



**MINUTES OF DECEMBER 29, 2014  
MEETING**



STATE OF TENNESSEE  
DEPARTMENT OF GENERAL SERVICES

BILL HASLAM  
GOVERNOR

ROBERT E. OGLESBY, AIA  
COMMISSIONER

MINUTES  
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #019  
MONDAY, DECEMBER 29, 2014 – 3:00 P.M.  
TN TOWER – 3<sup>rd</sup> FLOOR – NASHVILLE ROOM

**Members in Attendance:**

Mike Perry, Sondra Howe, Ted Hayden, Mitzi Hale, Rick Peppers, Terry Anderson

**Others in Attendance:**

Paul Krivacka, Shannon Howell, Toni Stuart, Don Ivancic, Bryan Chriske, Colleen Mallea, Cameron Himes, Kyle Hunter, Charlotte McKinney, Adam Jaynes, Sam Edwards.

- I. **Call to Order:** Mike Perry, Chief Procurement Officer and Advisory Council on State Procurement Chairman, officially called the meeting to order. Mr. Perry acknowledged that Commissioner Larry Martin, Department of Finance and Administration, had designated Mitzi Hale to vote for Buddy Lea in his absence at this meeting only (see attached letter dated 12/22/14).
- II. **Welcome to new Advisory Council Members:** Chief Procurement Officer Perry introduced Ted Hayden, Esq. as a new member of the Advisory Council on State Procurement (“Council”) appointed by Commissioner Bob Oglesby. Mr. Perry stated that Mr. Hayden was the Executive Director of Compliance with the State of Tennessee Real Estate Asset Management Division, Department of General Services, and welcomed him to the Council. Mr. Perry also announced that Jane Greenlee with the 3M Company had been appointed to the Council by Lt. Governor Ron Ramsey; however, Ms. Greenlee was unable to attend the meeting. Mr. Perry further stated that one position on the Council remained vacant, awaiting an appointment by Speaker of the House, Beth Harwell.
- III. **Minutes from the October 27, 2014 Meeting:** Chief Procurement Officer Perry asked if there were any corrections or additions to the minutes from the October 27, 2014 meeting. Seeing none, a motion was made by Sondra Howe, Department of Military, to accept the minutes as presented. The motion was seconded by Mitzi Hale, OIR Contract Administrator, Department of Finance and Administration, whereupon the minutes were approved without objection.

CENTRAL PROCUREMENT OFFICE

312 ROSA L. PARKS AVENUE, 3RD FLOOR • NASHVILLE, TENNESSEE 37243  
(615) 741-1035 • FAX: (615) 741-0684 • WWW.TN.GOV/GENERALSERV/

**IV. New Business:** Chief Procurement Officer Perry turned the floor over to Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to discuss the following New Business agenda items.

(1) Delegated Authority (DA) Template

Mr. Krivacka stated that the DA template was a new document that was intended to replace the current DA and DPA models. Mr. Krivacka then summarized the following points with regard to the DA template:

- This template reflects efforts of the Central Procurement Office Policy Review Subcommittee (“Subcommittee”) to simplify the process of requesting delegated procurement authority. State agencies may request, through a single document and a single process, authority to make purchases or to execute contracts.
- This new template increases oversight of delegated procurements:
  - The maximum liability of a delegated authority cannot exceed \$10 million without an approved Rule Exception Request.
  - The maximum liability of an individual purchase or contract under a delegated authority cannot exceed \$5 million without an approved Rule Exception Request.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the DA template. Seeing none, Ted Hayden, Executive Director of Compliance, State of Tennessee Real Estate Asset Management, made a motion to recommend the DA template as presented to the Procurement Commission for approval. Ms. Howe seconded the motion, whereupon the DA template was approved without objection.

(2) Purchase Order Terms and Conditions Template

Mr. Krivacka summarized the following points with regard to the Purchase Order Terms and Conditions template:

- The Purchase Order Terms and Conditions template will replace the Authorization to Vendor Model.
- Procurement professionals will use this template to prepare terms and conditions for purchase orders issued under a delegated authority and will attach the terms and conditions to every purchase order.
- This document protects the State by including standard terms that cannot be deleted or modified without a Rule Exception Request and by providing that standard terms and conditions control over special terms and conditions.
- Notwithstanding the protections afforded by this template, it also offers agencies flexibility by allowing them to add special terms and conditions.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the proposed Purchase Order Terms and Conditions template. Mr. Hayden asked if the use of the word “Omissions” in section A.5 *Limitation of Vendor’s Liability* was intended to cover negligence in addition to intentional torts, criminal acts, and fraudulent conduct. Mr. Krivacka confirmed that was correct. Mr. Krivacka further stated that a limitation of liability can be given but would not include intentional torts, criminal acts, or fraudulent conduct.

Chief Procurement Officer Perry thanked Mr. Hayden for that clarification and asked if there were any additional comments or questions. Seeing none, a motion was made by Ms. Howe to recommend the proposed Purchase Order Terms and Conditions template as presented to the Procurement Commission for approval. Mr. Hayden seconded the motion, whereupon the Purchase Order Terms and Conditions template was approved without objection.

### (3) GR Template

Mr. Krivacka stated that the GR template was used for grant contracts between the state of Tennessee and for profit businesses, non-profit businesses, individuals, and non-governmental entities. Mr. Krivacka summarized the following points with regard to the GR template:

- When revising the GR template, the Subcommittee sought to make the document easier to use, substitute plain English for “legalese,” apply changes made to terms in the FA and GG Templates, and incorporate requirements established by the U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- Revisions promoting ease of use include:
  - Moving the standard terms to the first half of the document and placing optional terms and instructions in the second half;
  - Improving instructional language; and
  - Moving all mandatory terms to Section D and reserving Section E for special terms only.
- Revisions reflecting requirements established by the U.S. OMB include:
  - Adding an attachment for federal award identification information; and
  - Modifying the “Audit Report” term.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the proposed GR template. Seeing none, Mr. Hayden made a motion to recommend the GR template as presented to the Procurement Commission for approval. Ms. Hale seconded the motion, whereupon the GR template was approved without objection.

#### (4) Governmental Grant (GG) Template

Mr. Krivacka stated that the GG template was the template to be used between the state of Tennessee and other governmental entities. Mr. Krivacka summarized the following points with regard to the GG template:

- This request revises the “Force Majeure” term to match the FA Template and the “Records” term to include relevant sections of the Tennessee Code.
  - The COT oversaw and approved the revisions to the “Records” term.
- Finally, this request moves the “Federal Award Identification” option to Section A of the optional terms portion of the document to increase its visibility.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the GG template. Seeing none, a motion was made by Ms. Howe to recommend the proposed GG template as presented to the Procurement Commission for approval. Ms. Hale seconded the motion, whereupon the GG template was approved without objection.

#### (5) Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*

Mr. Krivacka summarized the following points with regard to Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*:

- When revising this document, the Subcommittee made substantive and organizational changes.
- The substantive changes include:
  - Harmonizing the policy’s definitions with those in the U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (“Supercircular”), which was effective December 2014;
  - Revising the section on how to distinguish between a subrecipient and a contractor to conform with the Supercircular;
  - Providing guidance on best practices for monitoring and how to assign risk to subrecipients; and
  - Requiring CPO review and approval of any proposed changes to existing monitoring plans.
- The organizational changes include:
  - Merging information on monitoring plans from three sections into a single, comprehensive section; and
  - Consolidating and clarifying the section on cost allocation plans.

Chief Procurement Officer Perry asked if there were any comments or questions regarding Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*. Seeing none, a motion was made by Ms. Howe to recommend the proposed revisions to Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden, whereupon Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* was approved without objection.

(6) Sections 5.15 – 5.17 of the *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Sections 5.15 – 5.17 of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request clarifies the approval processes for statewide contracts and agency term contracts and improves the organization of sections 5.15 through 5.17.
- This request also changes the Central Procurement Office’s review process for agency term contracts of \$50,000 or less and adds information about activities that must be completed before a contract’s effective date.

Mr. Krivacka explained that the requested change would have the corollary affect of removing the contracts and purchase orders procured by agencies that are below \$50,000 out of the Central Procurement Office approval workflow. Mr. Krivacka indicated that the CPO would still have the final “last click” approval in Edison for these contracts but the intent was to remove all non-value added review by the Central Procurement Office and streamline the process.

Chief Procurement Officer Perry added that the CPO compliance team would still review select contracts as they perform compliance reviews on individual departments so the contracts may be subject to further review by them. Mr. Perry then asked if there were any comments or questions regarding Sections 5.15 – 5.17 of the *Procurement Procedures Manual of the Central Procurement Office*. Seeing none, a motion was made by Mr. Hayden to recommend the proposed revisions to Sections 5.15 – 5.17 of the *Procurement Procedures Manual of the Central Procurement Office* as presented to the Procurement Commission for approval. The motion was seconded by Ms. Hale, whereupon Sections 5.15 – 5.17 of the *Procurement Procedures Manual of the Central Procurement Office* were approved without objection.

(7) Amendment Request Form

Mr. Krivacka summarized the following with regard to the Amendment Request form:

- The Subcommittee revised this form to eliminate unneeded or duplicative sections and clarify the types of information sought.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the Amendment Request form. Seeing none, a motion was made by Ms. Hale to recommend the Amendment Request form as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden, whereupon the Amendment Request form was approved without objection.

(8) Terms and conditions for purchase orders issued under an agency's local purchase authority

Mr. Krivacka summarized the following points with regard to Terms and conditions for purchase orders issued under an agency's local purchase authority:

- This request revises the document approved at the November Procurement Commission meeting to reflect constraints within Edison.
- This request proposes adding language to all purchase orders to identify which terms and conditions apply to a particular purchase order.

Mr. Krivacka stated that a URL feature was also added that, at the option of the agency/procurement professional utilizing the purchase order, could be referenced instead of attaching hard copies of all terms and conditions. Mr. Krivacka added that this was consistent with the approach used by many companies in the technology field and that the URL will be posted on the CPO's web site.

Chief Procurement Officer Perry asked if there were any comments or questions regarding the Terms and conditions for purchase orders issued under an agency's local purchase authority. Seeing none, a motion was made by Ms. Howe to recommend the Terms and conditions for purchase orders issued under an agency's local purchase authority as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden, whereupon the terms and conditions for purchase orders issued under an agency's local purchase authority were approved without objection.

Chief Procurement Officer Perry asked Mr. Krivacka if there were any other agenda items to be presented and Mr. Krivacka indicated there were none. For the new Advisory Council members, Mr. Krivacka explained that the CPO would continue to review and make suggestions for improvements to policies, procedures, and documents as they were utilized in the field and as agency feedback was received.

Mr. Rick Peppers, Nashville Office Interiors, asked if the CPO dealt with grants on a regular basis. Mr. Krivacka responded that the state did process thousands of grants every year.

Chief Procurement Officer Perry added that a tremendous volume of grants in terms of transactions as well as dollar value were processed and most went to local governments or non-profit agencies. Mr. Peppers asked if most of the grants were federal money and Mr. Perry responded that a large part of them were federal but that state grants were also involved.

Mr. Perry thanked Mitzi Hale and Ted Hayden for their attendance and participation and asked that Mr. Hayden and Jane Greenlee be advised of future Subcommittee meetings in case they would like to attend.

- V. **Adjournment:** Seeing no other business, a motion for adjournment was made by Ms. Howe and seconded by Ms. Hale, whereupon the meeting was adjourned without objection.

**ATTACHMENT A**

**LETTER FROM COMMISSIONER  
MARTIN DATED 12/22/14**



**STATE OF TENNESSEE  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
STATE CAPITOL  
NASHVILLE, TENNESSEE 37243-0285  
Larry B. Martin  
COMMISSIONER**

**MEMORANDUM**

**TO:** The Honorable Justin Wilson, Comptroller  
Comptroller of the Treasury

Bob Oglesby, Commissioner  
Department of General Services .

Mike Perry, Chief Procurement Officer  
Department of General Services

**FROM:** Larry B. Martin

A handwritten signature in black ink that reads "Larry B. Martin" with a stylized flourish at the end.

**DATE:** December 22, 2014

**SUBJECT:** Advisory Council on State Procurement - designee

Buddy Lea, Assistant Commissioner, Division of Administration, serves as the Department of Finance and Administration's staff representative to the Procurement Commission, and as the Department of Finance and Administration's representative on the Advisory Council on State Procurement for the four-year term beginning November 1, 2013.

However, due to his planned absence from the December 29, 2014 meeting of the Advisory Council on State Procurement, I would like to designate Mitzi Hale as his alternate for that meeting for voting purposes.

Please contact me should you have any additional questions.

LBM:mm

cc: Buddy Lea

**POLICY NO. 2015-010:**

**CENTRAL PROCUREMENT OFFICE  
STATEWIDE PURCHASING CARD  
POLICY AND PROCEDURES**

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

Effective: **DATE**

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.

**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 Citibank, NA, 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 the P-Card Policy, and understands the 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.

"CitiManager®" means the 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.

"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 vendor provides.

“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 mandatory spending limit that restricts the amount of a single purchase regardless of the Cycle Limit on the card. This Policy establishes the STL for physical P-Cards as ten thousand dollars (\$10,000).

“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.

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

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

“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.

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

“Vendor” 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.

“Virtual Purchasing Card” or “Virtual P-Card” means the unique account number, embedded within Edison, which is assigned to a State Agency for payment of vendors with an existing relationship with the State. “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 accounts closed 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 vendor upon Edison-based approval of a User’s purchase order transactions. A Virtual P-Card may be used for payments to any vendor that is registered in the State’s vendor registration system whose payment method has been activated to “P-Card” in Edison. 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 physical P-Cards does not apply to Virtual P-Cards; 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 is limited to one (1) Virtual P-Card Account.

### **3.2.1. 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>.

### **3.2.2. 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 vendor's bank when the P-Card is the payment method for a reportable transaction. Because of the shift in responsibility, participants in the Program are no longer required to report total P-Card transactions in excess of six hundred dollars (\$600) with certain vendors. 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.

## **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);
- An email notification of transactions posted on CitiManager® is sent to the Cardholder;
- Transactions are typically posted on CitiManager® within 24-72 hours after the purchase is made;
- The Cardholder will log into CitiManager® on a weekly basis to review transactions and account coding and take necessary action to correct errors in the purchase details;
- The Cardholder and 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 hard-copy Bank statement monthly;
- The hard-copy Bank statement and original receipts will be sent to the State Agency Reconciler for final reconciliation;
- The State Agency Reconciler will reconcile all Transactions in accordance with the State Agency P-Card Policy; 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 policy;
- Developing written internal procedures for requesting exceptions to either state or internal policy requirements;
- Ensuring that State Agency Transactions are audited 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 one (1) business day 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:

- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card policy to address policy areas unique to the State Agency or that are not covered by this Policy;
- 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 P-Card status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage);
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the general ledger at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or CitiManager®, 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, rejecting, or disputing all Transactions within the scheduled timeframe;
- Ensuring that all documentation is submitted according to the State Agency's internal procedures and this Policy;
- Maintaining knowledge of State Agency internal procedures and policies and this Policy; and
- Requesting reasonable spending limits in accordance with State Agency internal procedures and policies and this Policy.

#### **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. 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 Citibank. 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:

- 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 vendor 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 **Citibank Customer Service at 1-800-248-4553**. Upon such notification, outstanding authorizations will be confirmed and further use of the P-Card will be blocked by Citibank. 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, Citibank will 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. Citibank will then issue a new card with a new account number which will be delivered to the State Agency P-Card Program Coordinator.

### **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 vendor. This form is available on the Department of Revenue web site at <http://www.tn.gov/revenue/forms/sales/index.shtml> in the "Exemption Applications/Certificates" section. Purchases made in other states may be subject to that state's sales tax. The Cardholder must be diligent when dealing with the vendor regarding taxes. If the vendor 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 *CitiManager*® to ensure that credits are received and, if not, file the appropriate paperwork for disputed items. Cardholders should avoid Vendors 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 Vendor. In most cases, disputes can be resolved between the Cardholder and the Vendor. The Vendor 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 Vendor are unsuccessful or if a credit does not appear in *CitiManager*®, the Cardholder should file the appropriate dispute paperwork with the Bank and contact his or her State Agency P-Card Program Coordinator.

If a Citibank Statement contains a Transaction that needs to be disputed, the Cardholder should contact Citibank Customer Service at 1-800-248-4553, Option #0 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 and follow the agency-specific procedures for disputes.

## **6.7. Declined Purchase Transactions.**

On occasion, a Cardholder's purchase transaction may be declined. Cardholders should contact Citibank Customer Service at 1-800-248-4553, option #0 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 are responsible for deactivating P-Cards as necessary, while the Statewide P-Card Program Administrator is responsible for permanent cancellation of P-Cards.

### **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 they no longer require a P-Card;
- Cardholder reports the loss or theft of the P-Card;
- Cardholder misuses the P-Card; or
- Untimely approval of transactions.

If a P-Card is cancelled, it shall be destroyed by cutting it down the magnetic strip. 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 the P-Card Policy. 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 P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing the State Agency's internal P-Card policy and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agency P-Card Program internal policies shall address the following:

- 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);
- Independent review of the P-Card Account maintenance activity at least monthly if the State Agency P-Card Program Coordinator is also a Cardholder or User.
- Limits on the number of Cardholders assigned to a Cardholder Supervisor in order to ensure adequate review of business need and documentation for each Transaction; and
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
  - Internal policies and procedures;
  - Cardholder spending limits;

- Monthly reconciliation procedures; and
- Documentation for Transactions.

**9.2. State Agency Internal P-Card Policy and Procedures.**

Each State Agency must develop its own internal policy and procedures to address areas that this Policy does not address.

**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 vendors 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 vendors.
- 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.

**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. 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 spending limits may be made by the State Agency Fiscal Director as needed. 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.**

Each State Agency's internal P-Card policy shall address how long a P-Card can remain unused before it is considered inactive. 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 in accordance with its own internal P-Card policy.

## **10. DOCUMENTATION AND ACCOUNTING.**

### **10.1. Documentation.**

State Agencies should use Edison for Transaction reconciliation. When performing reconciliation in Edison, Cardholders must follow internal procedures for handling documentation, including logs. Any State Agency seeking to use a manual method for Transaction reconciliation must obtain approval from the Central Procurement Office.

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

- The Vendor'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 Vendor 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 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. This should also occur on a weekly basis.
- If the State Agency requires Cardholders to submit manual logs to the State Agency Reconciler, the documentation must meet the following additional requirements:
  - All transaction logs or monthly billing statements must be signed by the Cardholder and Cardholder Supervisor. Signature stamps are not permitted; and
  - All invoices or receipts must be attached to the log or monthly billing statement and submitted following State Agency internal procedures.

### **10.4. Allocation to the General Ledger.**

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

## **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 of 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 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;

**11.2. Personal Purchases Prohibited.**

As provided in Sections 3.1, 5.7 and 12.1, 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 vendors 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 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 policy.

**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 vendor with an exemption certificate, as described in Section 6.4. Cardholders are responsible for ensuring that vendors do not charge tax or provide a credit for inadvertent charges.

- If taxes are charged, the Cardholder must contact the vendor to obtain a credit to the account.
- Vendors 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; and
- Association entry fees.

State Agencies may request an exception from this paragraph by submitting a letter to the Statewide P-Card Program Administrator. The letter must be on Agency letterhead, include a business justification for the exception, and be signed by the Agency's Fiscal Director.

**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 Vendors.**

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

**15. SURCHARGES AND CONVENIENCE FEES.**

Many vendors 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 vendor's bank charges them for processing the transaction. Also, the vendor 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 Vendor charges a surcharge, the following rules apply:

- The Vendor must have provided Visa and its bank at least thirty (30) days notification of their intent to impose surcharges;
- The fact that the Vendor 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 Vendor must inform the Cardholder or User:
  - Of the exact percent of the surcharge;
  - That the Vendor is the entity assessing the surcharge;
  - That surcharges are applicable on credit transactions only; and
  - That the surcharge is not greater than what the vendor pays to Visa.

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

**Related Statutes, Rules and Policies**

Tenn. Code Ann. §§ 4-56-101, *et seq.*

**AMENDMENT TO FA TEMPLATE AND  
EDISON CONFIGURATOR TERMS AND  
CONDITIONS**

**REDLINE VERSION**

## Performance Bond

~~Tenn. Code Ann. § 12-4-201 requires a labor and materials bond for all public works projects in excess of one hundred thousand dollars (\$100,000).~~

For contracts that do not involve public works projects, a performance bond should be required only when necessary to protect against contract risk to the State. ~~Choose one of the two options.~~ For agency term contracts, choose option #1 or option #2. For statewide contracts that do not involve awards to multiple contractors, choose option #3 or option #4. If unsure whether a performance bond is appropriate or which option is best, contact the CPO Risk Manager.

### Option #1

E.#. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract ~~and in the~~ specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Maximum Liability, Written Dollar Amount (\$Number). The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the ~~Contract start date~~ Effective Date and in the manner and form prescribed by the State (at Attachment ~~Reference hereto~~). The bond shall be issued throughby a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations ~~under this Contract for the Term and all extensions thereof,~~ as the Contract is extended or renewed.

Failure to provide to the State the performance bond(s) as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State of Tennessee Central Procurement Office's prior written approval ~~of the State.~~

### Option #2—Insert the term below only after obtaining an approved Rule Exception Request.

E. #. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract ~~and in the amount equal to Written Dollar Amount (\$Number)~~ specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The Contractor shall submit the bond no later than the day immediately preceding the ~~Contract start date~~ Effective Date and in the manner and form prescribed by the State (at Attachment ~~Reference hereto~~). The bond shall be issued throughby a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for the first ~~calendar~~ year of the ~~Contract (ending December 31st following the Contract start date)~~ Term in the amount of Written Dollar Amount (\$Number) and, thereafter, a new performance bond in ~~the an~~ amount of one hundred percent (100%) of the Maximum Liability, Written Dollar Amount (\$Number) covering each subsequent ~~calendar~~ year of the Term, including any renewals or extensions. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall provide performance bonds to the State prior to the Effective Date and thirty (30) days prior to the beginning of each renewal or

extended Term.

Failure to provide to the State the performance bond(s) as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval ~~of the State.~~

### **Option #3**

Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract, specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Estimated Liability Written Dollar Amount (\$Number). The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment Reference. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations for the Term, as the Contract is extended or renewed.

Failure to provide to the State the performance bond as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

### **Option #4—Insert the term below only after obtaining an approved Rule Exception Request.**

Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract, specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Estimated Liability, Written Dollar Amount \_\_\_\_\_ (\$Number). The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment Reference. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for the first year of the Term in the amount of Written Dollar Amount (\$Number) and, thereafter, a new performance bond in the amount of Written Dollar Amount (\$Number) covering each subsequent year of the Term, including any renewals or extensions of the Contract. The Contractor shall provide performance bonds to the State prior to the Effective Date and thirty (30) days prior to the beginning of each renewal or extended Term.

Failure to provide to the State the performance bond as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

## **Payment Bond**

Tenn. Code Ann. § 12-4-201 requires a payment bond for all public works projects in excess of one hundred thousand dollars (\$100,000). Insert option #1 for agency term contracts; insert option #2 for statewide contracts that do not involve awards to multiple contractors. If unsure whether a payment bond is appropriate, contact the CPO Risk Manager.

### **Option #1**

Payment Bond. The Contractor shall provide to the State a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Maximum Liability Written Dollar Amount (\$ Number). The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment Reference. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The payment bond shall guarantee that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance during the Term and all extensions or renewals of the Contract.

Failure to provide to the State the payment bond as required under this Contract may result in this Contract being terminated by the State. The payment bond required under this Contract shall not be reduced during the Term without the State of Tennessee Central Procurement Office's prior written approval.

### **Option #2**

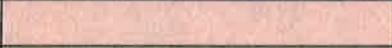
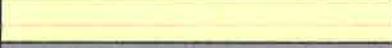
Payment Bond. The Contractor shall provide to the State a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Estimated Liability Written Dollar Amount (\$ Number). The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment Reference. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The payment bond shall guarantee that the Contractor's subcontractors, laborers, and

material suppliers will be paid for performance during the Term and all extensions or renewals of the Contract.

Failure to provide to the State the payment bond as required under this Contract may result in this Contract being terminated by the State. The payment bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

Document comparison by Workshare Compare on Monday, January 26, 2015  
4:07:24 PM

Input:	
Document 1 ID	file://C:\Users\BA10408\Desktop\Performance Bond_FA.docx
Description	Performance Bond_FA
Document 2 ID	file://C:\Users\BA10408\Desktop\Bond terms_bew.docx
Description	Bond terms_bew
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	34
Deletions	20
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	54

**AMENDMENT TO FA TEMPLATE AND  
EDISON CONFIGURATOR TERMS AND  
CONDITIONS**

**CLEAN VERSION**

**REQUESTS:** (1) Make the following changes to the optional Performance Bond terms in the FA Template; add the two Payment Bond terms below as options in the FA Template; and add the six bond terms below as options in the Edison configurator.

### **Performance Bond**

For contracts that do not involve public works projects, a performance bond should be required only when necessary to protect against contract risk to the State. For agency term contracts, choose option #1 or option #2. For statewide contracts that do not involve awards to multiple contractors, choose option #3 or option #4. If unsure whether a performance bond is appropriate or which option is best, contact the CPO Risk Manager.

#### **Option #1**

**E.#.** Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract, specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Maximum Liability, **Written Dollar Amount (\$Number)**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations for the Term, as the Contract is extended or renewed.

Failure to provide to the State the performance bond(s) as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State of Tennessee Central Procurement Office's prior written approval.

#### **Option #2—Insert the term below only after obtaining an approved Rule Exception Request.**

**E. #.** Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for the first year of the Term in the amount of **Written Dollar Amount (\$Number)** and, thereafter, a new performance bond in an amount of one hundred percent (100%) of the Maximum Liability, **Written Dollar Amount (\$Number)** covering each subsequent year of the Term, including any renewals or extensions. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall provide performance bonds to the State prior to the Effective Date and thirty (30) days prior to the beginning of each renewal or extended Term.

Failure to provide to the State the performance bond(s) as required under this Contract may

result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

### **Option #3**

Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract, specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Estimated Liability **Written Dollar Amount (\$Number)**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations for the Term, as the Contract is extended or renewed.

Failure to provide to the State the performance bond as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

### **Option #4—Insert the term below only after obtaining an approved Rule Exception Request.**

Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract, specifically faithful performance of the work in accordance with the plans, specifications, and Contract documents. The performance bond shall be in an amount equal to one hundred percent (100%) of the Estimated Liability, **Written Dollar Amount (\$Number)**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for the first year of the Term in the amount of **Written Dollar Amount (\$Number)** and, thereafter, a new performance bond in the amount of **Written Dollar Amount (\$Number)** covering each subsequent year of the Term, including any renewals or extensions of the Contract. The Contractor shall provide performance bonds to the State prior to the Effective Date and thirty (30) days prior to the beginning of each renewal or extended Term.

Failure to provide to the State the performance bond as required under this Contract may result in this Contract being terminated by the State. The performance bond required under this Contract shall not be reduced during the Term without the State's prior written approval.

(2) Add the following Payment Bond terms as options in the FA Template and Edison configurator.

### **Payment Bond**

Tenn. Code Ann. § 12-4-201 requires a payment bond for all public works projects in excess of one hundred thousand dollars (\$100,000). Insert option #1 for agency term contracts; insert option #2 for

statewide contracts that do not involve awards to multiple contractors. If unsure whether a payment bond is appropriate, contact the CPO Risk Manager.

### **Option #1**

Payment Bond. The Contractor shall provide to the State a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Maximum Liability **Written Dollar Amount (\$ Number)**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The payment bond shall guarantee that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance during the Term and all extensions or renewals of the Contract.

Failure to provide to the State the payment bond as required under this Contract may result in this Contract being terminated by the State. The payment bond required under this Contract shall not be reduced during the Term without the State of Tennessee Central Procurement Office's prior written approval.

### **Option #2**

Payment Bond. The Contractor shall provide to the State a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Estimated Liability **Written Dollar Amount (\$ Number)**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State at Attachment **Reference**. The bond shall be issued by a company licensed to issue such a bond in the state of Tennessee. The payment bond shall guarantee that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance during the Term and all extensions or renewals of the Contract.

Failure to provide to the State the payment bond as required under this Contract may result in this Contract being terminated by the State. The payment bond required under this Contract shall not be reduced during the Term without the State's prior written approval.