



AGENDA
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #037
THURSDAY, APRIL 5, 2018, 10:00 A.M.
TN TOWER – 3rd FLOOR, NASHVILLE ROOM

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I. Call to Order	--
II. Approve Minutes from January 29, 2018 Meeting..... (see attached documentation)	4
III. New Business Proposed revisions to the following Central Procurement Office documents (see attached documentation): (1) <i>Procurement Procedures Manual of the Central Procurement Office</i> , Section 8, Protest and Stay of Award (2) Central Procurement Office Policy Number 2013-008 – <i>Energy Efficiency Standards and Life Cycle Costing Policy and Procedures</i> (3) Rule Exception Request (“RER”) Template (4) <i>Procurement Procedures Manual of the Central Procurement Office</i> , Section 11.2, General Information (5) Central Procurement Office Policy Number 2015-010 – <i>Statewide Purchasing Card Policy and Procedures</i> (6) Fee for Goods or Services Contract Template (“FA”), E. #. HIPPA and Section E. #. Contractor Hosted Services and Confidential Data Options (7) Grant Templates and Models – E #. Clean Air Act and Federal Water Pollution Control Act - NEW..... (8) Grant (“GR”) and Governmental Grant (“GG”) Templates – Section D.20, Procurement..... (9) Grant (“GR”) and Governmental Grant (“GG”) Templates – Section D.13, Public Notice - NEW (10) Fee for Goods and Services Template (“FA”) and No Cost Contract (“NC”) for Contractors Model – Drug-Free Workplace Optional Section E - NEW.....	 14 23 30 35 39 77 81 83 87 89

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IV. Other Business		--
V. Adjournment		--

**MINUTES OF JANUARY 29, 2018
MEETING**

MINUTES
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #036
MONDAY, JANUARY 29, 2018 – 2:00 P.M.
TN TOWER – 3rd FLOOR – NASHVILLE ROOM

Members in Attendance:

Mike Perry, Buddy Lea, Ted Hayden, Summer Carr, Bryan Chriske (designated by Comptroller Wilson to attend in Jason Mumpower's absence), Michelle Lane, Brad Eskind

Members Participating by Phone:

Sean Newman

Others in Attendance:

Paul Krivacka, Don Ivancic, Chris Salita, Zach Lebarst, Charlotte McKinney, Kevin Scarborough, Tara Lawson

I. Call to Order: Mike Perry, Chief Procurement Officer, called the meeting to order and recognized that a quorum of voting members was present.

II. Introduction of New Advisory Council Member: Mr. Perry introduced Mr. Brad Eskind as a new member on the Advisory Council ("Council"). Mr. Perry stated that Mr. Eskind is a partner with Deloitte Consulting and has had a long career dealing with procurement at the state and federal levels. Mr. Perry indicated that Mr. Eskind was appointed for a four-year term that will expire in 2021 and thanked him for his willingness to serve on the Council.

Mr. Perry announced that Bryan Chriske was designated by Comptroller Wilson to represent the Comptroller's Office as Jason Mumpower was unable to attend the meeting.

III. Minutes from the October 3, 2017 Meeting: Mr. Perry asked if there were any corrections or additions to the minutes from the October 3, 2017 meeting. Seeing none, a motion was made by Mr. Bryan Chriske, Office of the Comptroller of the Treasury, to accept the minutes as presented. The motion was seconded by Mr. Buddy Lea, Assistant Commissioner, Department of Finance and Administration. All members voted in favor – none opposed.

IV. New Business:

Mr. Perry asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the following New Business agenda items:

Note: Mr. Krivacka inadvertently presented agenda item (5) out of order. Mr. Bubby Lea pointed this out and the Council members agreed to hear this item and then proceed to agenda item (1) as it appears on the written agenda.

(5) Fee for Goods or Services Contract ("FA") Template, Section D.32, Insurance

Mr. Krivacka presented the following points with regard to the Fee for Goods or Services Contract ("FA") Template, Section D.32, Insurance proposal:

This proposal includes the following:

- Reference to a self-insured retention ("SIR") in addition to the deductible for limits over \$50,000 to remove an ambiguity.
- Reference to a necessary ISO endorsement (or equivalent) in the event that some insurance coverage is meant to be met via an umbrella policy. This is necessary due to the industry-wide ambiguity as to whether an additional insured's policy should be applied to a loss prior to the umbrella policy, even if this was not the intent of the parties.
- Additional language to ensure that the State is able to take advantage of any Contractor insurance policy in excess of the base-line policy ask amount.
- Updated CGL requirements to comport with contemporary industry standard verbiage as the current language is out of date

Mr. Krivacka added that the excess policy coverage change is being requested because there are situations where the State has a limitation of contractor's liability and there is excess coverage above the limitation of contractor's liability. This would be considered a third party payment. This language is being proposed so that the State has the full benefit of any insurance coverage that the State requests.

Seeing no additional discussion on agenda item (5), Mr. Ted Hayden, Executive Director of Compliance, State of Tennessee Real Estate Asset Management, made a motion to recommend the Fee for Goods or Services Contract ("FA") Template, Section D.32, Insurance as presented to the Procurement Commission for approval. The motion was seconded by Mr. Chriske. All members voted in favor – none opposed.

Mr. Perry asked Mr. Krivacka to proceed to present agenda item (1):

(1) *Procurement Procedures Manual of the Central Procurement Office*, Section 6.7.1, Informal Purchases

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office ("Manual")*, Section 6.7.1, Informal Purchases proposal:

- This proposal will revise Section 6.7.1 to include on the list of items exempted from a purchase order "Textbooks and instructional materials approved by the State Textbook and Instructional Materials Quality Commission."
- Tenn. Code Ann. § 49-6-2201 creates a State Textbook and Instructional Materials Quality Commission and provides detailed instructions for the selection, approval, bidding, and contracting for textbooks and instructional materials.

- This change will clarify that a purchase order or contract is not needed for “textbooks approved by the State Textbook and Instructional Materials Quality Commission,” as procurement of those items should follow applicable state law.

Seeing no discussion, Mr. Chriske made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office*, Section 6.7.1, Informal Purchases proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

(2) *Procurement Procedures Manual of the Central Procurement Office*, Section 5.4.7, Exceptions from Requisitions for Purchase – Direct Purchase Order

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office*, Section 5.4.7, Exceptions from Requisitions for Purchase – Direct Purchase Order proposal:

- Due to confusion as to when to utilize a requisition, the changes now alert users when to use a requisition, rather than when NOT to use one.
- The following changes are proposed:
 - Inserting language that a Direct Purchase Order may be used to pay a Contractor or Grantee.
 - Identifying more specifically the equipment and services that may require a requisition.
 - Revisions to the last paragraph to make it clear that the agency has discretion to use the requisition procedure. Requiring requisitions for items with defined purchases was not based on business or process decisions and thus seemed unnecessarily restrictive.

Mr. Perry stated that these changes simplify the process for these transactions and eliminates a non-value added step in the ERP system.

Seeing no additional discussion, Mr. Lea made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office*, Section 5.4.7, Exceptions from Requisitions for Purchase – Direct Purchase Order proposal with the changes as discussed to the Procurement Commission for approval. The motion was seconded by Mr. Chriske. All members voted in favor – none opposed.

(3) *Procurement Procedures Manual of the Central Procurement Office*, Section 4.1, Definitions

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office*, Section 4.1, Definitions proposal:

- Since changes were proposed to Section 5.4.7 dealing with Direct Purchase Orders it also became necessary to recommend a change to the definition of “Special Request” under Section 4.1 of the Manual.
- This proposal will redefine “Special Request” to mean “the purchase of goods or services for which a price is not specified within Edison.” There was some confusion about what was meant under the prior definition.

Seeing no discussion, Mr. Lea made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office*, Section 4.1, Definitions proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden. All members voted in favor – none opposed.

(4) Fee for Goods or Services Contract (“FA”) Template, D.18, Limitation of Contractor’s Liability

Mr. Krivacka presented the following points with regard to the Fee for Goods or Services Contract (“FA”) Template, D.18, Limitation of Contractor’s Liability proposal:

- The inclusion of the additional language referencing insurance coverage in Section D.18 is meant to close a potential loophole in coverage in the event that a court deems that damages resulting from a data breach scenario are consequential rather than direct damages. This was brought to our attention by some attorneys with NASPO in discussions with them. Several states had decisions that held that consequential damages include data breaches. If a limitation of liability indicates that the contracted party is only liable for direct damages and is not liable for consequential damages it potentially excludes damages related to data breaches which can be expensive, publicly embarrassing, and can cause harm to the public.
- This proposal would change the limitation of contractor’s liability language to make it clear that consequential damages are covered to the extent that there is insurance coverage.

Mr. Chriske asked if this proposal would allow for recovery of damages in excess of two times the contract amount. Mr. Krivacka responded that there are several changes to language that are being proposed on the agenda for this Advisory Council meeting. In this particular case, for example, if the State has a contractor’s limitation of liability of two times the contract value and we have asked for insurance coverage that exceeds two times the contract limitation of liability, by adopting the various proposed language changes, the State would have coverage above the limitation of liability amount to the extent that there is insurance coverage available. This proposal closes a potential gap in insurance coverage amounts. The Contractors price contemplates the cost of doing business which includes insurance. If the State did not make this change the State would potentially not have the full benefit of the full amount of insurance required by the contract. Mr. Chriske asked if the recovery did exceed two times the liability amount would the CPO would use the Limitation of Liability Request to document that event. Mr. Krivacka indicated that the State would make a claim as an additional insured on the insurance policy.

Seeing no additional discussion, Mr. Lea made a motion to recommend the Fee for Goods or Services Contract (“FA”) Template, D.18, Limitation of Contractor’s Liability proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Chriske. All members voted in favor – none opposed.

(5) Fee for Goods or Services Contract (“FA”) Template, Section D.32, Insurance

(Please see above – this agenda item was presented first)

(6) Fee for Goods or Services Contract ("FA") Template, Optional Section D. #, Professional Liability Insurance

Mr. Krivacka summarized the following points with regard to the Fee for Goods or Services Contract ("FA") Template, Optional Section D. #, Professional Liability Insurance proposal:

This proposal includes the following:

- Revised template language to comport with standard insurance industry verbiage and coverage exclusions.
- Amended language to ensure that purchase of optional tail coverage is a requirement in the event that a claims-made policy were to lapse.
- Revised medical professional policy language to comport with actual possible policy limits.
- Changes that will conform the requirement for professional liability insurance to reflect what is going on in the marketplace.

Mr. Lea asked if this language had been reviewed and proposed by the Director of Risk Management in the CPO office. Mr. Krivacka responded that the proposed changes had been reviewed by the CPO Risk Manager as well as Aon, the State's risk management consultant with the Department of Treasury.

Seeing no discussion, Mr. Hayden made a motion to recommend the Fee for Goods or Services Contract ("FA") Template, Optional Section D. #, Professional Liability Insurance as presented to the Procurement Commission for approval. Mr. Chriske seconded the motion. All members voted in favor – none opposed.

(7) Grant ("GR") Template, Optional Section E. #, Insurance

Mr. Krivacka summarized the following points with regard to the Grant ("GR") Template, Optional Section E. #, Insurance proposal:

- This proposal is to change Section E. #, Special Terms and Conditions, Insurance, of the GR Template to update it and make it consistent with the FA Contract Template.

Mr. Chriske stated that the version of the proposed document that he received contained references to "Contractor" as opposed to "Grantee". Mr. Chriske asked if these changes were to the Grant Template and Mr. Krivacka responded that the proposed changes were for the Grant Template. If needed Mr. Chriske stated that he would be happy to make a motion to replace the references to "Contractor" throughout the document with "Grantee" since this would be used in the Grant Template. Mr. Krivacka took a moment to review the document and agreed that Mr. Chriske was correct. Mr. Krivacka asked if Mr. Chriske would like to make a motion to amend the document to change the references to "Contractor" to "Grantee".

Mr. Chriske made a motion to recommend the Grant ("GR") Template, Optional Section E. #, Insurance, to the Procurement Commission for approval as amended to change all references to "Contractor" to "Grantee" which would align it with the terminology used in the Grant Template.

Mr. Perry restated that there was a motion to recommend agenda item (7) to the Procurement Commission for approval pending correction of all references to "Contractor" to "Grantee". Mr. Lea seconded the motion. All members voted in favor – none opposed.

(8) Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* – Section 10, Debarment and Suspension – NEW

Mr. Krivacka summarized the following points with regard to the Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* – Section 10, Debarment and Suspension – NEW proposal:

- This proposal adds Debarment and Suspension language to the CPO's Grant Policy, which will notify parties that Debarment and Suspension language is required in all State contracts and grants by Tenn. Comp. R. & Regs. 0690-03-01-.17 (2) (t).

Mr. Lea asked if the debarment and suspension language in agenda items (9) and (10) was similar to the language in agenda item (8). Mr. Krivacka responded that the language was similar in all three agenda items. Mr. Lea asked if perhaps all three agenda items could be considered together for efficiency sake since the language is similar.

Mr. Perry stated that Mr. Lea's suggestion was a good idea and asked Mr. Krivacka to please continue with presenting agenda items (9) and (10) and one vote could be taken on all three items together.

(9) Grant ("GR") and Governmental Grant ("GG") Templates, Section D. 34, Debarment and Suspension - NEW

Mr. Krivacka summarized the following points with regard to the Grant ("GR") and Governmental Grant ("GG") Templates, Section D. 34, Debarment and Suspension - NEW proposal:

- This proposal will add the Debarment and Suspension provision currently in the FA Template to all GR and GG contracts.

(10) Endowment Grant ("GE") Model, Section D.28 – Debarment and Suspension - NEW

Mr. Krivacka summarized the following points with regard to the Endowment Grant ("GE") Model, Section D.28 – Debarment and Suspension - NEW proposal:

- This proposal will add the Debarment and Suspension provision currently in the FA Template to Endowment Grant Model.

Mr. Krivacka indicated that both of these forms of grants would include debarment and suspension language to advise the Grantee that if they had ever been debarred or suspended or could not certify to all the requirements listed in the provision they would be ineligible for a grant award.

Mr. Perry asked Mr. Lea to make his motion to consider approval of agenda items (8), (9), and (10) together. Based on the explanation that Mr. Krivacka provided regarding changes to the debarment language Mr. Lea made a motion to recommend agenda items (8), (9), and (10) to the Procurement Commission for approval as presented. Mr. Chriske seconded the motion. All members voted in favor – none opposed.

(11) Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance

Mr. Krivacka summarized the following points with regard to the Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance proposal:

- The current language incorrectly refers to FERPA as the “Federal Educational Rights and Privacy Act” and it should instead be the “Family Educational Rights and Privacy Act.” This proposal is to correct that language in Optional Section E. # Provisions.
- The Procurement Commission permitted removal of indemnification language in the Interagency Agreement model at its previous meeting. This proposal is to remove all indemnification language from the GG template.
- This proposal will remove all indemnification and hold harmless language in both the Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act clause and the Rule 2 Compliance provision. The long-standing opinion of the Attorney General has been that local governmental counterparties do not have the authority under the Tennessee Constitution to indemnify and hold harmless counterparties including the State of Tennessee. Oftentimes the State could be asking for requirements from local governmental entities that these local governmental entities cannot comply with, which results in problematic negotiations. In reviewing this language, it was determined that the better policy would be to remove the indemnification and hold harmless provisions in this document.

Seeing no discussion, Mr. Lea made a motion to recommend the Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance as presented to the Procurement Commission for approval. Ms. Summer Carr, Assistant General Counsel, Department of Economic and Community Development, seconded the motion. All members voted in favor – none opposed.

(12) GR and GG Templates and IG and GE Models, Optional Section E. # Provisions, Incorporation of Required Clauses for Federal Awards - NEW

Mr. Krivacka summarized the following points with regard to the GR and GG Templates and IG and GE Models, Optional Section E. # Provisions, Incorporation of Required Clauses for Federal Awards - NEW proposal:

- The Office of Management and Budget regulations within the *Uniform Administrative Requirements, Cost Principles, and Audit requirements for Federal Awards* ("Uniform Guidance") are the rules that govern non-federal entities' procurement, use, and compliance as a condition for receiving federal awards. On December 26, 2017, the procurement rules (2 C.F.R. §§ 200.317 to 200.326) came into effect and apply to all non-Federal entities that utilize federal grant funds under a federally funded program.
- One such rule change (2 C.F.R. § 200.326) mandates acceptance of certain federal acts, which are listed in Appendix II to Part 200. Grantees are now required to comply with these provisions in all grant contracts. More importantly they are also required to comply with them in various other contracts for goods and services as a condition to receive federal funds. This proposal deals with Grant contracts and it is expected that if money is granted to a non-Federal entity, that money then has certain requirements when it is used to buy goods or services on behalf of the non-Federal entity. These proposed clauses and changes will push down certain requirements.
- This proposal will add the following language incorporating the following clauses:
 - Equal Opportunity Clause
 - Federal Equal Opportunity Clause for Federally Assisted Construction Contracts
 - Davis-Bacon and Copeland Anti-Kickback Act
 - Contract Work Hours and Safety Standard Act
- These rules are all set forth in the Code of Federal Regulations and this proposal will add language that will adopt those by reference.

Seeing no discussion, Mr. Hayden made a motion to recommend the GR and GG Templates and IG and GE Models, Optional Section E. # Provisions, Incorporation of Required Clauses for Federal Awards - NEW as presented to the Procurement Commission for approval. Mr. Lea seconded the motion. All members voted in favor – none opposed.

(13) Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*, Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R §§ 200.317 to 200.326

Mr. Krivacka summarized the following points with regard to the Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*, Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R §§ 200.317 to 200.326 proposal:

- This proposal will add the following paragraph under Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R. §§ 200.317 to 200.326:

"For any contracts that include any federal grant funds, all non-Federal entities receiving such grant funds must comply with all requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards including, but not limited to the Procurement Standards at 2 C.F.R. §§ 200.317 to 200.326."
- In essence that requires a non-Federal entity looking to spend grant funds in excess of \$150,000 to meet certain requirements. Those requirements generally include some level of competition and some level of sole source determination, which is very similar

to how State government awards contracts, albeit, with different dollar thresholds. These requirements would be pushed down to Grantees.

Mr. Lea stated that there was some healthy discussion of this item by the CPO Policy Review Subcommittee and various agencies that have a high volume of grants. There was initially some level of concern about the language that requires competitive procurements on grants because in some cases there is a real struggle to find providers of various services delivered to the public. Mr. Lea continued that the language that was ultimately adopted alleviated the initial concerns of the agencies. Oftentimes the State will take all providers that meet minimum standards and, in essence, the minimum standards qualify as the competitive benchmark. For the record Mr. Lea wanted to make the Advisory Council aware of the healthy debate and education that occurred at the agency level. Mr. Krivacka stated that he reviewed the Code of Federal Regulations as to what is required by these changes. In reality, this proposal is a change to merely adopt the Code of Federal Regulations. In practice if a non-Federal entity such as the Department of Transportation ("TDOT") is using grant funds to purchase goods or services, then TDOT would have to follow State law with respect to procurements. With respect to a Grantee who is a non-Federal entity and a non-Tennessee entity, they would have to follow the Code of Federal Regulation at a minimum. In most cases Tennessee municipalities, counties, and others have more stringent requirements than what the federal government requires because their threshold is lower than \$150,000. With regard to the discussion about whether the Code of Federal Regulations requires the State to competitively award Grants, Mr. Krivacka stated that it does not. It relates to the goods or services that are procured with the Grant funds. The State's long-standing policy to encourage the competitive award of Grants is still in effect and will not be changed by this proposed policy change.

Seeing no additional discussion, Mr. Lea made a motion to recommend the Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*, Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R §§ 200.317 to 200.326 as presented to the Procurement Commission for approval. Ms. Carr seconded the motion. All members voted in favor – none opposed.

V. Other Business: Mr. Perry asked if there was any other business to be brought before the Council and saw none.

VI. Adjournment: Seeing no other business, a motion for adjournment was made by Mr. Hayden and seconded by Mr. Chriske. All members voted in favor – none opposed; whereupon the January 29, 2018 Advisory Council meeting was adjourned.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 8, PROTEST AND STAY OF
AWARD

REDLINE VERSION

REQUEST: Revise section 8. of the *Procurement Procedures Manual of the Central Procurement Office* as follows.

8. Protest and Stay of Award.

8.1. *Protest/Stay of Contract Award received by the CPO.*

Confirm statutory protest requirements have been met:

- The protesting party has filed a signed protest and bond within seven (7) calendar days after the earlier of the notice of the award or the intent to award the contract is issued. ~~protesting party knows or should have known of the facts giving rise to the protest.~~
- Review form of bond and insure that it is: at least five percent (5%) of the lowest of the lowest bid or cost proposal evaluated; five percent (5%) of the maximum liability or estimated maximum liability provided in the solicitation; five percent (5%) of the estimated maximum revenue, if the solicitation, award or proposed award is for a contract in which the state receives revenue; or for no-cost contracts, an amount to be determined by the chief procurement officer~~response~~; or
- The protesting party has made a timely request for bond waiver that meets all statutory requirements.

Upon receipt of a protest of a solicitation, award, or proposed award of a contract, and a protest bond, a stay of the solicitation, award, or proposed award shall be in effect until the protest is resolved as provided under Tenn. Code Ann. § 12-3-514. ~~Respondents who have protested may also submit to the CPO a petition for stay of award. A stay should be routinely granted unless declining to do so is necessary to protect substantial interests of the state to proceed with the award— if so, protest committee must approve denial of stay request.~~

8.2. *Confirm Receipt of Protest/Stay of Contract Award.*

Send letter to protesting party acknowledging receipt of protest.

8.3. *Preparation of Protest Binders/Delivery to Central Procurement Office.*

8.3.1. Protest Binder.

The Central Procurement Office or State Agency shall prepare five (5) protest binders that include the following items:

- Cover Page.
- Index - with tabs identified, for easy reference.
- Timeline of Relevant Events.
- Letter of Protest with Bond or Bond Exemption.
- Letter to Protester by CPO acknowledging receipt of protest.
- Agency Response to the Protest (submitted to the CPO addressing the issues raised by the Protest).
- Solicitation with Amendments.
- Technical & Cost Proposal submitted by the Best Evaluated Proposer.
- Technical response and cost proposals submitted by the protesting party.
- Evaluation notice with summary score matrix.
- Evaluator score sheets.
- Correspondence or communications log (as applicable).
- Any other documents that are part of the procurement file that solicitation coordinator feels are pertinent to the protest.

8.3.2. Position Statements.

- Invite the Intended Awardee to submit a Position Statement in response to the Protest.
- The State Agency or any respondent to the solicitation shall be allowed ten (10) calendar days from receiving notice to file a written response to a protest.

8.3.3. Protesting Party's Reply.

The Protesting party shall have five (5) calendar days to respond to the position statement of the agency and any respondent. The reply may not raise any new protest grounds.

8.3.4. Schedule and Notice of Protest Hearing.

- Ask the solicitation coordinator to provide a list of interested parties that should be notified of the Protest Hearing date and time.
- Include the names, title, and email address of such individuals.
- Confirm Invite List – e.g., all respondents, State Agency contacts and appropriate staff of the Central Procurement Office.
- Considerations for timing of protest hearing: current contract end date, will out of town respondents be attending, etc.
- Notify all interested parties of hearing date, time, and location.

8.3.5. Protest Hearing Decision Letter.

A protest is resolved and subject to review by the Protest Committee when the Chief Procurement Officer or his or her designee has sent a written notice of decision. The Chief Procurement Officer has sixty (60) days to resolve a protest. A protest not resolved within sixty (60) days is deemed denied on the 60th day after the protest is filed. The protesting party, in such event, has seven (7) days to appeal the deemed denial of his or her appeal to the Protest Committee.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 8, PROTEST AND STAY OF
AWARD

CLEAN VERSION

REQUEST: Revise section 8. of the *Procurement Procedures Manual of the Central Procurement Office* as follows.

8. Protest and Stay of Award.

8.1. *Protest/Stay of Contract Award received by the CPO.*

Confirm statutory protest requirements have been met:

- The protesting party has filed a signed protest and bond within seven (7) calendar days after the earlier of the notice of the award or the intent to award the contract is issued.
- Review form of bond and insure that it is: at least five percent (5%) of the lowest bid or cost proposal evaluated; five percent (5%) of the maximum liability or estimated maximum liability provided in the solicitation; five percent (5%) of the estimated maximum revenue, if the solicitation, award or proposed award is for a contract in which the state receives revenue; or for no-cost contracts, an amount to be determined by the chief procurement officer; or
- The protesting party has made a timely request for bond waiver that meets all statutory requirements.

Upon receipt of a protest of a solicitation, award, or proposed award of a contract, and a protest bond, a stay of the solicitation, award, or proposed award shall be in effect until the protest is resolved as provided under Tenn. Code Ann. § 12-3-514.

8.2. *Confirm Receipt of Protest/Stay of Contract Award.*

Send letter to protesting party acknowledging receipt of protest.

8.3. *Preparation of Protest Binders/Delivery to Central Procurement Office.*

8.3.1. *Protest Binder.*

The Central Procurement Office or State Agency shall prepare five (5) protest binders that include the following items:

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- Technical response and cost proposals submitted by the protesting party.
- Evaluation notice with summary score matrix.
- Evaluator score sheets.
- Correspondence or communications log (as applicable).
- Any other documents that are part of the procurement file that solicitation coordinator feels are pertinent to the protest.

8.3.2. Position Statements.

- Invite the Intended Awardee to submit a Position Statement in response to the Protest.
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8.3.3. Protesting Party's Reply.

The Protesting party shall have five (5) calendar days to respond to the position statement of the agency and any respondent. The reply may not raise any new protest grounds.

8.3.4. Schedule and Notice of Protest Hearing.

- Ask the solicitation coordinator to provide a list of interested parties that should be notified of the Protest Hearing date and time.
- Include the names, title, and email address of such individuals.
- Confirm Invite List – e.g., all respondents, State Agency contacts and appropriate staff of the Central Procurement Office.
- Considerations for timing of protest hearing: current contract end date, will out of town respondents be attending, etc.
- Notify all interested parties of hearing date, time, and location.

8.3.5. Protest Hearing Decision Letter.

A protest is resolved and subject to review by the Protest Committee when the Chief Procurement Officer or his or her designee has sent a written notice of decision. The Chief Procurement Officer has sixty (60) days to resolve a protest. A protest not resolved within sixty (60) days is deemed denied on the 60th day after the protest is filed. The protesting party, in such event, has seven (7) days to appeal the deemed denial of his or her appeal to the Protest Committee.

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2013-008 - *ENERGY
EFFICIENCY STANDARDS AND LIFE
CYCLE COSTING POLICY AND
PROCEDURES***

REDLINE VERSION

Policy Number 2013-008
Central Procurement Office
Energy Efficiency Standards and Life Cycle Costing
Policy and Procedures

Effective: May 28, 2013

Prepared by: The Central Procurement Office of the State of Tennessee

1. Purpose.

To establish a process by which ~~commodities and products~~goods shall be procured by the State in accordance with Federal and State energy efficiency regulations.

2. Scope.

These policies and procedures apply to all procurements, contract awards, and amendments by which products with energy efficiency standards apply.

3. Definitions.

For purposes of this policy, the following terms shall have the meanings described below:

“Energy Efficient Products” means those products that meet or exceed applicable Energy Efficiency Standards.

“Energy Efficiency Standards”- means a performance standard which prescribes the relationship of the energy use of a product to its useful output of services, shall have the meanings set forth in Tenn. Code Ann. § 12-3-~~603902~~(13).

“Procurement” means the act of buying, purchasing, renting, leasing, or otherwise acquiring any goods or services covered by these ~~Rules~~ Rules of the Department of General Services Central Procurement Office. It also includes all functions that pertain to the obtaining of any goods or service, including the description of requirements, selection and solicitation of sources, preparation and award of a contract, and all phases of contract administration.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

4. Energy Efficiency Standards.

4.1. Description of Energy Efficiency Standards.

Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that has established energy efficiency standards that are used by the Federal government when Contracting for major energy-consuming products, as well as best practices regarding energy efficiency.

4.2. *Conditions of Use for Energy Efficient Products*

Life cycle costs of commodities as developed and disseminated by the Federal government that are purchased by the state or its political subdivisions shall meet established energy efficiency standards where feasible.

Where Federal energy efficiency standards are established, life cycle costs shall be used by the State in Contracting for major energy consuming products. In determining life cycle costs, the acquisition cost of the product, product performance, cost of operation, energy consumption, projected cost of energy over the useful life of the product and the anticipated resale or salvage value of the product may all be utilized to develop specifications and in the evaluation of bids received to determine total cost. Pursuant to T. C. A. § 12-3-~~9605~~, State of Tennessee agencies shall use energy efficiency standards prescribed by Energy Star for the purchase of energy consuming products. In particular, all office equipment, appliances, lighting and heating and cooling products and systems purchased by and for state agencies shall be Energy Star qualified; provided, that such Energy Star qualified products and systems are commercially available.

The Energy Star website (<http://www.energystar.gov>) provides a qualified list of ~~products and commodities~~goods meeting Energy Star's minimal energy usage specifications, life cycle costing calculations, life cycle cost formula information and qualified products that meet Energy Star's rating for energy consumption and sustainability. The Energy Star rating can be found on products in more than 40 product categories. Only brands and models provided on the Energy Star website's list of qualified products and commodities may be used as "acceptable brands and models" on ~~bid~~solicitation documents.

The minimal energy specifications for ~~products and commodities~~goods listed on the Energy Star Qualified Products List may be included in the line item specifications on ~~bid~~solicitation documents for the purchase of major energy consuming products.

Related Statutes, Rules and Policies

T. C. A. § 12-3-~~9601~~, *et seq.*

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2013-008 - *ENERGY
EFFICIENCY STANDARDS AND LIFE
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These policies and procedures apply to all procurements, contract awards, and amendments by which products with energy efficiency standards apply.

3. Definitions.

For purposes of this policy, the following terms shall have the meanings described below:

“Energy Efficient Products” means those products that meet or exceed applicable Energy Efficiency Standards.

“Energy Efficiency Standard” means a performance standard which prescribes the relationship of the energy use of a product to its useful output of services, as set forth in Tenn. Code Ann. § 12-3-902(1) .

“Procurement” means the act of buying, purchasing, renting, leasing, or otherwise acquiring any goods or services covered by the Rules of the Department of General Services Central Procurement Office. It also includes all functions that pertain to the obtaining of any goods or service, including the description of requirements, selection and solicitation of sources, preparation and award of a contract, and all phases of contract administration.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

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Where Federal energy efficiency standards are established, life cycle costs shall be used by the State in Contracting for major energy consuming products. In determining life cycle costs, the acquisition cost of the product, product performance, cost of operation, energy consumption, projected cost of energy over the useful life of the product and the anticipated resale or salvage value of the product may all be utilized to develop specifications and in the evaluation of bids received to determine total cost. Pursuant to T. C. A. § 12-3-905, State of Tennessee agencies shall use energy efficiency standards prescribed by Energy Star for the purchase of energy consuming products. In particular, all office equipment, appliances, lighting and heating and cooling products and systems purchased by and for state agencies shall be Energy Star qualified; provided, that such Energy Star qualified products and systems are commercially available.

The Energy Star website (<http://www.energystar.gov>) provides a qualified list of goods meeting Energy Star's minimal energy usage specifications, life cycle costing calculations, life cycle cost formula information and qualified products that meet Energy Star's rating for energy consumption and sustainability. The Energy Star rating can be found on products in more than 40 product categories. Only brands and models provided on the Energy Star website's list of qualified products and commodities may be used as "acceptable brands and models" on solicitation documents.

The minimal energy specifications for goods listed on the Energy Star Qualified Products List may be included in the line item specifications on solicitation documents for the purchase of major energy consuming products.

Related Statutes, Rules and Policies

T. C. A. § 12-3-901, *et seq.*

**RULE EXCEPTION REQUEST (“RER”)
TEMPLATE**

REDLINE VERSION

Request: Revise the Rule Exception Request ("RER") as follows:

Rule Exception Request

Use this document to request The Rule Exception Request is used to request changes to Central Procurement Office templates, policies, or other procurement documents or to modify the "necessary contract clauses" identified in Tenn. Comp. R. & Reg. 0690-03-01-.17 ("CPO Rule 17"). Please refer to CPO Rule 17 available online at the following: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library> Complete this document in conformity with CPO Rule 17, which is available here. Send the completed document in PDF format to: Agsprrs.Agsprs@tn.gov The following information should be submitted and routed for approvals in Edison. All Rule Exception Requests are subject to review and approval by the Chief Procurement Officer. Rule Exception Requests that propose to modify any of CPO Rule 17's necessary contract clauses shall be subject to review and approval by the Comptroller of the Treasury. Note: Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using the Limitation of Contractor's Liability Request.

APPROVED
<hr/> CHIEF PROCUREMENT OFFICER

APPROVED
<hr/> COMPTROLLER OF THE TREASURY

Agency request tracking #	
1. Procuring Agency	
2. Edison contract ID #	
3. Please select contract type	<input type="checkbox"/> Grant Contract <input type="checkbox"/> Contract – Technology (for contracts involving technology) <input type="checkbox"/> Contract – Risk Management (e.g. for changes to insurance or indemnification) <input type="checkbox"/> Contract – Agency Term Contract or Statewide Contract (use for non-technology contracts for goods or services)
3.4. Contractor or Grantee	
4.5. Contract's Effective Date	
5.6. Contract or grant contract's Term (with ALL options to extend exercised)	months
6.7. Contract's Maximum Liability or Estimated Liability (with ALL options to extend exercised)	\$
7.8. Citation and explanation of the rule(s) for which the exception is requested	
8.9. Description of requested changes If adding new provisions or modifying existing provisions, insert the new or modified provisions in their entirety. Please provide red-lines or track changes to highlight any deviations from template language.	
9.10. Justification	
Signature of Agency head or designee and date	



**RULE EXCEPTION REQUEST
TEMPLATE (“RER”)**

CLEAN VERSION

Request: Revise the Rule Exception Request ("RER") as follows:

Rule Exception Request

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<https://www.tn.gov/generalservices/procurement/central-procurement-office-cpo-library>. The following information should be submitted and routed for approvals in Edison. All Rule Exception Requests are subject to review and approval by the Chief Procurement Officer. Rule Exception Requests that propose to modify any of CPO Rule 17's necessary contract clauses shall be subject to review and approval by the Comptroller of the Treasury. Note: Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using the Limitation of Contractor's Liability Request.

<p>APPROVED</p> <hr/> <p>CHIEF PROCUREMENT OFFICER</p>	<p>APPROVED</p> <hr/> <p>COMPTROLLER OF THE TREASURY</p>
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Agency request tracking #	
1. Procuring Agency	
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3. Please select contract type	<input type="checkbox"/> Grant Contract <input type="checkbox"/> Contract – Technology (for contracts involving technology) <input type="checkbox"/> Contract – Risk Management (e.g., for changes to insurance or indemnification) <input type="checkbox"/> Contract – Agency Term Contract or Statewide Contract (use for non-technology contracts for goods or services)
4. Contractor or Grantee	
5. Contract's Effective Date	
6. Contract or grant contract's Term (with ALL options to extend exercised)	months
7. Contract's Maximum Liability or Estimated Liability (with ALL options to extend exercised)	\$
8. Citation and explanation of the rule(s) for which the exception is requested	
9. Description of requested changes If adding new provisions or modifying existing provisions, insert the new or modified provisions in their entirety. Please provide red-lines or track changes to highlight any deviations from template language.	
10. Justification	
Signature of Agency head or designee and date	

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 11.2, GENERAL
INFORMATION

REDLINE VERSION

REQUEST: Revise the *Procurement Procedures Manual* at section 11.2 as follows:

- **APPROVAL REQUESTS**

- Click-wrap Approval Request
- Amendment Request
- Contract Termination Request
- eHealth Pre-Approval Endorsement Request (for service involving Medical/Mental Health-Related Professional, Pharmaceutical, Laboratory or Imaging)
- HR Pre-Approval Endorsement Request (for service involving State Employee Training, except that pursuant to an IT system contract, service relating to the employment of current or prospective State employees)
- Limitation of Liability Request
- STS Pre-Approval Endorsement Request (for service involving Information Technology)
- Rule Exception Request (Deviations from template language that are not specifically permitted by relevant regulations or instructions require an approved written exception.) ~~The properly completed request must be signed and dated by the contracting agency head (or authorized signatory) and submitted to the CPO. If approved, the CPO will return the documentation that contracting staff must later submit along with procurement documents for approval)~~
- Rule Exception Request for the DA or DG Templates
- Solicitation Cancellation Request
- Special Contract Request
- Liquidated Damages Request

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 11.2, GENERAL
INFORMATION

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- STS Pre-Approval Endorsement Request (for service involving Information Technology)
- Rule Exception Request (Deviations from template language that are not specifically permitted by relevant regulations or instructions require an approved written exception.)
- Rule Exception Request for the DA or DG Templates
- Solicitation Cancellation Request
- Special Contract Request
- Liquidated Damages Request

CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2015-010 -
STATEWIDE PURCHASING CARD
POLICY AND PROCEDURES

REDLINE VERSION

Policy Number 2015-010
Central Procurement Office
Statewide Purchasing Card Policy and Procedures

Revised: ~~December 14, 2017~~ April 25, 2018

Prepared by: The Central Procurement Office of the State of Tennessee

1. PROGRAM OVERVIEW.

The State of Tennessee Purchasing Card Program streamlines the State's payment process for goods and services by eliminating the administrative burdens and costs associated with the State's traditional payment methods. The Program's objective is to simplify the documentation necessary for State Agency purchases by placing P-Cards in the hands of Cardholders.

Cardholders may use the P-Card to purchase the types of goods and services subject to this Policy. Personal purchases are prohibited and all rules, policies, and procedures of the Central Procurement Office applicable to the procurement of goods and services must be followed unless exempt.

2. DEFINITIONS.

"Agency Term Contract" means a State Agency contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price or prices.

"Bank" means the entity issuing the State's P-Card or any of its subsidiaries as the context may require.

"Cardholder" means the State Agency employee who is issued a physical P-Card to initiate payments on behalf of the State.

"Cardholder Agreement" means the document signed by the Cardholder to verify that he or she completed P-Card training, received a copy of and understands this Policy.

"Cardholder Application" means the application completed by the Cardholder that is approved by the Cardholder Supervisor and the State Agency P-Card Program Coordinator that is required before a P-Card Account will be assigned to a Cardholder.

"Cardholder Supervisor" means the State Agency employee with supervisory authority over the Cardholder.

"Central Fiscal Office P-Card" means the P-Card assigned to a Cardholder with a Single Transaction Limit of up to fifty thousand dollars (\$50,000).

"Central Procurement Office" or "CPO" means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

"Cycle (Credit) Limit" means the spending limit that restricts the total value of purchases a Cardholder can make in one billing cycle.

“Fiscal Director” means that State Agency employee, regardless of his or her particular title, who serves as the Agency’s chief financial officer.

“Merchant Category Codes” or “MCCs” means the specific Merchant Category Code, assigned by an acquiring financial institution, that identifies the primary goods or services a supplier provides.

“Online Banking Program” means the Bank’s online portal that provides Cardholders, State Agency P-Card Program Coordinators, and the Statewide P-Card Program Administration Team the ability to view and download statement information, update and manage accounts, set limits and permissions, reset passwords, and process Cardholder requests.

“P-Card Account” means the unique account number assigned to a Cardholder as determined by the Bank.

“P-Card Program” means the program established by the State and managed by the Central Procurement Office whereby Cardholders and Virtual P-Card Users make purchases on behalf of the State of Tennessee.

“Purchasing Card” or “P-Card” means a commercial card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for goods or services. A P-Card is similar to a consumer credit card, but the card-using organization must pay the card issuer in full each month. In this Policy, the term “Purchasing Card” or “P-Card” shall also include “Virtual Purchasing Cards” or “Virtual P-Cards” as the context requires.

“Purchasing Card Profile” means the unique profile associated with a Cardholder that contains monetary or MCC limits on the Cardholder’s ability to make purchases on behalf of the State.

“Single Transaction Limit” or “STL” means the maximum dollar limit, per purchase transaction, that can be assigned to the physical P-Card. The STL is assigned per Cardholder at the discretion of the Fiscal Director. This Policy establishes the STL for the designated State Agency Central Fiscal Office P-Card as up to fifty thousand dollars (\$50,000) and for all other physical P-Cards as up to ten thousand dollars (\$10,000) without Statewide P-Card Program Administrator approval.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” means the departments, agencies, and entities of the State of Tennessee other than units of the University of Tennessee or Board of Regents systems.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Approver” means the State Agency Employee who approves P-Card or Virtual P-Card Transactions.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Reconciler” means the State Agency employee responsible for all the functions associated with post-purchase processing P-Card Transactions including account allocation and providing a business purpose when required.

“Statewide Contract” means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education and authorized not-for-profit entities.

“Statewide P-Card Program Administration Team” means the team within the Central Procurement Office that is responsible for overseeing the P-Card Program.

“Statewide P-Card Program Administrator” means the employee within the Central Procurement Office who is responsible for managing and overseeing the P-Card Program.

“Supplier” means a person or legal entity with the legal capacity to enter into contracts and sue and be sued who provides goods or services to the State through a contract or a purchase order.

“Transaction” means the purchase of goods or services through use of a P-Card or Virtual P-Card.

“Virtual Purchasing Card” or “Virtual P-Card” means the unique credit card account number, embedded within Edison, which is assigned to a State Agency for payment of suppliers authorized to accept P-Card as the form of payment for approved Edison purchase orders.

“Virtual P-Card User” or “User” means the State Agency employee who has a buyer or e-procurement role in Edison, has undergone training on reconciliation, and is authorized to use a Virtual P-Card to initiate payment transactions on behalf of the State.

3. TYPES OF ACCOUNTS.

This Policy recognizes two general account types: P-Card Accounts and Virtual P-Card accounts. P-Card Accounts and Virtual P-Card accounts can be used only for official State business as set forth in this Policy. P-Cards must be surrendered or Virtual P-Card account’s access cancelled upon the Cardholder’s transfer to another State Agency, separation from state employment, or upon demand by the Cardholder Supervisor, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.

3.1. P-Card Accounts.

P-Card accounts are those that involve the issuance of a P-Card Account to an individual Cardholder to further the official business of the State. Cardholders are limited to one active physical P-Card.

3.2. Virtual P-Cards.

Virtual P-Cards are cardless accounts that allow State Agencies to pay for approved, Edison purchase order transactions initiated by Virtual P-Card Users. The account number is "embedded" in the Edison P-Card module and is securely transmitted to the Supplier upon Edison-based approval of a User's purchase order transactions. A Virtual P-Card may be used for payments to any Supplier that is registered in the State's supplier registration system whose payment method has been activated to "P-Card" in Edison. Virtual P-Cards are encouraged because Virtual P-Card accounts allow for greater ease of use (multiple buyers can leverage the same payment device), as well as enhanced control through absence of a physical card and spending limits. The State Agency P-Card Coordinator should contact the Statewide P-Card Program Administrator for more information on Virtual P-Cards.

The ten thousand dollar (\$10,000) STL that applies to all physical P-Cards does not apply to Virtual P-Cards or Central Fiscal Office P-Cards; the maximum STL for a Central Fiscal Office P-Card is fifty thousand dollars (\$50,000) and there is no STL for purchases made with a Virtual P-Card. The Bank determines the Cycle Limit for Virtual P-Cards. Each State Agency or department is limited to one (1) Virtual P-Card Account.

4. OVERVIEW OF P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

The CPO is the State Agency that is primarily responsible for managing, overseeing, and coordinating the P-Card Program. The Statewide P-Card Program Administrator is the employee within the CPO who has the direct, day-to-day responsibility for managing, overseeing, and coordinating the P-Card Program between the CPO and State Agencies. The State Agency P-Card Coordinator is the employee within each State Agency who has been appointed to supervise Cardholders and manage and coordinate the P-Card Program within his or her State Agency in compliance with this Policy. The Cardholder Supervisor is the State Agency employee with supervisory authority over the Cardholder who ensures that transactions are properly reconciled and reported to the Department of Finance and Administration ("F&A"), Division of Accounts. State Agency Reconcilers are the employees within a State Agency who are responsible for reconciling P-Card transactions. The State Agency Approver is the employee within the State Agency who approves P-Card Transactions. The Cardholder is the specially-trained employee within a State Agency responsible for purchasing goods or services on behalf of the State of Tennessee using a physical P-Card. In the interests of segregating duties and responsibilities, State Agency Reconcilers shall not be Cardholders.

5. P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

5.1. P-Card Processing Cycle Overview.

The typical cycle for P-Card usage is:

- An individual Cardholder, with State Agency approved spending limits, initiates a purchase using a P-Card;

- The individual Cardholder retains an original, legible copy of the purchase's receipt for use in reconciliation (see Section 10.2 for more information on receipts);
- Transactions are typically posted in the Edison P-Card module within 24-72 hours after the purchase is made;
- The Cardholder will log into the Edison P-Card module on a weekly basis to review transactions and account coding and take necessary action to correct errors in the purchase details;
- The Cardholder or his or her State Agency Approver confirms or disputes Transactions posted to the card account;
- The credit line is replenished for the amount of the Transactions;
- The Cardholder will receive a monthly Bank statement ;
- The Bank statement and receipts will be sent to the State Agency Reconciler for final reconciliation;
- The State Agency Reconciler will reconcile all Transactions in accordance with this Policy or their State Agency's internal P-Card Procedures, as applicable; and
- The State Agency Reconciler prepares all documentation for retention.

5.2. Statewide P-Card Program Administrator.

The Statewide P-Card Program Administrator serves as the primary point-of-contact in the CPO for the P-Card Program. The Statewide P-Card Program Administrator's role, duties and responsibilities include:

- Establishing written internal procedures to ensure compliance with state procurement statutes, rules, policies and procedures, including this Policy, and reviewing each State Agency's internal P-Card Procedures, as applicable;
- Developing written internal procedures for requesting exceptions to either state or internal policy requirements;
- Ensuring that State Agency Transactions are reviewed at least annually;
- Developing State Agency specific training for all Cardholders, State Agency Approvers, State Agency Reconcilers, and State Agency Supervisors;
- Developing appropriate refresher training to be delivered at least annually; and
- Notifying State Agency P-Card Program Coordinators of changes in state rules, policies or procedures.

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within five (5) business days of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Completing training through the Statewide P-Card Program Administration Team;
- Signing the State Agency P-Card Program Coordinator designation form;
- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card Procedures to address policy areas unique to the State Agency or that are not covered by this Policy, as applicable;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the chart of accounts at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or the Online Banking Program, as appropriate.

5.4. Cardholder Supervisors.

The Cardholder Supervisor responsible for supervising Cardholders must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities include:

- Before approving the P-Card transactions, either by signing a transaction log or statement or signing off on transactions electronically, carefully reviewing all documentation to ensure that all documentation meets the minimum requirements as set forth in this Policy;
- Approving or rejecting all Transactions within the scheduled timeframe;
- Ensuring that all documentation is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Maintaining knowledge of this Policy and State Agency's internal P-Card Procedures, as applicable; and
- Requesting reasonable spending limits in accordance with this Policy and State Agency's internal P-Card Procedures, as applicable.

5.5. State Agency Reconciler.

The State Agency Reconciler is the State Agency employee responsible for all the functions associated with post-purchase processing of P-Card Transactions including account allocation and providing a business purpose when required. A Reconciler CANNOT make purchases using the P-Card belonging to a Cardholder for whom he or she reconciles.

5.6. State Agency Approver.

The State Agency Approver is the State Agency employee who approves purchases made by the Cardholder to which he or she is assigned. This role may also be performed by the Cardholder Supervisor. By approving each P-Card transaction, the Approver exercises critical control by ensuring authorized and appropriate P-Card use and correct allocation of expenses in accordance with related policies of F&A, Division of Accounts. State Agency Approvers should also review receipts where appropriate to ensure compliance with this Policy and F&A, Division of Accounts policies (available online at <http://www.tn.gov/finance/topic/fa-policyinfo>). No Cardholder may approve his or her own P-Card transactions nor may he or she direct someone else to approve P-Card transactions in a manner that could violate this Policy or applicable policies of F&A, Division of Accounts. As a general rule, the State Agency Approver should not report to the Cardholder whose transactions he or she is reviewing. A State Agency Approver has the following responsibilities:

- Review Cardholder transactions to ensure that purchases made were:
 - For the use and benefit of the State of Tennessee;
 - Necessary for the official duties of the agency;
 - Made in accordance with CPO policies and procedures;
 - For goods or services actually received.
- If a State Agency Approver is in doubt about any of the above, the State Agency Approver should immediately question the Cardholder and seek advice from the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.
- Immediately inform the State Agency P-Card Program Coordinator of any misuse, abuse or fraudulent use of a P-Card.
- If the Cardholder is unavailable for questioning, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administration Team may adjust the Cardholder's STL to one dollar (\$1.00). The State Agency Approver shall notify the State Agency P-Card Program Coordinator of Cardholder transfers or terminations. Advanced notice is required if the State Agency Approver is aware of impending personnel actions.
- Review, certify, and forward Cardholder transaction log pages, receipts or cycle statements in accordance with this Policy.

5.7. Cardholders.

An important participant in the P-Card Program is the Cardholder. The Cardholder is a key element in making the P-Card Program successful.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to the Bank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee;
- Reading and becoming familiar with this Policy;

- Attending and passing Cardholder / Approver training course;
- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

5.7.2 Cardholder Misuse.

Each Cardholder is responsible for the purchases made on the P-Card that is assigned to them. Cardholders are required to adhere to applicable CPO rules, policies, procedures, and this Policy.

Use of a P-Card is a privilege based on trust. A Cardholder is trained and understands the penalties for abuse of the P-Card. The P-Card is for official State business use only and the purchase of personal or disallowable goods or services is strictly prohibited. Misuse of the P-Card may result in disciplinary action up to and including termination of employment and prosecution to the extent permitted by law. Cardholders will be required to reimburse the State, including sales tax, for any improper purchases.

5.8. Virtual P-Card Users.

Virtual P-Card Users are critical to the P-Card Program's success. A User has authority to make purchases utilizing his or her Agency's local purchase authority and to make purchases from a Statewide Contract or Agency Term Contract for official State business. State Agency employees with an e-procurement or buyer role in Edison are eligible to be Users. Users must complete training on reconciliation procedures before initiating any Transactions with a Virtual P-Card.

6. P-CARD SECURITY.

The security of each P-Card is the Cardholder's responsibility. Every precaution should be used to protect the account number. The account number should never be left in a conspicuous place.

Use of the P-Card is restricted to the authorized Cardholder whose name appears on the face of the card and may not be loaned to any other person. The account number that appears on the P-Card must not be given to any individual other than the Supplier from whom the Cardholder is making a purchase.

6.1. Lost or Stolen Cards.

If a P-Card is lost, stolen, or the card information has been compromised, the Cardholder must immediately contact the Bank's customer service. Upon such notification, outstanding authorizations will be confirmed and the Bank will cancel the P-Card (further use of the P-Card will be blocked by the Bank). Neither the State nor the Cardholder will be responsible for fraudulent charges made to a promptly reported lost or stolen card.

At the time of the notification, the Bank may request the following information:

Cardholder's name
Account number

Last four digits of SSN
Circumstances surrounding the loss of the card
Any purchase(s) made prior to the card being lost or stolen

The Cardholder must notify his or her State Agency P-Card Program Coordinator of the P-Card's loss or theft and make arrangements to receive a new P-Card. The Cardholder must complete and return an affidavit from the Bank to initiate an investigation, and send a copy of the Bank affidavit to the State Agency P-Card Program Coordinator. The Bank will then issue a new card with a new account number which will be delivered to the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator must report any theft, forgery, or credit card fraud to the office of the Comptroller of the Treasury in accordance with Tenn. Code Ann. § 8-4-119 and to the Statewide P-Card Program Administration Team. To comply with this requirement, the State Agency P-Card Program Coordinator shall send the completed Bank affidavit or an email to Robert.N.Allen@cot.tn.gov and P.Card@tn.gov with the following information: Cardholder's name; last six (6) digits of the Cardholder's account number; and information about the transactions in question (such as the merchants' names, transaction date, and dollar amounts).

6.2. Separation from Employment.

If a Cardholder's separation from employment or transfer to another State position is planned, P-Card use shall be discontinued prior to Cardholder's separation from employment or transfer to allow sufficient time for submission of receipts and processing of outstanding charges before the Cardholder leaves or transfers. In the event of unplanned separation from employment, the Cardholder's P-Card shall immediately be deactivated and the Cardholder shall discontinue P-Card use upon separation from employment.

6.3. Purchasing Rules.

The P-Card is only a vehicle for making purchases. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card.

6.4. Tax Exemption.

Purchases made in Tennessee and for the use and benefit of the State of Tennessee are exempt from Tennessee sales tax. Cardholders should obtain an exemption certificate and present it to each supplier. This form is available on the Department of Revenue web site at <http://www.tn.gov/revenue/forms/sales/index.shtml> in the "Sales and Use Tax Forms - Exemptions" section. Purchases made in other states may be subject to that state's sales tax. The Cardholder must be diligent when dealing with the supplier regarding taxes. If the supplier cannot deduct the sales tax because of pre-set controls within its computer systems or will not honor the exemption, the Cardholder may continue with the purchase but must note the refusal on the receipt. In the event a Cardholder is inappropriately charged for sales tax, he or she shall seek a credit refund of any sales taxes to the P-Card account.

6.5. Credits.

If a Cardholder returns merchandise, a credit should be issued to the Cardholder's P-Card and a credit receipt obtained. Under no circumstances should a Cardholder receive cash or a credit voucher. The Cardholder or State Agency Approver is responsible for reviewing the Online Banking Program to ensure that credits are received and, if not, file the appropriate paperwork for disputed items. Cardholders should avoid Suppliers with restrictive merchandise return policies.

6.6. Disputing Transactions.

If there is a problem with a Transaction, the Cardholder must first attempt to reach a resolution directly with the Supplier. In most cases, disputes can be resolved between the Cardholder and the Supplier. The Supplier will usually issue a credit.

The Cardholder should document all attempts to resolve a problematic Transaction. If the disputed Transaction involves a reservation or order that has been cancelled, the Cardholder is responsible for obtaining a cancellation number. If efforts to resolve the problem with the Supplier are unsuccessful or if a credit does not appear in the Online Banking Program, the Cardholder should file the appropriate dispute paperwork with the Bank and contact his or her State Agency P-Card Program Coordinator.

If a Bank Statement contains a Transaction that needs to be disputed, the Cardholder should contact the Bank's Customer Service to initiate the dispute process, and contact his or her State Agency P-Card Program Coordinator to ensure the disputed transaction has been documented. If the dispute cannot be resolved between the Cardholder and the Bank, the Cardholder shall immediately notify his or her State Agency P-Card Program Coordinator.

6.7. Declined Purchase Transactions.

On occasion, a Cardholder's purchase transaction may be declined. Cardholders should contact the Bank's Customer Service to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance.

Common reasons for declines include:

- MCC is restricted from the Purchasing Card;
- The Cardholders has exceeded the STL, daily limit or monthly limit; or
- Invalid expiration.

7. CARD ISSUANCE AND CANCELLATION.

The State Agency P-Card Program Coordinator is responsible for issuing all P-Cards within his or her Agency. State Agency P-Card Program Coordinators have authority to terminate a Cardholder's status as a Cardholder and cancel P-Cards. The Statewide P-Card Program Administrator should be notified of any P-Card cancellations.

7.1. P-Card Issuance.

Purchasing Cards are issued following:

- Completion of the Cardholder Application;
- Completion and approval of a Cardholder profile;
- Completion of P-Card training; and
- Completion of the Cardholder Agreement.

7.2. P-Card Cancellation.

P-Cards shall be cancelled by the following:

- Cardholder's separation from employment for any reason;
- Cardholder's job status changes such that he or she no longer requires a P-Card;
- Cardholder reports the loss or theft of the P-Card;
- Cardholder misuses the P-Card; or
- Untimely confirming or disputing transactions.

If a P-Card is cancelled, it shall be destroyed. The Statewide P-Card Program Administrator shall be notified of all P-Card cancellations.

8. P-CARD PROGRAM TRAINING.

Cardholder training is critical—all Cardholders must complete training before being issued a P-Card. Training ensures that the Cardholder understands the P-Card Program procedures and this Policy and is aware of potential disciplinary action for P-Card misuse or abuse. Once training is complete, the Cardholder shall sign a Cardholder Agreement as a condition for being issued a P-Card. The Cardholder Agreement is evidence that the Cardholder has received training and a copy of this Policy and the State Agency's internal P-Card Procedures, as applicable. The Statewide P-Card Program Administrator will coordinate Cardholder training with State Agency P-Card Program Coordinators.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of the P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing this Policy, the State Agency's internal P-Card Procedures, as applicable, and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agencies should ensure that the following principles are carried out in their programs:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- Maintain approved, signed documentation for all Cardholders, State Agency Approvers and Cardholder Supervisors;

- Limits on the number of Cardholders assigned to a Cardholder Supervisor or State Agency Approver in order to ensure adequate review of business need and documentation for each Transaction;
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Fiscal Director, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures, as applicable;
 - Cardholder Single Transaction Limit and Cycle (Credit) Limits;
 - Timeliness of monthly reconciliation procedures; and
 - Documentation for Transactions; and
- Protocol for establishing designated State Agency Central Fiscal Office P-Cardholder and any alternate Central Fiscal Office P-Cardholders, including which Central Fiscal Office P-Card is primary and which alternate Central Fiscal Office P-Card is secondary and circumstances (e.g., unavailability of the primary Central Fiscal Office P-Card, etc.) under which an alternate Central Fiscal Office P-Card may be used.

9.2. State Agency P-Card Procedures.

Each State Agency may develop its own internal procedures to carry out the intent and purpose of this Policy and to address unique State Agency complexities or risk factors. If a State Agency chooses not to develop its own internal procedures then the State Agency must follow this Policy and coordinate State Agency Employee roles with the Statewide P-Card Program Administration Team.

9.3. Card Management and Reconciliation Systems.

All Transaction reconciliations will be completed in Edison unless the Central Procurement Office approves an alternate method of reconciliation.

9.4. Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant's principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with suppliers that provide goods or services that are prohibited for purchase using the P-Card.
- Although Transactions at unauthorized MCCs are blocked at the point-of-sale, they are occasionally forced through. These Transactions are subject to audit.
- The CPO's Compliance Team will conduct periodic audits of Transactions with restricted MCC suppliers.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs. A Cardholder's State Agency P-Card Program Coordinator should

ensure that Cardholder profiles permit only those MCC groups that a Cardholder needs to meet his or her job requirements.

State Agencies may request activation of a particular MCC by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

9.5. Cardholder Spending Limits and Utilization.

The State Agency Fiscal Director may establish a Single Transaction Limit (STL) of up to the ten thousand dollar (\$10,000) maximum for Cardholders as he or she determines appropriate taking into account the State Agency's overall needs. Each State Agency Fiscal Director may also establish one (1) designated State Agency Central Fiscal Office P-Card with a STL of up to the fifty thousand dollar (\$50,000) maximum. Each State Agency Fiscal Director may also establish up to two (2) alternate designated State Agency Central Fiscal Office P-Cards with a STL of up to the fifty thousand dollar (\$50,000) maximum. If the transaction amount exceeds ten thousand dollars (\$10,000), then Cardholders and State Agency Fiscal Directors should consult the *Procurement Procedures Manual of the Central Procurement Office* with respect to contract and purchase order requirements and exemptions from contract and purchase order requirements. The State Agency Fiscal Director should also determine the total maximum per Cycle Limit for each Cardholder based on the individual's position and unique purchasing needs, and the State Agency's budget to ensure payment in full monthly.

Imposing spending limits enables management to provide Cardholders with the purchasing power to perform their jobs without exposing the State to unnecessary risk. Spending limits should be based on the Cardholder's job responsibilities. Cardholder spending limits must be reviewed at least annually to determine if actual usage is consistent with spending limits. Increases or decreases to monthly spending limits may be made by the State Agency Fiscal Director as needed for Cardholder Cycle Limits, a single transaction limit of up to ten thousand dollars (\$10,000) for a Cardholder and up to fifty thousand dollars (\$50,000) for a Central Fiscal Office P-Card. Cardholders are prohibited from splitting a single purchase between one or more P-Cards or between a Card transaction and a purchase order to circumvent the STL or CPO rules, policies or procedures. Each State Agency is required to perform a review of spending limits at least annually in order to determine if each Cardholder's spending limit is adequate and appropriate.

9.6. Dormant Cards.

The CPO recommends that State Agencies reduce the Cycle Limit of any P-Card that has not been used within twelve (12) complete cycles to one dollar (\$1). When a P-Card has not been used for some time, the State Agency P-Card Program Coordinator should conduct a review to determine if the Cardholder still needs a P-Card. Each State Agency

is responsible for ensuring that this review is completed at least annually or in accordance with its own internal P-Card Procedures, as applicable.

10. DOCUMENTATION AND ACCOUNTING.

10.1. Documentation.

State Agencies should use Edison for Transaction reconciliation and should handle documentation for reconciliation in accordance with this Policy and State Agency internal P-Card Procedures, as applicable. Any State Agency seeking to use a manual or alternative method for Transaction reconciliation must obtain approval from the Central Procurement Office.

Regardless of the Transaction reconciliation method, Cardholders should provide invoices or receipts for all Transactions. Invoices or receipts shall include:

- The Supplier's name, location, and contact information;
- Line item details, including quantity, description, unit price, and total price; and
- A line showing that the State was not charged for sales tax.

10.2. Receipts.

- It is the Cardholder's responsibility to obtain itemized receipts and any other pertinent backup documentation. Other documentation may include shipping documents and bills of lading. This information will be used by the Agency to validate and reconcile charges.
- For online purchases that do not provide a downloadable receipt, a screen shot of the receipt information can serve as a receipt.
- In lieu of obtaining physical receipts, the Cardholder may also take a picture of the receipt with his or her mobile device and save the receipt electronically.
- If a Cardholder loses a receipt and a duplicate cannot be obtained, the Cardholder should follow his or her State Agency's internal procedures for lost receipts. Cardholders who lose receipts and resort to their Agency's internal procedures for lost receipts more than three (3) times during a fiscal year may have their P-Card privileges suspended.
- The amount on the receipt and the amount of the charge to the Cardholder's P-Card account must match. Any discrepancies in amounts should be resolved with the Supplier and an explanation regarding the resolution should be made on the receipt or other backup documentation. It is not sufficient to change the amount on the receipt only.
- The Cardholder and the Cardholder Supervisor shall document all missing receipts.
- Credits may be processed without a receipt, but the Cardholder must provide an explanation of the credit.

10.3. Reconciliation.

- Cardholders should perform reconciliation in Edison as often as possible or at a minimum on a weekly basis.

- After completing the weekly reconciliation process, the Cardholder must forward signed and dated receipts to his or her State Agency Approver. Dated receipts may be in an electronic format as long as they include an electronic signature and are legible. This should also occur on a weekly basis.

10.4. Allocation to the Chart of Accounts.

Timely allocation of charges to the chart of accounts is essential to ensure compliance with State accounting and budgetary policies. The State Agency must ensure that all transactions are allocated to the chart of accounts before the end of the billing cycle.

10.5. Records Retention Requirements.

The Office of the Secretary of State oversees Tennessee's Records Management Division, the State Agency that provides guidance on disposition, retention, and destruction of state records. Records Disposition Authority (RDA) SW23 applies to all P-Card documents. RDA SW23 requires that State Agencies maintain documents related to P-Card issuance and use for five (5) years and destroy them at the end of the five-year period. P-Card documents may be maintained in either paper or electronic format, so long as the electronic content has been verified for completeness, accuracy, and usability. RDA SW23 is available in its entirety at <http://www.tnsos.net/rmd/rda/index.php>.

10.6. Internal Revenue Service 1099 Reporting.

In 2011, the Internal Revenue Service announced changes to the Internal Revenue Code, Section 6050W, which shifted the burden of payment reporting requirements from the purchaser to the Supplier's bank when the P-Card is the payment method for a reportable transaction. Because of the shift in responsibility, participants in the P-Card Program are no longer required to report total P-Card transactions in excess of six hundred dollars (\$600) with certain Suppliers. Reporting for all other payment methods, including checks, Automated Clearing House, or other means, will remain the responsibility of the State Agency making payment. Cardholders should consult the tax specialists at their State Agency for further information or details regarding Internal Revenue Service 1099 reporting requirements.

11. PROHIBITED PURCHASES AND TRANSACTIONS.

11.1. Prohibited Purchases.

Cardholders are prohibited from using a physical P-Card for the following types of purchases, payments, or transactions:

- Goods or services not directly related to job responsibilities or other official State of Tennessee business, i.e., personal purchases;
- Cash withdrawals, including ATM or debit withdrawals;
- Travel expenses;
- Telephone billings;
- Political publications of any sort;
- Utility billings and connection fees;
- Payments to another State Agency;
- Rental of passenger vehicles of any kind;

- Artifacts for historical or commemorative purposes (except for the State Museum);
- An employee's moving expenses;
- Purchases of any motor vehicle fuel for any vehicle or equipment leased from the Department of General Services' Division of Motor Vehicle Management ("MVM");
- Back orders or partial shipments—goods or services must be in stock or otherwise available and ready to be shipped or delivered at the time of purchase;
- Purchases made using a P-Card or other account by someone other than the Cardholder or account holder;
- Service awards for state employees;
- Awards for private citizens;
- Honoraria expenses;
- Insurance policies;
- Gift cards or gift certificates; and
- Any goods or services related to political activity as defined under "The Little Hatch Act," Tenn. Code Ann. §§ 2-19-201 through 208.

~~State Agencies may request an exception from this paragraph by submitting a P-Card exception request in the form of a memorandum signed by the Fiscal Director to the Statewide P-Card Program Administrator at p.card@tn.gov.~~

State Agencies may request an exception to this paragraph by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

11.2. Personal Purchases Prohibited.

As provided in Sections 3.1, 5.7 and 11.1, Cardholders are prohibited from using a P-Card for the purchase of any goods or services not directly related to job responsibilities or other official State business. Intentional use of a P-Card for any purposes other than State business will result in disciplinary action, up to and including termination from State employment or criminal prosecution. Under Tenn. Code Ann. § 39-16-402, State employees who intentionally or knowingly use a P-Card or a Virtual P-Card for personal purchases commit a Class E felony.

11.3. Split Charges Prohibited.

Tenn. Code Ann. § 12-3-503(b) and CPO Policy Number 2013-003 authorize State Agencies to make a purchase without soliciting quotes or proposals from multiple suppliers when the total value of the purchase is ten thousand dollars (\$10,000) or less. Cardholders are prohibited by Tenn. Code Ann. § 12-3-503(b)(2) from splitting a transaction between two or more transactions on a single account, two or more transactions on multiple accounts, or two or more transactions using the P-Card and a purchase order, in order to circumvent the STL imposed on the P-Card. The maximum STL for P-Card purchases using a physical P-Card is ten thousand dollars (\$10,000)

unless a State Agency has designated a lower STL in its internal P-Card Procedures or has an approved exception from the Statewide P-Card Program Administrator.

11.4. Payment of Sales and Use Tax.

Tenn. Code Ann. § 67-6-329(a) provides that all sales of services and tangible personal property made to the State of Tennessee are exempted from sales and use taxes. Cardholders should provide each supplier with an exemption certificate, as described in Section 6.4. Cardholders are responsible for ensuring that suppliers do not charge tax or provide a credit for inadvertent charges.

- If taxes are charged, the Cardholder must contact the supplier to obtain a credit to the account.
- Suppliers may only credit the State's P-Card Account and may not refund erroneously paid taxes through other means, including cash, gift cards, or store credit.
- The Cardholder is required to maintain documentation of his or her attempts to obtain credit for any Tennessee Sales and Use Tax charged to the P-Card Account in error.

12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY CENTRAL FISCAL OFFICE CARDHOLDER.

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees;
- Association entry fees; and
- Food, beverage, or catering charges for meetings.

13. DECLARED EMERGENCIES AND NATURAL DISASTERS.

Tenn. Comp. R. & Regs. 0690-03-01-.05(5) authorizes the CPO or delegated State Agencies to forego standard procurement requirements to meet emergencies arising from unforeseen causes. If an emergency affecting the health or safety of any person occurs when CPO personnel are not available, any State Agency is authorized to contract for necessary goods or services and obtain "after the fact" emergency purchase authorization. All requests for "after the fact" emergency purchase authorization shall comply with CPO rules, policies, and procedures.

14. ENCOURAGED USE OF P-CARDS.

14.1. Statewide and Agency Term Contracts.

As provided in Section 10.4. of the CPO's *Procurement Procedures Manual*, State Agencies are required to use Statewide Contracts for procuring goods or services to the extent the needed goods or services are available on a Statewide Contract. State

Agencies may not procure goods or services available on a Statewide Contract from any other source without prior approval from the Chief Procurement Officer or designee. State Agencies are encouraged to utilize P-Cards for purchasing goods or services on Agency Term Contracts and Statewide Contracts.

14.2. Utilization of Diversity Suppliers.

Cardholders are strongly encouraged to make authorized purchases from suppliers certified by the Governor's Office of Diversity Business Enterprise.

15. SURCHARGES AND CONVENIENCE FEES.

Many suppliers charge a "credit card processing fee" or "convenience fee" for accepting credit cards including the P-Card. These types of fees are strictly regulated by Visa and MasterCard.

According to Visa's "Card Acceptance and Chargeback Management Guidelines for Merchants" available on Visa's website, credit card surcharges are allowed but cannot be more than the amount the supplier's bank charges them for processing the transaction. Also, the supplier cannot charge both a surcharge and a convenience fee, explained below.

The maximum allowable surcharge is four percent (4%) and must be shown as a line item on the detailed invoice or receipt. Whenever a Supplier charges a surcharge, the following rules apply:

- The Supplier must have provided Visa and its bank at least thirty (30) days notification of their intent to impose surcharges;
- The fact that the Supplier imposes surcharges must be clearly posted on the door and at point-of-sale for physical locations and on web sites when sales are made via the internet; and
- The Supplier must inform the Cardholder or User:
 - Of the exact percent of the surcharge;
 - That the Supplier is the entity assessing the surcharge;
 - That surcharges are applicable on credit transactions only; and
 - That the surcharge is not greater than what the supplier pays to Visa.

For any Transaction where the Supplier has charged a surcharge, a Cardholder or User must obtain a copy of the acknowledgement letter sent to the Supplier by Visa authorizing the Supplier to impose a surcharge. A copy on file with the State Agency P-Card Program Coordinator will be sufficient.

CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2015-010 -
STATEWIDE PURCHASING CARD
POLICY AND PROCEDURES

CLEAN VERSION

Policy Number 2015-010
Central Procurement Office
Statewide Purchasing Card Policy and Procedures

Revised: April 25, 2018

Prepared by: The Central Procurement Office of the State of Tennessee

1. PROGRAM OVERVIEW.

The State of Tennessee Purchasing Card Program streamlines the State's payment process for goods and services by eliminating the administrative burdens and costs associated with the State's traditional payment methods. The Program's objective is to simplify the documentation necessary for State Agency purchases by placing P-Cards in the hands of Cardholders.

Cardholders may use the P-Card to purchase the types of goods and services subject to this Policy. Personal purchases are prohibited and all rules, policies, and procedures of the Central Procurement Office applicable to the procurement of goods and services must be followed unless exempt.

2. DEFINITIONS.

"Agency Term Contract" means a State Agency contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price or prices.

"Bank" means the entity issuing the State's P-Card or any of its subsidiaries as the context may require.

"Cardholder" means the State Agency employee who is issued a physical P-Card to initiate payments on behalf of the State.

"Cardholder Agreement" means the document signed by the Cardholder to verify that he or she completed P-Card training, received a copy of and understands this Policy.

"Cardholder Application" means the application completed by the Cardholder that is approved by the Cardholder Supervisor and the State Agency P-Card Program Coordinator that is required before a P-Card Account will be assigned to a Cardholder.

"Cardholder Supervisor" means the State Agency employee with supervisory authority over the Cardholder.

"Central Fiscal Office P-Card" means the P-Card assigned to a Cardholder with a Single Transaction Limit of up to fifty thousand dollars (\$50,000).

"Central Procurement Office" or "CPO" means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

"Cycle (Credit) Limit" means the spending limit that restricts the total value of purchases a Cardholder can make in one billing cycle.

“Fiscal Director” means that State Agency employee, regardless of his or her particular title, who serves as the Agency’s chief financial officer.

“Merchant Category Codes” or “MCCs” means the specific Merchant Category Code, assigned by an acquiring financial institution, that identifies the primary goods or services a supplier provides.

“Online Banking Program” means the Bank’s online portal that provides Cardholders, State Agency P-Card Program Coordinators, and the Statewide P-Card Program Administration Team the ability to view and download statement information, update and manage accounts, set limits and permissions, reset passwords, and process Cardholder requests.

“P-Card Account” means the unique account number assigned to a Cardholder as determined by the Bank.

“P-Card Program” means the program established by the State and managed by the Central Procurement Office whereby Cardholders and Virtual P-Card Users make purchases on behalf of the State of Tennessee.

“Purchasing Card” or “P-Card” means a commercial card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for goods or services. A P-Card is similar to a consumer credit card, but the card-using organization must pay the card issuer in full each month. In this Policy, the term “Purchasing Card” or “P-Card” shall also include “Virtual Purchasing Cards” or “Virtual P-Cards” as the context requires.

“Purchasing Card Profile” means the unique profile associated with a Cardholder that contains monetary or MCC limits on the Cardholder’s ability to make purchases on behalf of the State.

“Single Transaction Limit” or “STL” means the maximum dollar limit, per purchase transaction, that can be assigned to the physical P-Card. The STL is assigned per Cardholder at the discretion of the Fiscal Director. This Policy establishes the STL for the designated State Agency Central Fiscal Office P-Card as up to fifty thousand dollars (\$50,000) and for all other physical P-Cards as up to ten thousand dollars (\$10,000) without Statewide P-Card Program Administrator approval.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” means the departments, agencies, and entities of the State of Tennessee other than units of the University of Tennessee or Board of Regents systems.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Approver” means the State Agency Employee who approves P-Card or Virtual P-Card Transactions.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Reconciler” means the State Agency employee responsible for all the functions associated with post-purchase processing P-Card Transactions including account allocation and providing a business purpose when required.

“Statewide Contract” means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education and authorized not-for-profit entities.

“Statewide P-Card Program Administration Team” means the team within the Central Procurement Office that is responsible for overseeing the P-Card Program.

“Statewide P-Card Program Administrator” means the employee within the Central Procurement Office who is responsible for managing and overseeing the P-Card Program.

“Supplier” means a person or legal entity with the legal capacity to enter into contracts and sue and be sued who provides goods or services to the State through a contract or a purchase order.

“Transaction” means the purchase of goods or services through use of a P-Card or Virtual P-Card.

“Virtual Purchasing Card” or “Virtual P-Card” means the unique credit card account number, embedded within Edison, which is assigned to a State Agency for payment of suppliers authorized to accept P-Card as the form of payment for approved Edison purchase orders.

“Virtual P-Card User” or “User” means the State Agency employee who has a buyer or e-procurement role in Edison, has undergone training on reconciliation, and is authorized to use a Virtual P-Card to initiate payment transactions on behalf of the State.

3. TYPES OF ACCOUNTS.

This Policy recognizes two general account types: P-Card Accounts and Virtual P-Card accounts. P-Card Accounts and Virtual P-Card accounts can be used only for official State business as set forth in this Policy. P-Cards must be surrendered or Virtual P-Card account's access cancelled upon the Cardholder's transfer to another State Agency, separation from state employment, or upon demand by the Cardholder Supervisor, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.

3.1. P-Card Accounts.

P-Card accounts are those that involve the issuance of a P-Card Account to an individual Cardholder to further the official business of the State. Cardholders are limited to one active physical P-Card.

3.2. Virtual P-Cards.

Virtual P-Cards are cardless accounts that allow State Agencies to pay for approved, Edison purchase order transactions initiated by Virtual P-Card Users. The account number is "embedded" in the Edison P-Card module and is securely transmitted to the Supplier upon Edison-based approval of a User's purchase order transactions. A Virtual P-Card may be used for payments to any Supplier that is registered in the State's supplier registration system whose payment method has been activated to "P-Card" in Edison. Virtual P-Cards are encouraged because Virtual P-Card accounts allow for greater ease of use (multiple buyers can leverage the same payment device), as well as enhanced control through absence of a physical card and spending limits. The State Agency P-Card Coordinator should contact the Statewide P-Card Program Administrator for more information on Virtual P-Cards.

The ten thousand dollar (\$10,000) STL that applies to all physical P-Cards does not apply to Virtual P-Cards or Central Fiscal Office P-Cards; the maximum STL for a Central Fiscal Office P-Card is fifty thousand dollars (\$50,000) and there is no STL for purchases made with a Virtual P-Card. The Bank determines the Cycle Limit for Virtual P-Cards. Each State Agency or department is limited to one (1) Virtual P-Card Account.

4. OVERVIEW OF P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

The CPO is the State Agency that is primarily responsible for managing, overseeing, and coordinating the P-Card Program. The Statewide P-Card Program Administrator is the employee within the CPO who has the direct, day-to-day responsibility for managing, overseeing, and coordinating the P-Card Program between the CPO and State Agencies. The State Agency P-Card Coordinator is the employee within each State Agency who has been appointed to supervise Cardholders and manage and coordinate the P-Card Program within his or her State Agency in compliance with this Policy. The Cardholder Supervisor is the State Agency employee with supervisory authority over the Cardholder who ensures that transactions are properly reconciled and reported to the Department of Finance and Administration ("F&A"), Division of Accounts. State Agency Reconcilers are the employees within a State Agency who are responsible for reconciling P-Card transactions. The State Agency Approver is the employee within the State Agency who approves P-Card Transactions. The Cardholder is the specially-trained employee within a State Agency responsible for purchasing goods or services on behalf of the State of Tennessee using a physical P-Card. In the interests of segregating duties and responsibilities, State Agency Reconcilers shall not be Cardholders.

5. P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

5.1. P-Card Processing Cycle Overview.

The typical cycle for P-Card usage is:

- An individual Cardholder, with State Agency approved spending limits, initiates a purchase using a P-Card;

- The individual Cardholder retains an original, legible copy of the purchase's receipt for use in reconciliation (see Section 10.2 for more information on receipts);
- Transactions are typically posted in the Edison P-Card module within 24-72 hours after the purchase is made;
- The Cardholder will log into the Edison P-Card module on a weekly basis to review transactions and account coding and take necessary action to correct errors in the purchase details;
- The Cardholder or his or her State Agency Approver confirms or disputes Transactions posted to the card account;
- The credit line is replenished for the amount of the Transactions;
- The Cardholder will receive a monthly Bank statement ;
- The Bank statement and receipts will be sent to the State Agency Reconciler for final reconciliation;
- The State Agency Reconciler will reconcile all Transactions in accordance with this Policy or their State Agency's internal P-Card Procedures, as applicable; and
- The State Agency Reconciler prepares all documentation for retention.

5.2. Statewide P-Card Program Administrator.

The Statewide P-Card Program Administrator serves as the primary point-of-contact in the CPO for the P-Card Program. The Statewide P-Card Program Administrator's role, duties and responsibilities include:

- Establishing written internal procedures to ensure compliance with state procurement statutes, rules, policies and procedures, including this Policy, and reviewing each State Agency's internal P-Card Procedures, as applicable;
- Developing written internal procedures for requesting exceptions to either state or internal policy requirements;
- Ensuring that State Agency Transactions are reviewed at least annually;
- Developing State Agency specific training for all Cardholders, State Agency Approvers, State Agency Reconcilers, and State Agency Supervisors;
- Developing appropriate refresher training to be delivered at least annually; and
- Notifying State Agency P-Card Program Coordinators of changes in state rules, policies or procedures.

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within five (5) business days of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Completing training through the Statewide P-Card Program Administration Team;
- Signing the State Agency P-Card Program Coordinator designation form;
- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card Procedures to address policy areas unique to the State Agency or that are not covered by this Policy, as applicable;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the chart of accounts at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or the Online Banking Program, as appropriate.

5.4. Cardholder Supervisors.

The Cardholder Supervisor responsible for supervising Cardholders must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities include:

- Before approving the P-Card transactions, either by signing a transaction log or statement or signing off on transactions electronically, carefully reviewing all documentation to ensure that all documentation meets the minimum requirements as set forth in this Policy;
- Approving or rejecting all Transactions within the scheduled timeframe;
- Ensuring that all documentation is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Maintaining knowledge of this Policy and State Agency's internal P-Card Procedures, as applicable; and
- Requesting reasonable spending limits in accordance with this Policy and State Agency's internal P-Card Procedures, as applicable.

5.5. State Agency Reconciler.

The State Agency Reconciler is the State Agency employee responsible for all the functions associated with post-purchase processing of P-Card Transactions including account allocation and providing a business purpose when required. A Reconciler CANNOT make purchases using the P-Card belonging to a Cardholder for whom he or she reconciles.

5.6. State Agency Approver.

The State Agency Approver is the State Agency employee who approves purchases made by the Cardholder to which he or she is assigned. This role may also be performed by the Cardholder Supervisor. By approving each P-Card transaction, the Approver exercises critical control by ensuring authorized and appropriate P-Card use and correct allocation of expenses in accordance with related policies of F&A, Division of Accounts. State Agency Approvers should also review receipts where appropriate to ensure compliance with this Policy and F&A, Division of Accounts policies (available online at <http://www.tn.gov/finance/topic/fa-policyinfo>). No Cardholder may approve his or her own P-Card transactions nor may he or she direct someone else to approve P-Card transactions in a manner that could violate this Policy or applicable policies of F&A, Division of Accounts. As a general rule, the State Agency Approver should not report to the Cardholder whose transactions he or she is reviewing. A State Agency Approver has the following responsibilities:

- Review Cardholder transactions to ensure that purchases made were:
 - For the use and benefit of the State of Tennessee;
 - Necessary for the official duties of the agency;
 - Made in accordance with CPO policies and procedures;
 - For goods or services actually received.
- If a State Agency Approver is in doubt about any of the above, the State Agency Approver should immediately question the Cardholder and seek advice from the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.
- Immediately inform the State Agency P-Card Program Coordinator of any misuse, abuse or fraudulent use of a P-Card.
- If the Cardholder is unavailable for questioning, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administration Team may adjust the Cardholder's STL to one dollar (\$1.00). The State Agency Approver shall notify the State Agency P-Card Program Coordinator of Cardholder transfers or terminations. Advanced notice is required if the State Agency Approver is aware of impending personnel actions.
- Review, certify, and forward Cardholder transaction log pages, receipts or cycle statements in accordance with this Policy.

5.7. Cardholders.

An important participant in the P-Card Program is the Cardholder. The Cardholder is a key element in making the P-Card Program successful.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to the Bank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee;
- Reading and becoming familiar with this Policy;

- Attending and passing Cardholder / Approver training course;
- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

5.7.2 Cardholder Misuse.

Each Cardholder is responsible for the purchases made on the P-Card that is assigned to them. Cardholders are required to adhere to applicable CPO rules, policies, procedures, and this Policy.

Use of a P-Card is a privilege based on trust. A Cardholder is trained and understands the penalties for abuse of the P-Card. The P-Card is for official State business use only and the purchase of personal or disallowable goods or services is strictly prohibited. Misuse of the P-Card may result in disciplinary action up to and including termination of employment and prosecution to the extent permitted by law. Cardholders will be required to reimburse the State, including sales tax, for any improper purchases.

5.8. Virtual P-Card Users.

Virtual P-Card Users are critical to the P-Card Program's success. A User has authority to make purchases utilizing his or her Agency's local purchase authority and to make purchases from a Statewide Contract or Agency Term Contract for official State business. State Agency employees with an e-procurement or buyer role in Edison are eligible to be Users. Users must complete training on reconciliation procedures before initiating any Transactions with a Virtual P-Card.

6. P-CARD SECURITY.

The security of each P-Card is the Cardholder's responsibility. Every precaution should be used to protect the account number. The account number should never be left in a conspicuous place.

Use of the P-Card is restricted to the authorized Cardholder whose name appears on the face of the card and may not be loaned to any other person. The account number that appears on the P-Card must not be given to any individual other than the Supplier from whom the Cardholder is making a purchase.

6.1. Lost or Stolen Cards.

If a P-Card is lost, stolen, or the card information has been compromised, the Cardholder must immediately contact the Bank's customer service. Upon such notification, outstanding authorizations will be confirmed and the Bank will cancel the P-Card (further use of the P-Card will be blocked by the Bank). Neither the State nor the Cardholder will be responsible for fraudulent charges made to a promptly reported lost or stolen card.

At the time of the notification, the Bank may request the following information:

Cardholder's name
Account number

Last four digits of SSN
Circumstances surrounding the loss of the card
Any purchase(s) made prior to the card being lost or stolen

The Cardholder must notify his or her State Agency P-Card Program Coordinator of the P-Card's loss or theft and make arrangements to receive a new P-Card. The Cardholder must complete and return an affidavit from the Bank to initiate an investigation, and send a copy of the Bank affidavit to the State Agency P-Card Program Coordinator. The Bank will then issue a new card with a new account number which will be delivered to the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator must report any theft, forgery, or credit card fraud to the office of the Comptroller of the Treasury in accordance with Tenn. Code Ann. § 8-4-119 and to the Statewide P-Card Program Administration Team. To comply with this requirement, the State Agency P-Card Program Coordinator shall send the completed Bank affidavit or an email to Robert.N.Allen@cot.tn.gov and P.Card@tn.gov with the following information: Cardholder's name; last six (6) digits of the Cardholder's account number; and information about the transactions in question (such as the merchants' names, transaction date, and dollar amounts).

6.2. Separation from Employment.

If a Cardholder's separation from employment or transfer to another State position is planned, P-Card use shall be discontinued prior to Cardholder's separation from employment or transfer to allow sufficient time for submission of receipts and processing of outstanding charges before the Cardholder leaves or transfers. In the event of unplanned separation from employment, the Cardholder's P-Card shall immediately be deactivated and the Cardholder shall discontinue P-Card use upon separation from employment.

6.3. Purchasing Rules.

The P-Card is only a vehicle for making purchases. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card.

6.4. Tax Exemption.

Purchases made in Tennessee and for the use and benefit of the State of Tennessee are exempt from Tennessee sales tax. Cardholders should obtain an exemption certificate and present it to each supplier. This form is available on the Department of Revenue web site at <http://www.tn.gov/revenue/forms/sales/index.shtml> in the "Sales and Use Tax Forms - Exemptions" section. Purchases made in other states may be subject to that state's sales tax. The Cardholder must be diligent when dealing with the supplier regarding taxes. If the supplier cannot deduct the sales tax because of pre-set controls within its computer systems or will not honor the exemption, the Cardholder may continue with the purchase but must note the refusal on the receipt. In the event a Cardholder is inappropriately charged for sales tax, he or she shall seek a credit refund of any sales taxes to the P-Card account.

6.5. Credits.

If a Cardholder returns merchandise, a credit should be issued to the Cardholder's P-Card and a credit receipt obtained. Under no circumstances should a Cardholder receive cash or a credit voucher. The Cardholder or State Agency Approver is responsible for reviewing the Online Banking Program to ensure that credits are received and, if not, file the appropriate paperwork for disputed items. Cardholders should avoid Suppliers with restrictive merchandise return policies.

6.6. Disputing Transactions.

If there is a problem with a Transaction, the Cardholder must first attempt to reach a resolution directly with the Supplier. In most cases, disputes can be resolved between the Cardholder and the Supplier. The Supplier will usually issue a credit.

The Cardholder should document all attempts to resolve a problematic Transaction. If the disputed Transaction involves a reservation or order that has been cancelled, the Cardholder is responsible for obtaining a cancellation number. If efforts to resolve the problem with the Supplier are unsuccessful or if a credit does not appear in the Online Banking Program, the Cardholder should file the appropriate dispute paperwork with the Bank and contact his or her State Agency P-Card Program Coordinator.

If a Bank Statement contains a Transaction that needs to be disputed, the Cardholder should contact the Bank's Customer Service to initiate the dispute process, and contact his or her State Agency P-Card Program Coordinator to ensure the disputed transaction has been documented. If the dispute cannot be resolved between the Cardholder and the Bank, the Cardholder shall immediately notify his or her State Agency P-Card Program Coordinator.

6.7. Declined Purchase Transactions.

On occasion, a Cardholder's purchase transaction may be declined. Cardholders should contact the Bank's Customer Service to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance.

Common reasons for declines include:

- MCC is restricted from the Purchasing Card;
- The Cardholders has exceeded the STL, daily limit or monthly limit; or
- Invalid expiration.

7. CARD ISSUANCE AND CANCELLATION.

The State Agency P-Card Program Coordinator is responsible for issuing all P-Cards within his or her Agency. State Agency P-Card Program Coordinators have authority to terminate a Cardholder's status as a Cardholder and cancel P-Cards. The Statewide P-Card Program Administrator should be notified of any P-Card cancellations.

7.1. P-Card Issuance.

Purchasing Cards are issued following:

- Completion of the Cardholder Application;
- Completion and approval of a Cardholder profile;
- Completion of P-Card training; and
- Completion of the Cardholder Agreement.

7.2. P-Card Cancellation.

P-Cards shall be cancelled by the following:

- Cardholder's separation from employment for any reason;
- Cardholder's job status changes such that he or she no longer requires a P-Card;
- Cardholder reports the loss or theft of the P-Card;
- Cardholder misuses the P-Card; or
- Untimely confirming or disputing transactions.

If a P-Card is cancelled, it shall be destroyed. The Statewide P-Card Program Administrator shall be notified of all P-Card cancellations.

8. P-CARD PROGRAM TRAINING.

Cardholder training is critical—all Cardholders must complete training before being issued a P-Card. Training ensures that the Cardholder understands the P-Card Program procedures and this Policy and is aware of potential disciplinary action for P-Card misuse or abuse. Once training is complete, the Cardholder shall sign a Cardholder Agreement as a condition for being issued a P-Card. The Cardholder Agreement is evidence that the Cardholder has received training and a copy of this Policy and the State Agency's internal P-Card Procedures, as applicable. The Statewide P-Card Program Administrator will coordinate Cardholder training with State Agency P-Card Program Coordinators.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of the P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing this Policy, the State Agency's internal P-Card Procedures, as applicable, and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agencies should ensure that the following principles are carried out in their programs:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- Maintain approved, signed documentation for all Cardholders, State Agency Approvers and Cardholder Supervisors;

- Limits on the number of Cardholders assigned to a Cardholder Supervisor or State Agency Approver in order to ensure adequate review of business need and documentation for each Transaction;
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Fiscal Director, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures, as applicable;
 - Cardholder Single Transaction Limit and Cycle (Credit) Limits;
 - Timeliness of monthly reconciliation procedures; and
 - Documentation for Transactions; and
- Protocol for establishing designated State Agency Central Fiscal Office P-Cardholder and any alternate Central Fiscal Office P-Cardholders, including which Central Fiscal Office P-Card is primary and which alternate Central Fiscal Office P-Card is secondary and circumstances (e.g., unavailability of the primary Central Fiscal Office P-Card, etc.) under which an alternate Central Fiscal Office P-Card may be used.

9.2. State Agency P-Card Procedures.

Each State Agency may develop its own internal procedures to carry out the intent and purpose of this Policy and to address unique State Agency complexities or risk factors. If a State Agency chooses not to develop its own internal procedures then the State Agency must follow this Policy and coordinate State Agency Employee roles with the Statewide P-Card Program Administration Team.

9.3. Card Management and Reconciliation Systems.

All Transaction reconciliations will be completed in Edison unless the Central Procurement Office approves an alternate method of reconciliation.

9.4. Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant's principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with suppliers that provide goods or services that are prohibited for purchase using the P-Card.
- Although Transactions at unauthorized MCCs are blocked at the point-of-sale, they are occasionally forced through. These Transactions are subject to audit.
- The CPO's Compliance Team will conduct periodic audits of Transactions with restricted MCC suppliers.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs. A Cardholder's State Agency P-Card Program Coordinator should

ensure that Cardholder profiles permit only those MCC groups that a Cardholder needs to meet his or her job requirements.

State Agencies may request activation of a particular MCC by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

9.5. Cardholder Spending Limits and Utilization.

The State Agency Fiscal Director may establish a Single Transaction Limit (STL) of up to the ten thousand dollar (\$10,000) maximum for Cardholders as he or she determines appropriate taking into account the State Agency's overall needs. Each State Agency Fiscal Director may also establish one (1) designated State Agency Central Fiscal Office P-Card with a STL of up to the fifty thousand dollar (\$50,000) maximum. Each State Agency Fiscal Director may also establish up to two (2) alternate designated State Agency Central Fiscal Office P-Cards with a STL of up to the fifty thousand dollar (\$50,000) maximum. If the transaction amount exceeds ten thousand dollars (\$10,000), then Cardholders and State Agency Fiscal Directors should consult the *Procurement Procedures Manual of the Central Procurement Office* with respect to contract and purchase order requirements and exemptions from contract and purchase order requirements. The State Agency Fiscal Director should also determine the total maximum per Cycle Limit for each Cardholder based on the individual's position and unique purchasing needs, and the State Agency's budget to ensure payment in full monthly.

Imposing spending limits enables management to provide Cardholders with the purchasing power to perform their jobs without exposing the State to unnecessary risk. Spending limits should be based on the Cardholder's job responsibilities. Cardholder spending limits must be reviewed at least annually to determine if actual usage is consistent with spending limits. Increases or decreases to monthly spending limits may be made by the State Agency Fiscal Director as needed for Cardholder Cycle Limits, a single transaction limit of up to ten thousand dollars (\$10,000) for a Cardholder and up to fifty thousand dollars (\$50,000) for a Central Fiscal Office P-Card. Cardholders are prohibited from splitting a single purchase between one or more P-Cards or between a Card transaction and a purchase order to circumvent the STL or CPO rules, policies or procedures. Each State Agency is required to perform a review of spending limits at least annually in order to determine if each Cardholder's spending limit is adequate and appropriate.

9.6. Dormant Cards.

The CPO recommends that State Agencies reduce the Cycle Limit of any P-Card that has not been used within twelve (12) complete cycles to one dollar (\$1). When a P-Card has not been used for some time, the State Agency P-Card Program Coordinator should conduct a review to determine if the Cardholder still needs a P-Card. Each State Agency

is responsible for ensuring that this review is completed at least annually or in accordance with its own internal P-Card Procedures, as applicable.

10. DOCUMENTATION AND ACCOUNTING.

10.1. Documentation.

State Agencies should use Edison for Transaction reconciliation and should handle documentation for reconciliation in accordance with this Policy and State Agency internal P-Card Procedures, as applicable. Any State Agency seeking to use a manual or alternative method for Transaction reconciliation must obtain approval from the Central Procurement Office.

Regardless of the Transaction reconciliation method, Cardholders should provide invoices or receipts for all Transactions. Invoices or receipts shall include:

- The Supplier's name, location, and contact information;
- Line item details, including quantity, description, unit price, and total price; and
- A line showing that the State was not charged for sales tax.

10.2. Receipts.

- It is the Cardholder's responsibility to obtain itemized receipts and any other pertinent backup documentation. Other documentation may include shipping documents and bills of lading. This information will be used by the Agency to validate and reconcile charges.
- For online purchases that do not provide a downloadable receipt, a screen shot of the receipt information can serve as a receipt.
- In lieu of obtaining physical receipts, the Cardholder may also take a picture of the receipt with his or her mobile device and save the receipt electronically.
- If a Cardholder loses a receipt and a duplicate cannot be obtained, the Cardholder should follow his or her State Agency's internal procedures for lost receipts. Cardholders who lose receipts and resort to their Agency's internal procedures for lost receipts more than three (3) times during a fiscal year may have their P-Card privileges suspended.
- The amount on the receipt and the amount of the charge to the Cardholder's P-Card account must match. Any discrepancies in amounts should be resolved with the Supplier and an explanation regarding the resolution should be made on the receipt or other backup documentation. It is not sufficient to change the amount on the receipt only.
- The Cardholder and the Cardholder Supervisor shall document all missing receipts.
- Credits may be processed without a receipt, but the Cardholder must provide an explanation of the credit.

10.3. Reconciliation.

- Cardholders should perform reconciliation in Edison as often as possible or at a minimum on a weekly basis.

- After completing the weekly reconciliation process, the Cardholder must forward signed and dated receipts to his or her State Agency Approver. Dated receipts may be in an electronic format as long as they include an electronic signature and are legible. This should also occur on a weekly basis.

10.4. Allocation to the Chart of Accounts.

Timely allocation of charges to the chart of accounts is essential to ensure compliance with State accounting and budgetary policies. The State Agency must ensure that all transactions are allocated to the chart of accounts before the end of the billing cycle.

10.5. Records Retention Requirements.

The Office of the Secretary of State oversees Tennessee's Records Management Division, the State Agency that provides guidance on disposition, retention, and destruction of state records. Records Disposition Authority (RDA) SW23 applies to all P-Card documents. RDA SW23 requires that State Agencies maintain documents related to P-Card issuance and use for five (5) years and destroy them at the end of the five-year period. P-Card documents may be maintained in either paper or electronic format, so long as the electronic content has been verified for completeness, accuracy, and usability. RDA SW23 is available in its entirety at <http://www.tnsos.net/rmd/rda/index.php>.

10.6. Internal Revenue Service 1099 Reporting.

In 2011, the Internal Revenue Service announced changes to the Internal Revenue Code, Section 6050W, which shifted the burden of payment reporting requirements from the purchaser to the Supplier's bank when the P-Card is the payment method for a reportable transaction. Because of the shift in responsibility, participants in the P-Card Program are no longer required to report total P-Card transactions in excess of six hundred dollars (\$600) with certain Suppliers. Reporting for all other payment methods, including checks, Automated Clearing House, or other means, will remain the responsibility of the State Agency making payment. Cardholders should consult the tax specialists at their State Agency for further information or details regarding Internal Revenue Service 1099 reporting requirements.

11. PROHIBITED PURCHASES AND TRANSACTIONS.

11.1. Prohibited Purchases.

Cardholders are prohibited from using a physical P-Card for the following types of purchases, payments, or transactions:

- Goods or services not directly related to job responsibilities or other official State of Tennessee business, i.e., personal purchases;
- Cash withdrawals, including ATM or debit withdrawals;
- Travel expenses;
- Telephone billings;
- Political publications of any sort;
- Utility billings and connection fees;
- Payments to another State Agency;
- Rental of passenger vehicles of any kind;

- Artifacts for historical or commemorative purposes (except for the State Museum);
- An employee's moving expenses;
- Purchases of any motor vehicle fuel for any vehicle or equipment leased from the Department of General Services' Division of Motor Vehicle Management ("MVM");
- Back orders or partial shipments—goods or services must be in stock or otherwise available and ready to be shipped or delivered at the time of purchase;
- Purchases made using a P-Card or other account by someone other than the Cardholder or account holder;
- Service awards for state employees;
- Awards for private citizens;
- Honoraria expenses;
- Insurance policies;
- Gift cards or gift certificates; and
- Any goods or services related to political activity as defined under "The Little Hatch Act," Tenn. Code Ann. §§ 2-19-201 through 208.

State Agencies may request an exception to this paragraph by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

11.2. Personal Purchases Prohibited.

As provided in Sections 3.1, 5.7 and 11.1, Cardholders are prohibited from using a P-Card for the purchase of any goods or services not directly related to job responsibilities or other official State business. Intentional use of a P-Card for any purposes other than State business will result in disciplinary action, up to and including termination from State employment or criminal prosecution. Under Tenn. Code Ann. § 39-16-402, State employees who intentionally or knowingly use a P-Card or a Virtual P-Card for personal purchases commit a Class E felony.

11.3. Split Charges Prohibited.

Tenn. Code Ann. § 12-3-503(b) and CPO Policy Number 2013-003 authorize State Agencies to make a purchase without soliciting quotes or proposals from multiple suppliers when the total value of the purchase is ten thousand dollars (\$10,000) or less. Cardholders are prohibited by Tenn. Code Ann. § 12-3-503(b)(2) from splitting a transaction between two or more transactions on a single account, two or more transactions on multiple accounts, or two or more transactions using the P-Card and a purchase order, in order to circumvent the STL imposed on the P-Card. The maximum STL for P-Card purchases using a physical P-Card is ten thousand dollars (\$10,000) unless a State Agency has designated a lower STL in its internal P-Card Procedures or has an approved exception from the Statewide P-Card Program Administrator.

11.4. Payment of Sales and Use Tax.

Tenn. Code Ann. § 67-6-329(a) provides that all sales of services and tangible personal property made to the State of Tennessee are exempted from sales and use taxes. Cardholders should provide each supplier with an exemption certificate, as described in Section 6.4. Cardholders are responsible for ensuring that suppliers do not charge tax or provide a credit for inadvertent charges.

- If taxes are charged, the Cardholder must contact the supplier to obtain a credit to the account.
- Suppliers may only credit the State's P-Card Account and may not refund erroneously paid taxes through other means, including cash, gift cards, or store credit.
- The Cardholder is required to maintain documentation of his or her attempts to obtain credit for any Tennessee Sales and Use Tax charged to the P-Card Account in error.

12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY CENTRAL FISCAL OFFICE CARDHOLDER.

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees;
- Association entry fees; and
- Food, beverage, or catering charges for meetings.

13. DECLARED EMERGENCIES AND NATURAL DISASTERS.

Tenn. Comp. R. & Regs. 0690-03-01-.05(5) authorizes the CPO or delegated State Agencies to forego standard procurement requirements to meet emergencies arising from unforeseen causes. If an emergency affecting the health or safety of any person occurs when CPO personnel are not available, any State Agency is authorized to contract for necessary goods or services and obtain "after the fact" emergency purchase authorization. All requests for "after the fact" emergency purchase authorization shall comply with CPO rules, policies, and procedures.

14. ENCOURAGED USE OF P-CARDS.

14.1. Statewide and Agency Term Contracts.

As provided in Section 10.4. of the CPO's *Procurement Procedures Manual*, State Agencies are required to use Statewide Contracts for procuring goods or services to the extent the needed goods or services are available on a Statewide Contract. State Agencies may not procure goods or services available on a Statewide Contract from any other source without prior approval from the Chief Procurement Officer or designee. State Agencies are encouraged to utilize P-Cards for purchasing goods or services on Agency Term Contracts and Statewide Contracts.

14.2. Utilization of Diversity Suppliers.

Cardholders are strongly encouraged to make authorized purchases from suppliers certified by the Governor's Office of Diversity Business Enterprise.

15. SURCHARGES AND CONVENIENCE FEES.

Many suppliers charge a "credit card processing fee" or "convenience fee" for accepting credit cards including the P-Card. These types of fees are strictly regulated by Visa and MasterCard.

According to Visa's "Card Acceptance and Chargeback Management Guidelines for Merchants" available on Visa's website, credit card surcharges are allowed but cannot be more than the amount the supplier's bank charges them for processing the transaction. Also, the supplier cannot charge both a surcharge and a convenience fee, explained below.

The maximum allowable surcharge is four percent (4%) and must be shown as a line item on the detailed invoice or receipt. Whenever a Supplier charges a surcharge, the following rules apply:

- The Supplier must have provided Visa and its bank at least thirty (30) days notification of their intent to impose surcharges;
- The fact that the Supplier imposes surcharges must be clearly posted on the door and at point-of-sale for physical locations and on web sites when sales are made via the internet; and
- The Supplier must inform the Cardholder or User:
 - Of the exact percent of the surcharge;
 - That the Supplier is the entity assessing the surcharge;
 - That surcharges are applicable on credit transactions only; and
 - That the surcharge is not greater than what the supplier pays to Visa.

For any Transaction where the Supplier has charged a surcharge, a Cardholder or User must obtain a copy of the acknowledgement letter sent to the Supplier by Visa authorizing the Supplier to impose a surcharge. A copy on file with the State Agency P-Card Program Coordinator will be sufficient.

**FEE FOR GOODS OR SERVICES
CONTRACT TEMPLATE (“FA”), E. #.
HIPPA AND SECTION E. #.
CONTRACTOR HOSTED SERVICES AND
CONFIDENTIAL DATA OPTIONS**

REDLINE VERSION

REQUEST: Revise the Fee for Goods or Services Contract Template (FA) at the instructions, considerations, and option section regarding Section E. #. HIPPA and Section E.#. Contractor Hosted Services and Confidential Data Options as follows:

Option: Health Insurance Portability and Accountability Act (“HIPAA”) Data

Keep all language in E.#.a above, and do the following:

Contractor must enter into a Business Associate Agreement (BAA) with the State. Therefore, include as a contract attachment a BAA agreement. Please visit the following website link, available on TEAM TN, for the [“HIPAA Business Associate Agreement Example.”](#)

~~In addition, if there is any type of Confidential State Data, include the standard language covering Disclosure of Personally Identifiable Information (PII) from the Section E options provided in the FA Template.~~

Contractor Hosted Services and Confidential Data Options

Add the following section as a minimum requirement if the Contractor will be hosting services (e.g., cloud-based, Software as a Service (“SaaS”)) and data that is deemed confidential by State or Federal statute or regulation, or the payment card industry (“Confidential State Data”). The foregoing also includes data in transit. In addition, if there is any type of Confidential State Data, include the standard language covering Disclosure of Personally Identifiable Information (PII) from the Section E options provided in the FA Template.

If the contract will involve Confidential State Data, then the general requirements outlined in Section E.# below should be included. If the contract will allow a Contractor to host specific types of Confidential State Data (e.g., Criminal Justice Services Information, Federal Tax Information, etc.) then follow the instructions as described in the various options below. Include all applicable sections.

Please direct any questions regarding the types of Confidential State Data involved to Strategic Technology Solutions (“STS”), Security area.

**FEE FOR GOODS OR SERVICES
CONTRACT TEMPLATE (“FA”), E. #.
HIPPA AND SECTION E. #.
CONTRACTOR HOSTED SERVICES AND
CONFIDENTIAL DATA OPTIONS**

CLEAN VERSION

REQUEST: Revise the Fee for Goods or Services Contract Template (FA) at the instructions, considerations, and option section regarding Section E. #. HIPPA and Section E.#. Contractor Hosted Services and Confidential Data Options as follows:

Option: Health Insurance Portability and Accountability Act (“HIPAA”) Data

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If the contract will involve Confidential State Data, then the general requirements outlined in Section E.# below should be included. If the contract will allow a Contractor to host specific types of Confidential State Data (e.g., Criminal Justice Services Information, Federal Tax Information, etc.) then follow the instructions as described in the various options below. Include all applicable sections.

Please direct any questions regarding the types of Confidential State Data involved to Strategic Technology Solutions (“STS”), Security area.

**GRANT TEMPLATES AND MODELS – E.
#. CLEAN AIR ACT AND FEDERAL
WATER POLLUTION CONTROL ACT**

NEW

REQUEST: Add Clean Air Act and the Federal Water Pollution Control Act as optional Section E language to all grant templates and models.

Clean Air Act and Federal Water Pollution Control Act

Add the following section only if the Grantee is receiving a federal award in excess of \$150,000.

- E. #. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of funds, the Grantee agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the [insert federal awarding agency] and the Region 4 Office of the Environmental Protection Agency.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES –
SECTION D.20, PROCUREMENT**

REDLINE VERSION

REQUEST: Revise Section D.20, Procurement, of the GR and GG templates as follows.

D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, ~~and/or~~ contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317~~8~~—300.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES –
SECTION D.20, PROCUREMENT**

CLEAN VERSION

REQUEST: Revise Section D.20, Procurement, of the GR and GG templates as follows.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—300.326 when procuring property and services under a federal award.

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For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES –
SECTION D.13, PUBLIC NOTICE**

NEW

REQUEST: Add optional Section D. 13, Public Notice language for GR and GG templates.

Public Notice

Replace the Section with the following at the Grantor State Agency's option, so that beneficiaries are aware which agency is releasing public notices and literature regarding a specific award:

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a Grant Contract with the State of Tennessee, State Agency Name." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - DRUG-FREE WORKPLACE
OPTIONAL SECTION E**

NEW

REQUEST: Add Drug-Free Workplace as optional Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Drug-Free Workplace.

Add the following Section as appropriate:

- E. #. Drug-Free Workplace. The Contractor shall provide a drug-free workplace pursuant to the Drug-Free Workplace Act of 1988, Title 41 U.S.C. §§ 701, *et seq.*, and the regulations in Title 41 U.S.C.A. §§ 8101 through 8106.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES -
TENNESSEE DEPARTMENT OF
MENTAL HEALTH AND SUBSTANCE
ABUSE SERVICES (“TDMHSAS”)
SECTION E. #. TITLE VI COMPLIANCE**

NEW

REQUEST: Add Title VI Compliance as optional Department of Mental Health and Substance Abuse Services Section E language to the GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Title VI Compliance. Grantee shall comply with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Office, by completing all of the following items:
- a. Provide name and contact information of Grantee's Title VI Coordinator to State.
 - b. Ensure Policies and Procedures Manual contains a Title VI section with information on:
(a) Filing a complaint; (b) Investigations; (c) Report of findings; (d) Hearings and appeals;
(e) Description of Title VI Training Program; (f) Limited English Proficiency (LEP) procedure; and (g) Retaliation.
 - c. Train all staff (regular, contract, volunteer) on Title VI upon employment and annually thereafter. Training documentation shall be made available upon request of State, and include: 1) dates and duration of each training; 2) list of staff completing training on each date.
 - d. Annually complete and submit a Title VI self-survey as supplied by State.
 - e. Implement a process and provide documentation to ensure service recipients are informed of Title VI and how to file a discrimination complaint.

Additional Title VI resources may be found at: <https://www.tn.gov/behavioral-health/providers/training/crisis-services-and-suicide-prevention-training/title-vi-.html>, as this link may be modified from time to time.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES – TDMHSAS
AND DEPARTMENT OF EDUCATION
SECTION E. #. KIDCENTRALTN.COM**

NEW

REQUEST: Add Kidcentral as optional Department of Mental Health and Substance Abuse Services and Department of Education Section E language to GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services and Department of Education

The Tennessee Department of Mental Health and Substance Abuse Services and the Department of Education may add the following Section as appropriate:

- E.#.** kidcentraltn.com. If goods or services provided under this Grant Contract are appropriate for inclusion in the State services directory located at www.kidcentraltn.com ("Directory"):
- a. The State shall designate a "Gatekeeper" to: 1) provide instruction on which goods or services should be included in the Directory; 2) invite Grantee to create one or more program profiles in the Directory; 3) review, approve and publish Grantee's profiles; and 4) monitor activity related to the profiles.
 - b. Grantee shall, under the guidance of the Gatekeeper, create one or more program profiles in the Directory (if Grantee has more than one service appropriate for the Directory, Gatekeeper will instruct which services to include) as appropriate. Grantee shall update any profiles it creates at least every six months and, in the event of any change in information, update the profile within ten (10) business days. If Grantee has a website, Grantee shall provide a link to www.kidcentraltn.com from the appropriate section of the website.
 - c. If Grantee develops print or electronic materials on behalf of the State, or uses State funds that are intended for general distribution to parents, families, children, or professionals who work directly with children or families, Grantee must place the "kidcentral tn" logo on those materials. Covered materials include, by way of example only, brochures, posters, promotional postcards, mailers. The State reserves the right to instruct Grantee to apply the "kidcentral tn" logo or brand to any other materials, using templates provided by the State. The logo requirement does not apply to materials that have already been printed, designed or originating from the federal government, national organizations or other groups where Grantee serves as a pass-through of the materials. The "kidcentral tn" logo should not be applied to individualized correspondence or materials intended for a single family or professional and should not be applied to purely administrative materials (materials about rules, sanctions, regulations, enforcement).

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES - TDMHSAS
SECTION E. #. SUSPENSION OF
PAYMENT**

NEW

REQUEST: Add Suspension of Payment as optional Department of Mental Health and Substance Abuse Services Section E language to the GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Contract language as appropriate:

E.# Suspension of Payment.

- a. The State may suspend payment under this Grant Contract on the following grounds:
 - i. Grantee's failure to comply with the terms of Section A of this Grant Contract.
 - ii. More than one instance, after written notice, of Grantee's failure to address reportable findings in a Monitoring Report issued by the State.
 - iii. Grantee's failure to comply with any terms of this Grant Contract, which the State determines is detrimental to the welfare or best interests of Grantee's service recipients.
- b. The State will provide written notice to Grantee for the suspension of payments under this Grant Contract. The State may suspend payment pending resolution of an investigation or until Grantee corrects a finding of non-compliance with the terms of this Grant Contract. Suspension of payments shall not exceed two hundred and forty (240) days. Failure to comply with the terms of this Grant Contract or correct the State's finding of non-compliance within two hundred and forty (240) days entitles the State to exercise any right at law or in equity, including without limitation, termination of this Grant Contract.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES - SECTION
D.26, CHARGES TO SERVICE
RECIPIENTS PROHIBITED**

REDLINE VERSION

REQUEST: Add Tennessee Department of Mental Health and Substance Abuse Services to list of agencies in Section D.26, Charges to Service Recipients Prohibited in GR and GG templates.

Charges to Service Recipients Prohibited

If the Grantor State Agency obtains an approved Rule Exception to delete the Charges to Service Recipients Prohibited provision, add the following Section. The Department of Transportation Division of Multimodal Resources, Department of Human Services, ~~and~~ Department of Environment and Conservation, and Department of Mental Health and Substance Abuse Services may use the following section as needed.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES - SECTION
D.26, CHARGES TO SERVICE
RECIPIENTS PROHIBITED**

CLEAN VERSION

REQUEST: Add Tennessee Department of Mental Health and Substance Abuse Services to list of agencies in Section D.26, Charges to Service Recipients Prohibited in GR and GG templates.

Charges to Service Recipients Prohibited

If the Grantor State Agency obtains an approved Rule Exception to delete the Charges to Service Recipients Prohibited provision, add the following Section. The Department of Transportation Division of Multimodal Resources, Department of Human Services, Department of Environment and Conservation, and Department of Mental Health and Substance Abuse Services may use the following section as needed.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.
CODE OF CONDUCT**

NEW

REQUEST: Add Code of Conduct as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Code of Conduct. The Contractor shall ensure that there is a code of conduct applicable to all Contractor employees that covers, at minimum, business practices, clinical practices, and workplace interaction. Contractor employees shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards pertaining to Contractor's profession. Contractor shall develop procedures for reporting violations of the ethical standards, which shall be communicated to Contractor's employees, including new hires, on at least an annual basis. Contractor's code of conduct shall prohibit Contractor, its officers, directors, and employees from retaliating against any Contractor employee who reports any violations or acts or omissions that appear to be violations. Contractor's non-retaliation policy shall prescribe discipline for violating the Contractor's code of conduct. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct shall entitle the State to exercise any right it has at law or in equity, including, but not limited to termination of this Contract.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL –TDMHSAS SECTION E. #.
ADDITIONAL SUBCONTRACTING
REQUIREMENTS**

NEW

REQUEST: Add Subcontracting Requirements as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Additional Subcontracting Requirements. Contractor shall ensure in all subcontracts between it and Contractor's State approved subcontractors that each subcontract shall contain the sections of "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings) as these may be modified from time to time. Notwithstanding any use of State approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed by its subcontractors or other providers of goods or services.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.
RULE 2 COMPLIANCE**

NEW

REQUEST: Add Rule 2 Compliance as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Rule 2 Compliance. The State and the Contractor shall comply with the obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 CFR §§ 2.1, *et seq.* ("Rule 2").
- a. The Contractor warrants to the State that it is familiar with the requirements of Rule 2 and its accompanying regulations, and that it will comply with all requirements imposed by Rule 2 during the Term of this Contract.
 - b. The Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by Rule 2 during the Term of this Contract.
 - c. The State and the Contractor will execute such documents, including but not limited to business associate agreements, as required by Rule 2 that are reasonably necessary for the State and the Contractor to comply with Rule 2. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by Rule 2 or if Rule 2 permits the State to receive such information without entering into a business associate agreement or other agreement.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.
PROHIBITIONS ON USE OF FEDERAL
SUBSTANCE ABUSE BLOCK GRANT
FUNDS**

NEW

REQUEST: Add Prohibitions on Use of Federal Substance Abuse Block Grant Funds as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E.#. Prohibitions on Use of Federal Substance Abuse Block Grant Funds. Pursuant to federal law, Contractor shall not use any funds paid or services rendered under the federal Substance Abuse Prevention and Treatment Block Grant to supplant any other funds available for the goods or services provided under this Contract. Contractor shall not use any federal Substance Abuse Prevention and Treatment Block Grant funds under this Contract for any of the following purposes:
- a. to provide inpatient hospital or inpatient community mental health services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land; purchase, construct, or permanently improve (other than minor remodeling) any building or facility; or purchase major medical equipment;
 - d. to satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
 - e. to provide financial assistance to any entity other than a public or non-profit entity;
 - f. to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection; or
 - g. to carry out any testing for the etiologic agent for acquired immune deficiency syndrome unless such testing is accompanied by the appropriate pre-test and post-test counseling.