

Senate Bill 2548er was passed into law in the 2006 Legislative Session

In part, this Bill included the following changes to Section 215.97, F.S. and repealed Section 216.346, F.S.

Paragraph (o) is added to subsection (8) of section [215.97](#), Florida Statutes, to read:

[215.97](#) Florida Single Audit Act.--

(8) Each recipient or subrecipient of state financial assistance shall comply with the following:

- (o) A contract involving the State University System or the Florida Community College System funded by state financial assistance may be in the form of:
 1. A fixed-price contract that entitles the provider to receive full compensation for the fixed contract amount upon completion of all contract deliverables;
 2. A fixed-rate-per-unit contract that entitles the provider to receive compensation for each contract deliverable provided;
 3. A cost-reimbursable contract that entitles the provider to receive compensation for actual allowable costs incurred in performing contract deliverables; or
 4. A combination of the contract forms described in subparagraphs 1, 2, and 3.

Section [216.346](#), Florida Statutes, as amended by section 7 of chapter 2005-358, Laws of Florida, is repealed.

June 30, 2006

CHIEF FINANCIAL OFFICER'S MEMORANDUM NO. 04 (2005-06)

SUBJECT: COMPLIANCE REQUIREMENTS FOR AGREEMENTS

This memorandum sets forth the **minimum** requirements state agencies must follow for proper accountability over state and federal resources. While the State is accountable to the federal government, sub-recipients of federal financial assistance must be accountable to the State. Recipients/sub-recipients of state financial assistance must also be accountable to the State. This memorandum supersedes Chief Financial Officer Memorandum No. 1 (05-06).

FEDERAL FUNDS

This memorandum is applicable to discretionary grants, which the State receives from the federal government. Applicability to federal entitlement programs or formula based awards should be determined on a case by case basis pursuant to federal regulations for these programs.

State agencies must determine whether they are passing on federal awards in the form of federal financial assistance to sub-recipients or procuring goods and services from a vendor. This determination is critical for the proper accountability over federal financial assistance, which is passed on to sub-recipients. State agencies will use the criteria established in OMB Circular A-133 to make this determination. Agencies must retain documentation to support this determination.

The Office of Federal Financial Management has confirmed to the Department of Financial Services that if the State receives an award of federal financial assistance in the form of a grant or cooperative agreement, any sub-award for the purpose of the grant is subject to the rules applicable to the grant, **even if the sub-award is on a fixed price basis**. Agreements (sub-awards) with sub-recipients of federal financial assistance must require the following, as applicable:

- a. Compliance with OMB Circular A-133 – Audits of States, Local Governments and Non-Profit Organizations
- b. Compliance with OMB Circular A-21 – Cost Principles for Educational Institutions (2 CFR, Part 220); A-87 Cost Principles for State, Local, and Indian Tribal Governments (2 CFR, Part 225); or A-122 – Cost Principles for Non-Profit Organizations, as appropriate (2 CFR, Part 230)
- c. Compliance with OMB Circular A- 102 – Grants and Cooperative Agreements with State and Local Governments
- d. Compliance with OMB Circular A-110 – Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Learning, Hospitals, and Other Non-Profit Organizations (2 CFR, Part 215)
 - (1) This circular also applies to **sub-awards** made by State and local governments to organizations covered by the circular and provides that:
 - (a) A grant may be charged only allowable costs resulting from obligations incurred during the specified funding period.

- (b) Any balance of unobligated cash that has been advanced or paid that is not authorized to be retained for other projects must be refunded to the federal government.
- (c) Any funds paid in excess of the amount to which the recipient is finally determined to be entitled, under the terms and conditions of the award, constitutes a debt to the Federal government.

Agreements with vendors must be procured in a manner that ensures a fair and reasonable price to the Federal government and compliance with applicable rules and regulations, including, but not limited to:

- a. OMB Circular A-87
- b. Section 287.057, F.S.
- c. Section 216.3475, F.S.
 - (1) Non-competitive procurements and competitive procurements that result in less than 2 responses must be supported by a detailed price and cost analysis. Costs must be reasonable, necessary and allowable in accordance with state and federal laws, rules and regulations. Agencies must maintain documentation to evidence the agency's review.

STATE FUNDS

State agencies must determine whether they are awarding state financial assistance to a recipient or procuring goods and services from a vendor. State agencies will use the Florida Single Audit Checklist for Non-state Organizations - Recipient/Sub-recipient vs Vendor Determination to make this determination. Agencies must retain a copy of the checklist.

Agreements with recipients of state financial assistance, **even if awarded on a fixed price basis**, must require:

- a. Compliance with Section 215.97, Florida Statutes (F.S.)
- b. Expenditures of state financial assistance be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures
- c. A provision stating that an agreement may be charged only with allowable costs resulting from obligations incurred during the term of the agreement.
- d. A provision that any balances of unobligated cash that have been advanced or paid that is not authorized to be retained for direct program costs in a subsequent period must be refunded to the State.

Agreements involving the State University System, the Florida Community College System, district school board, or charter schools using state funds must be procured in a manner that ensures a fair and reasonable price to the State and compliance with applicable rules and regulations, including, but not limited to:

- a. Section 216.3475, F.S.
 - (1) Non-competitive procurements and competitive procurements that result in less than 2 responses must be supported by a detailed price and cost analysis. Costs must be reasonable, necessary and allowable in accordance with state laws,

rules and regulations. Agencies must maintain documentation to evidence the agency's review.

- b. May be fixed price contract that entitles the provider to receive full compensation of the fixed contract amount upon completion of all deliverables.
- c. May be a fixed rate per unit contract that entitles the provider to receive compensation for each deliverable provided.
- d. May be a cost reimbursable contract that entitles the provider to receive compensation for actual allowable costs incurred in performing contract deliverables.
- e. May be a combination of b, c and d.

Agreements with vendors must be procured in a manner that ensures a fair and reasonable price to the State and compliance with applicable rules and regulations, including, but not limited to:

- a. Section 287.057, F.S.
- b. Section 216.3475, F.S.
 - (1) Non-competitive procurements and competitive procurements that result in less than two responses must be supported by a detailed price and cost analysis. Costs must be reasonable, necessary and allowable in accordance with state laws, rules and regulations. Agencies must maintain documentation to evidence the agency's review.

TRAINING

The department currently provides training to contract and grant managers and providers of service, which includes the requirements set forth herein. Contact Suzette Harris at (850) 413-5740 or suzette.harris@fldfs.com to register for a class.