

Office of the State Controller

Alert # 174



TO: Controllers and Chief Fiscal Officers of State Departments
And Higher Education Institutions and Boards

FROM: Leslie M. Shenefelt *Leslie M. Shenefelt*
State Controller

DATE: January 9, 2008

SUBJECT: Change in Review Process for Statutory Violations
and Fiscal Rule 3-1 Waivers
Dottie Relaford's Retirement
Postclosing Entries Due by Period 6 Close
Senate Bill 07-263 Effective December 21, 2007
Statutory Violation Policy
8038G/GC Filing Requirement Reminder

Change in Review Process for Statutory Violations and Fiscal Rule 3-1 Waivers

Currently, the Office of the State Controller (OSC) processes all statutory violation ratifications through the Contracts Unit and all fiscal rule waiver requests through the FAST team. Effective February 1, 2008, the responsibility for the review and approval of certain statutory violations and fiscal rule waivers will change. The Contracts Unit will handle both contract related statutory violations and all waiver requests of Fiscal Rule 3-1, State Contracts. The FAST team will review waiver requests of all other fiscal rules and ratify purchase order statutory violations. Please contact your FAST representative with any questions related to the reassignment.

Dottie Relaford's Retirement

Please join us in celebrating Dottie's retirement. The festivities start at 2:00 p.m. on January 31, 2008. Additional details are attached.

Until the position is filled, please direct requests for COFRS budgetary coding to your FAST representative.

Postclosing Entries Due by Period 6 Close

The OSC recently received the audit opinion on the state's Fiscal Year 2006-07 financial statements. Exhibit Hs that were posted and included in the financial

statements may require follow-up entries on COFRS in Fiscal Year 2007-08. Karoline Clark in the Reporting and Analysis Section previously notified each agency which Exhibit Hs require follow-up action. Entries should be completed by period 6 close, which is on January 11, 2008.

Senate Bill 07-263 Effective December 21, 2007

Senate Bill 07-263 became effective on the date the State Controller distributed the comprehensive annual financial report (CAFR), which occurred on December 21, 2007. Consequently, the six-month rule deadline for projects funded in this legislation is June 21, 2008. The three-year expiration date on the projects will occur on December 21, 2010, with the next available year-end reversion process occurring on June 30, 2011. Please contact your FAST representative if you have any questions.

Statutory Violation Policy

The OSC recently adopted a revised statutory violation policy. The policy is attached for your convenience. Please direct any questions about the policy to your FAST representative.

8038G/GC Filing Requirement Reminder

The OSC recently implemented a requirement that state agencies and institutions of higher education provide the OSC with copies of Forms 8038G or 8038GC filed with the IRS for all active financing agreements, and within 5 days of filing for future agreements. For current financing agreements, please submit copies of the IRS filings by January 31, 2008. Please contact your FAST representative with questions.

STATE CONTROLLER POLICY

Processing Commitment Vouchers That Violate State Statute

Definitions

Statutory Violation – Occurs when a liability is incurred by the State or a payment is made without an approved commitment voucher such as a purchase order or a State contract when one is required as described in Fiscal Rule 2-2.

Ratification – State Controller approval of a statutory violation.

Policy

When a **statutory violation** occurs, the State Controller may ratify the expenditure provided that:

- The prices or rates are fair and reasonable
- The amount of the expenditure is within the unencumbered balance
- The State agency or institution of higher education provides a written explanation in accordance with this policy
- The parties did not act in bad faith or in a fraudulent manner

Agencies and institutions of higher education shall not release vendor payments prior to ratification by the State Controller.

Any statutory violation not ratified by the State Controller shall be the personal obligation of the person who ordered the goods or services and incurred the obligation.

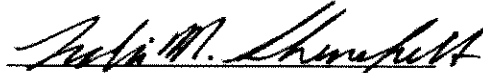
All state agencies and institutions are required to maintain an adequate system of internal controls to identify an occurrence, prevent or minimize violations, and implement this policy.

The agency chief fiscal officer shall notify the State Controller and request ratification of the commitment after he/she has reviewed the information related to either a contract or purchase order violation and is satisfied that the corrective action planned or taken is sufficient to prevent or minimize future occurrences. This notification can be in the form of a memorandum or e-mail to the State Controller, and must include:

1. **Description of the commitment.** Include:
 - a. description of the goods or services,
 - b. dollar amount,
 - c. date the commitment arose,
 - d. whether disbursements have been made, and
 - e. copies of any relevant correspondence, documents, invoices, purchase orders, and contracts that define the terms of the commitment.
2. **Explanation of why commitment arose before it was authorized.** Include:
 - a. the organizational unit and name and title of person or persons responsible,
 - b. description of internal controls and why controls did not prevent the situation from occurring, and
 - c. whether either party acted in bad faith or in a fraudulent manner.
3. **Evaluation of pricing.** Include an assessment of whether the prices or rates are fair and reasonable, and the basis for that conclusion. As appropriate, include state procurement procedures that were used and whether all other required approvals were obtained.

STATE CONTROLLER POLICY

4. **Expenditure and unencumbered balance.** Confirm that the expenditure is within the unencumbered balance, that the agency or institution of higher education has the funds to pay for the commitment.
5. **Description of preventative steps.** Include the steps that are planned to prevent a reoccurrence of this situation in the future. If similar violations have occurred in the past, explain why prior preventative actions have not precluded the problem from reoccurring.



Leslie M. Shenefelt
State Controller



Congratulations Dottie!

Dottie is retiring after more than 20 years of service in the Office of the State Controller. Please join us for munchies and to wish her a fond farewell!

What: Dottie Relaford's Retirement Party

Where: 633 17th Street, 2nd Floor Conference Room
(elevator near Starbucks)
Denver, CO 80202

When: Thursday, January 31st
2:00 p.m. - 4:00 p.m.

Please contact Tammy Nelson if you would like to make a contribution towards a group gift at tammy.nelson@state.co.us or 303-866-3891.