

SECTION: 4.2
SUBJECT: Contract and Lease Agreements
AUTHORITY: Executive Director

Policy:

To establish procedures for procuring, drafting, reviewing and approving contracts and lease agreements between the Commission and other parties.

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General Guidelines:

4.2.1 Definitions

- A. Contractual Services** - The rendering by a contractor of his or her time and effort rather than the furnishing of specific commodities. [s. 287.012(7),F.S.]
- B. Commodity Purchase** - Commodity means any of the various supplies, materials, goods, merchandise, food, equipment and other personal property, including a mobile home, trailer or other portable structure, with floor space of less than 3,000 square feet, purchased, leased or otherwise contracted for by the state and its agencies.[s. 287.012(4),F.S.]
- C. Contract** - A contract is a legal and enforceable agreement between two or more parties.
- D. Grant** - Grant is an award of financial assistance, including cooperative agreements, in the form of money or property in lieu of money. The term does not include technical assistance which provides services instead of money or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for. (43CFR12.43)
- E. Federally Funded Contract or Grant** - A contract or grant executed between the Commission and a Federal agency or a revenue contract/grant from a non-federal government agency or university where the original fund source is a Federal contract/grant.
- F. Construction Contracts** - Reference IMPP 4.3 regarding construction

contracts.

4.2.2 Procurement

A. Contractual Services Acquisition

1. Contractual services expenditures of \$25,000 per year or more shall be formally bid unless the contract is with another governmental entity or on the exempt list of Purchasing Regulation 60A-1.002(3)(a), or otherwise exempt by law or by special legislative appropriation. A commonly used exemption is private, non-profit universities certified by the Southern Association of Colleges and Schools in Florida and other states' government entities.
2. Contractual services costing less than \$25,000 per year should be procured, as outlined in Section 4.1.3, prior to the execution of a purchase order or a written, formal contract. Every procurement of contractual services shall be evidenced by a formal, written contract, a purchasing card purchase or a purchase order. Expenditure contracts will not be backdated or executed after services or commodities have been received without approval by the Executive Director of a written justification.

The formal written contract or purchase order shall include a complete description of the service, the contract period, the method of payment, and applicable clauses as required by law or policy (refer to the Commission's contract manual in the share/form directory).

3. Emergency Contractual Services - Section 287.058Section(2), F. S., states "The written agreement shall be signed by the agency head and the contractor prior to the rendering of any contractual service, the value of which is in excess of the \$25,000 provided in Statute 287.017 for CATEGORY TWO, except in the case of a valid emergency as certified by the agency head....If the agency fails to have the contract or purchase order signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head shall, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the Department of Management Services, as well as, describe actions taken to prevent recurrence of such noncompliance. The agency head may only delegate the certification for emergency contractual services to other senior management agency personnel." The certification will be filed on DMS form 7006. Florida Administrative Code 60A-1.016 states, "If the agency chooses to procure contractual services by purchase order in lieu of a written agreement, then the purchase order shall be signed by the purchasing director or assistant purchasing director."

B. Building Leases

1. All leasing of enclosed spaces shall meet current Department of Management Services (DMS) rules and procedures. Contact Office Operations Section, Finance and Budget Office, for assistance to lease private or state owned facilities.

2. New lease space and modifications to existing lease agreements requires the completion and DMS approval of a Request for Space Need (FM 4105) form and a Letter of Agency Staffing (FM 4056) form prior to entering into or modifying a lease contract. These forms, obtained from Office Operations Section, Finance and Budget Office, will be submitted 3 months prior to the anticipated lease commencement date, and will be initiated by the Division/Office (D/O) director with his/her note of approval.
3. Only Commission employees designated on DMS form FM 4106, Agency's Authorized Signature Authority, are authorized to sign lease documents.
4. Leased space of 3,000 square feet or larger, in privately owned facilities, shall be competitively bid.

4.2.3 Delegation of Authority

- A. D/O directors shall have authority to execute the following contracts. Delegation to the next level is permissible, when necessary, if prior approval has been granted by the Executive Director. Delegation to subsequent levels is permissible if specified below.
 1. Contracts and agreements not to exceed \$100,000 annually (duration three years or less), amendments and renewals that do not cause the contract to exceed \$100,000 annually.
 2. Landowner payments are to be approved by the Director of Wildlife.
 3. Youth camp rentals are to be approved by the Director of Informational Services.
 4. Building, office and storage leases may be delegated by the D/O directors to the section leaders or the FWRI program administrator.
 5. Federal documents (grant agreements, federally funded contract/grants from other government agencies [see IMPP 4.2.1.E], Application for Financial Assistance, and amendments), regardless of term, are to be approved and executed by the appropriate D/O director or the authorized designee. Authorized designees will be approved by the Executive Director.
 6. Janitorial contracts will be executed by the D/O, regional director responsible for the applicable building or designee approved by the Executive Director.
 7. Lease amendments and letters of interim management from the Division of State Lands, as agent for the Board of Trustees.
 8. Contracts necessary for pre-acquisition of land purchases or sales.
- B. The Executive Director or Assistant Executive Director shall execute contracts that exceed \$100,000 annually or are more than three years in duration. The Executive Director or Assistant Executive Director shall execute deeds and contracts for the purchase of or sale of land and agreements of no monetary value. The Executive Director or Assistant Executive Director may delegate signing authority, with or without restrictions, for amendments to contracts executed by the Executive Director or Assistant Executive Director.

4.2.4 Negotiation

Commission employees authorized to draft agreements or enter into preliminary negotiations shall fully and thoroughly consider all aspects of the proposed agreement and the effects on the Commission.

Commission employees involved in preliminary negotiations shall exercise due caution in dealing with any representative of a person, firm or corporation regarding any commitment and shall neither accept nor guarantee any provision within said agreement prior to approval by appropriate authorized individuals.

Procedures:

4.2.5 Preparation, Submittal and Approval of Contracts and Lease Agreements

The Purchasing Section, Finance and Budget Office, provides a contract manual which provides step-by-step instructions on how to prepare a contract. The applicable D/O should review draft revenue contracts prepared by other agencies for adherence to FWC policies and contract requirements.

Contracts shall be routed with a contract routing review form and a memorandum of explanation to the contract reviewers and the Executive Director. See 4.2.6 for exceptions.

After final approval and completion of the contract, the original document shall be returned to the Purchasing Section, Finance and Budget Office, for distribution. The originator will forward two copies of expenditure contracts and one copy of revenue contracts to the Accounting Services Section, Finance and Budget Office.

4.2.6 Procedures for Internal Routing of (non-Federal) Contracts and Revenue Grants, Agreements, and Leases

- A.** Obtain and complete a "Contract Routing Review Form" (CRRF).
- B.** Attach the CRRF to a minimum of two original copies of the contract or revenue grant. The completion of each process below is acknowledged by the initials of the responsible person placed in the appropriate location on the CRRF.
- C.** A memorandum to the Contract Reviewers shall be attached to the CRRF. This memorandum will be a brief explanation of the contract. It is preferred that the memorandum not exceed one page. Details should be commensurate with the complexity of the contract. Include the following subjects: the contractor(s), objective of the contract, amount of the revenue or expenditure, duration, potential legal concerns or contentious areas, unique items or items of particular interest to the Executive Director and/or the Contract Reviewers.
- D.** The appropriate regional or D/O director reviews and approves the contract by initialing the CRRF and then forwards the contract to the Purchasing Section, Finance and Budget Office.
- E.** The Purchasing Section, Finance and Budget Office, shall review and log the contract, assign a Commission contract number and if all requirements are met, forward to the Commission's attorney.
- F.** The Commission's attorney shall review and, if approved, affix their stamp

- and signature and forward the contract to the Internal Auditor.
- G. The Internal Auditor shall review the contract and, if approved, forward the contract to the Accounting Services Section, Finance and Budget Office.
 - H. The Accounting Services Section, Finance and Budget Office, shall review and, if approved, forward the contract to the appropriate entity for signature.
 - I. If there are any questions or problems discovered in the routing review process, a written description of the problem and questions should be included with the contract and returned to the originator for resolution prior to forwarding the contract to the signing entity.
 - J. Upon completion of the routing and approval process, the contract will be returned to the Purchasing Section, Finance and Budget Office. The Purchasing Section, Finance and Budget Office, will return the contract to the originator for the execution process.
 - K. The originator is responsible for the timely completion of the execution process. The originator will forward the contract to the contractor with the appropriate correspondence. Expenditure contracts will be signed by the Commission after signing by the contractor. Revenue contracts and non-monetary agreements may be signed by the Commission before the contractor. The contractor will receive one copy of the executed contract.
 - L. The originator will forward two copies of the expenditure contract to the Accounting Services Section, Finance and Budget Office, within 7 days of both parties signing the contract. The executed original contract, grant or agreement will be returned to the Purchasing Section, Finance and Budget Office, for distribution to the Central Files Section.
 - M. In situations of anticipated contracts with multiple entities for the identical service, a homogeneous draft contract may be routed for approval in order to obtain a subsequent abbreviated review of the original contract . Contact the Purchasing Section, Finance and Budget Office, for assistance. The contract summary memorandum will explain the reasons for this method of review.
 - N. Lease amendments and letters of interim management authority of no monetary value pertaining to state lands shall be routed to the section leader and Commission attorney as evidenced on the CRRF and executed by the D/O director. An executed original copy will be delivered to the Purchasing Section, Finance and Budget Office, for distribution to the Central Files Section.

4.2.7 Procedures for Routing Contracts, Grants, Applications, Agreements and Amendments that Utilize Federal Funds.

- A. Contracts with Federal agencies, Federal aid applications and any resulting revenue contract and revenue grant applications and any resulting contracts and related amendments or revenue contract or grant documents from a non-federal government agency or university originating from federal funds, need not be routed through the contract reviewers as in section 4.2.6. The following procedure applies to these documents.
 1. Upon approval of the federal grant application, contact the Finance and Budget Office to assure appropriate budget authority is available.
 2. Contact the Federal Aid Section in the Accounting Services Section via e-mail to request the grant number and to request the organizational code for the project.
 3. The execution of these documents will be the responsibility of the

originating division or office. Revenue contracts from non-federal agencies or universities must be reviewed by a Commission attorney prior to execution. The originating division or office director or designee will sign the document for the Commission. These signers must be previously authorized by the Executive Director to execute these documents for the agency.

4. The FWRI executed original documents will be retained by FWRI as the official record location. Other divisions and offices will, upon execution, send the original document to the Commission's Central Files Section and a copy to the Accounting Services Section. The grant number and segment number will be maintained in the Commission's contract system as the document's reference number. FWRI will provide the following grant or contract information to the Central Files Section via e-mail:
 - a. the grant title; grant number; the state, federal and total cost; or
 - b. contract number; contractor's name; brief contract title; contract amount; originator's name, budget entity.

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APPROVED:

Victor J. Heller

Executive Director or Designee

November 27, 2000

Date