARE POLICY & FIN	D UHA
CONTROLLER	R 999

linda.bradley@state.co.us

BOB HABERKORN	303-866-2626
EDUCATION	L DAA-DBA
SBA UNIVERSITIES	R GGA-GGJ
FT LEWIS COLLEGE	R GSA
MINES	R GLA
PUBLIC SAFETY	L RAA
REGULATORY AGENCIES	L SAA-SLA
REVENUE	D TAA-TGA

robert.haberkorn@state.co.us

ROGER CUSWORTH	303-866-3891
AGRICULTURE	G BAA
PUBLIC HEALTH & ENV	L FAA-FMA
CU	B GFA-GFE
COMM. COLLEGES	G GJA-GJT
AHEC	B GMA
LAW	D LAA
LOCAL AFFAIRS	G NAA

roger.cusworth@state.co.us

DIANNE STUMP	303-866-3890
CORRECTIONS	R CAA-CIA
GOVERNOR'S OFFICE	L EAA-EGA
CCHE/PRIV OCC ED	R GAA/GPA
ARTS & HUMANITIES	R GBA
HISTORICAL SOCIETY	R GCA
STUDENT LOAN	R GDA
CSOBA	R GRA
METROPOLITAN STATE COLLG	G GTA
NATURAL RESOURCES	R PAA-PKA
TREASURY	L WAA-WCA

dianne.stump@state.co.us

FIELD ACCOUNTING SERVICES ACCOUNTANT	
DOTTIE RELAFORD	303-866-4165

dottie.relaford@state.co.us

DAVE GRIER	303-866-4161
STATE COLLEGES	B GHA-GHF
TRANSPORTATION	B HAA
JUDICIAL	L JAA-JFA
LABOR & EMPLOYMENT	D KAA
MILITARY AFFAIRS	D OAA-OCA
SECRETARY OF STATE	D VAA

dave.grier@state.co.us

Back up persons are noted by the letter in the column to the right of the agency name.

Bob Haberkorn	B
Dianne Stump	D
Linda Bradley	L
Roger Cusworth	R
Dave Grier	G

STATE CONTROLLER POLICY

Managing Commitment Vouchers That Violate State Statutes

A policy concerning state agency and institution requirements when a violation of CRS 24-30-202(1) or (3) has occurred. This situation arises when a liability is incurred by the state or a payment made without a valid commitment voucher.

Background

A Formal Opinion of the State Attorney General (No. 97-2), dated December 23, 1997 clarified the State Controller's authority to manage commitment vouchers that violate state statutes. Upon receipt of this opinion, the State Controller issued a memorandum to all contract signature delegates, dated March 17, 1998. The memorandum contained specific guidelines for state agencies and institutions to follow when processing state contracts where a statutory violation had occurred.

This policy, *Managing Commitment Vouchers that Violate State Statute*, was originally issued as *Managing Contracts that Violate State Statute* on July 12, 1999 and revised on May 1, 2001. This new policy reflects the fact that the State Controller will review all violations of CRS 24-30-203 (1) or (3), regardless of the form of commitment voucher that was required for the procurement.

Authority to Execute Commitment Vouchers that Violate State Statute

The authority to approve a commitment voucher in violation of CRS 24-30-202 (1) or (3) is the sole responsibility of the State Controller. This authority has not been delegated to any state agency or institution.

Contract Policy

When a **contract** is the required commitment voucher and the obligation incurred is in violation of CRS 24-30-202 (1) or (3), the Central Contract Unit (CCU) in the State Controller's Office will contact the state agency or institution to determine why the violation occurred. Based on the information received, the CCU will determine the most appropriate way to address the violation. If the CCU determines that the violation is intentional or of a serious nature, the chief fiscal officer (CFO) will be notified. It will be the responsibility of the CFO to investigate the violation, document and submit the results to the State Controller through the chief executive officer, and request the State Controller or the State Controller's Contract Signature Delegate to execute the contract.

The formal request from the CFO through the CEO to will address each of the following items in detail:

1. The circumstances surrounding the commitment to include: the unit and person(s) responsible, funds availability, reasons for delay and any disbursements that have been made.
2. The reason(s) why proper procedures were not followed and the violation occurred.
3. The internal administrative and accounting controls and procedures in place at the state agency or institution for controlling instances of contractual commitments and why these controls and procedures were not sufficient to prevent the violation.
4. Whether all state procurement procedures were followed and whether all other required approvals were obtained and an affirmation that the prices are fair and reasonable.
5. What corrective actions are intended or have been taken to improve internal controls and prevent a recurrence by the organization and the employees involved.

STATE CONTROLLER POLICY


Purchase Order Policy

When a **purchase order** is the required commitment voucher and the obligation incurred is in violation of CRS 24-30-202 (1) or (3), the state agency or institution's CFO will be notified. It will be the responsibility of the CFO to investigate the violation and to document the results of the investigation.

The information obtained by the CFO will address each of the following items in detail:

1. The circumstances surrounding the commitment to include: the unit and person or persons responsible, funds availability, reason for delays and disbursements made.
2. The reasons why proper procedures were not followed and why the violation occurred.
3. The internal administrative and accounting controls and procedures in place at the state agency or institution for controlling instances of purchase order commitments and why these controls and procedures were not sufficient to prevent the violation.
4. A description of the terms of the commitment, when it arose, when performance ended, how the pricing was negotiated and evaluated, and copies of any relevant correspondence, documents, invoices, or purchase orders, if available that define the terms of the commitment. If a purchase order is not considered necessary to memorialize the terms of an on-going contractual relationship, please explain why.
5. Whether all state procurement procedures were followed and whether all other required approvals were obtained and an affirmation that the prices are fair and reasonable.
6. What corrective action is planned or taken to improve internal controls and prevent a recurrence by the organization and the employees involved.
7. If similar violations have occurred in the past, please explain why the corrective actions taken have not prevented the problem from recurring.

Once the CFO has reviewed the information provided, determined the reason for the violation, and is satisfied that the corrective action planned or taken is sufficient to prevent future occurrences, the CFO will notify the State Controller and request ratification of the procurement. This notification can be in the form of a memorandum from the CFO to the State Controller or an e-mail from the CFO to the State Controller, or delegate. The notification must summarize the violation, including the amount of the procurement, state why it occurred, and the corrective action taken. Once the State Controller has ratified the procurement, any amount owed the vendor can be processed for payment. It is the responsibility of the CFO to maintain a file containing these commitments that violate State Statutes. This file will be open for inspection by the State Controller, if deemed necessary.



Arthur L. Barnhart
State Controller