The purpose, statutory authority, definitions, applicability, and responsibility that are contained on the next page of these rules are applicable to each of the Fiscal Rules and should be attached to any rule that is separated from the MSU Denver Fiscal Rules.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

PURPOSE
The purpose of these fiscal rules is to set forth policies for University departments concerning internal controls, accounting policies, and financial reporting for Metropolitan State University of Denver (“University”).

STATUTORY AUTHORITY
Senate Bill 10-003 modified Colorado Revised Statute 24-30-202 to authorize the University to opt out of State fiscal rules, upon adoption of University fiscal rules that provide adequate safeguards and methods for ensuring fiscal responsibility and accountability.

DEFINITIONS
The following definitions are incorporated into each of these fiscal rules:
1. Department- Any division, section, or unit that was created and is officially recognized by the University.
2. University Financial System - The official financial system for the University as prescribed by the Office of the Controller.

SCOPE OF RULES
These Rules are applicable to all University employees and officials, and any representative of the University authorized to conduct official University business. These Rules govern any transaction of any kind and in any medium that involves the commitment or expenditure of University monies or resources or the assumption of liabilities (either actual or potential) by the University. These Rules are to be implemented together with applicable state and federal laws and regulations and University Board Policies and Regulations. Should a conflict exist between applicable state and federal laws and regulations and these Rules, applicable state and federal laws shall supersede these Rules. The University Chief Financial Officer (“CFO”) has final authority to interpret these Rules. The CFO may also, in his/her discretion, delegate his/her responsibilities under any provision of these Rules to one or more University employees, provided that (1) such delegation is in a writing signed by the CFO, (2) describes the specific responsibility or responsibilities delegated by the CFO and (3) is revocable by the CFO at any time and for any reason.

The CFO, upon approval by the President of the University, may, from time to time, amend these Rules as reasonable and necessary to continue to provide adequate safeguards for the proper expenditure of University monies and resources.

RESPONSIBILITY
It is the responsibility of each University department supervisor to ensure compliance with these fiscal rules.
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CHAPTER 1: ACCOUNTING

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Accounting Principles and Standards 1-1
Use of the State Financial System 1-2
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Reporting Theft or Embezzlement 1-9
Accountability and Capitalization of Equipment 1-10
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 1-1
ACCOUNTING PRINCIPLES AND STANDARDS

AUTHORITY:
CRS §24-17-102(1) (Internal Controls)
CRS §24-17-103 (Annual Internal Control Report)

RULE:
The accounting principles of the University shall be based on generally accepted accounting principles (GAAP) as adopted by the Governmental Accounting Standards Board (GASB). In addition, all applicable statutory provisions shall be met.

When a conflict between statutory provisions and generally accepted accounting principles exists, generally accepted accounting principles take precedence in financial reporting.

When it is necessary to report compliance of financial transactions with statutory requirements, supplemental schedules may be used. Preparation of separate statutory based reports may also be necessary.
Rule 1-2
USE OF THE UNIVERSITY’S FINANCIAL SYSTEM

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
All departments of the University are required to use the University’s financial system to record their financial transactions and financial information, develop their financial reports and prepare their financial statements.
Rule 1-3
ACCESS TO THE STATE FINANCIAL SYSTEM

AUTHORITY:
2-3-107, C.R.S. (State Auditor)
2-3-203(1), C.R.S. (Joint Budget Committee)

RULE:
The Controller is the official custodian of the financial portion of the database included within the University’s financial system. The official custodian prescribes the rules and regulations with reference to query, use, or inspection of the financial records.

The Office of the Controller, as official custodian of the financial portion of the University’s financial system database, shall approve access and resolve all disputes regarding access to financial information contained in the database.

Electronic Read Only (Query) Access to the University Financial System Database

The University’s financial system records contain both public and confidential information; therefore access to financial data contained on the University’s financial system shall not be granted to anyone for general perusal of a department's financial records.

Specific request for query access to the financial database of the University’s financial system shall state what information is requested and when the information is desired. The Office of the Controller shall have the discretion of requiring that the request for financial information be in writing.

1. Query access by a citizen or private entity:
Information requested by a citizen or entity other than a University department shall be furnished in a timely manner, as provided by statute. The information shall be provided by the Office of the Controller in the form of a copy or printout, or a computer tape or disc. Actual costs, not to exceed the statutory maximum, may be charged by the Office of the Controller for providing the information requested.

2. Query access to a department’s own financial information:
Each department shall be given query access to its own financial information on the University’s financial system upon approved written request.

3. Query access to another department’s financial information:
When a department desires information from another department, the department making the request shall obtain written approval from the owner of the information. Once approval has been granted, the information shall be furnished in a timely manner. Disputes shall be referred to the University’s Controller.
4. Query access by the Office of the State Auditor and Contracted Audit Firms:
The Office of the State Auditor and any contracted audit firm shall have query access to the financial databases of all departments on the University’s financial system.
Rule 1-4
AUTOMATED INTERFACES WITH
THE UNIVERSITY’S FINANCIAL SYSTEM

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
Only electronic interfaces approved by the University’s Controller shall be allowed to feed data into the University’s financial system.
Rule 1-5
UNIVERSITY FINANCIAL SYSTEM SECURITY

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201 (1)(f)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
The University’s Controller is responsible for the overall security of the University’s financial system. The Controller may delegate security responsibility to departments for their portion of the financial database on the University’s financial system.

If it is determined that a department is not complying with the delegated responsibilities, the Controller may withdraw the delegation and assume responsibility of the University’s financial system security administration for that department.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 1-6
UNIVERSITY’S ACCOUNTING SYSTEMS

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Financial System - All data processing software systems applied to general ledgers and subsidiary ledgers, debt collection, accounts payable, accounts receivable, cost distribution, fixed assets, inventory, payroll, purchasing, and time collection.

RULE:
All financial systems that are used to record University financial information and transactions, or develop financial reports and prepare financial statements for the University shall be approved by the Controller.

The Controller shall approve the development or acquisition of new or replacement financial systems based upon the uniformity of accounting procedures, account structures, expense, revenue, and other classifying code definitions, as well as the potential benefit and use by University departments.
Rule 1-7
SIGNATURE AUTHORITY

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
Each department that is assigned a Fund and Organization code in the University’s chart of accounts must have an approved signor on file with the Office of the Controller. This approved signor will have the responsibility to approve all expense and security requests. It will be the responsibility of each department to update the approved signor as necessary, as well as ensure the signors are capable of the related responsibility. A signor will be recognized by the Office of the Controller only after appropriate signatory forms are submitted.
Rule 1-8
PRE-AUDIT RESPONSIBILITY FOR ACCOUNTING DOCUMENTS
AND FINANCIAL TRANSACTIONS

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
CRS §24-30-201 (1)(h)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Pre-audit - A review for compliance with applicable statutes, fiscal rules, and other regulations,
and an adherence to accepted business practices.

RULE:
All accounting documents and financial transactions shall be subjected to a pre-audit prior to
recording the documents on the University’s financial system prior to making payment.
Departments shall implement internal accounting and administrative controls that reasonably
ensure that financial transactions are accurate, reliable, and conform to University fiscal rules
before they are remitted to Accounting Services. The factors of risk, cost, and business
requirements shall be considered when establishing these internal controls.
Rule 1-9
FRAUD, THEFT AND EMBEZZLEMENT

AUTHORITY:
18-4-401, C.R.S. (Theft)
18-5-102, C.R.S. ( Forgery)
18-8-407, C.R.S. (Embezzlement of Public Property)
24-17-101, C.R.S. (State Department Financial Responsibility and Accountability Act)

DEFINITIONS:
Fraud includes misstatements arising from fraudulent financial reporting, misstatements arising from intentional misappropriation of assets, and theft or embezzlement of public property.

Misstatements arising from fraudulent financial reporting are intentional misstatements, or omissions of amounts or disclosures in financial statements with the intent to deceive financial statement users.

Misstatements arising from misappropriation of assets involve the theft of an entity’s assets where the effect of the theft causes the basic financial statements not to be presented in conformity with accounting principles generally accepted in the United States of America.

RULE:
Departments have the responsibility for the design and implementation of programs and controls to prevent, deter and detect fraud.

Any suspected fraudulent misstatements of the financial statements should be reported to the University’s Controller.

Any suspected theft or embezzlement of state funds or assets should be immediately reported to the chief executive officer, or delegate, and the chief financial officer of the University and appropriate action taken. A suspected theft or embezzlement of state funds or assets totaling $5,000 or more, or such amount as designated by the University’s Controller, per incident shall be reported in writing to the State Controller. Also, the results of any investigation or follow-up including corrective measures implemented to prevent or reduce the likelihood of future occurrences must be reported in writing to the State Controller in a timely manner.
Rule 1-10
ACCOUNTABILITY AND CAPITALIZATION OF EQUIPMENT

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201 (1)(k)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Equipment - Tangible personal property that has a useful life of more than one year and an acquisition cost of more than $5,000, which is not a permanent part of a building and does not lose its identity through incorporation into a more complex unit.

RULE:
Accounting Services is responsible for ensuring that all equipment acquired by the state is properly accounted for when acquired, inventoried and safeguarded throughout its useful life, and properly accounted for at the time of disposal.

Tangible personal property purchased by the University shall be either capitalized or expensed in the fiscal year in which it was acquired. Equipment purchased by the University shall be capitalized.
CHAPTER 2: DISBURSEMENT

FISCAL RULE NUMBER
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Commitment Vouchers 2-2
Receiving Reports 2-3
Purchase Discounts 2-4
Interest Payment on Delinquent Payables 2-5
Interagency Purchases and Payments 2-6
Official Functions and Training Functions 2-7
Miscellaneous Compensation and Other Benefits (Perquisites) 2-8
Moving and Relocation 2-9
Procurement Card 2-10
Rule 2-1
PROPRIETY OF EXPENDITURES

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (2) and (5)(a)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
All expenditures by departments shall meet the following standards of propriety:
1. Are for official state and University business purposes only.
2. Are reasonable and necessary under the circumstances.
1. Authorities
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-1401, et seq., (Professional Services)
CRS §24-102-206 (Contract Performance Outside United States or Colorado)
CRS §24-103-601 (Right to Audit Records)
CRS §24-103.5-101 (Monitoring of Vendor Performance)
CRS §24-105-102 (Performance Evaluation Reports)
SB10-003 (Higher Education Flexibility Act)

2. Definitions
All references to “contract” or “agreement” refer to State contracts, which are formal, legally binding documents. The terms “contract”, and “agreement” are used interchangeably in the following definitions to reflect their common usage and include any amendments and modifications thereto.

2.1 Advance Payment/Pre-Payment – A payment made for goods or services prior to the receipt thereof.

2.2 Commitment Voucher
2.2.1 Elements. A document, the form of which has been approved by the Office of the Controller, evidencing the following:
   2.2.1.1 A description of goods or services being purchased or other reasons for the disbursement of funds;
   2.2.1.2 The amount to be paid;
   2.2.1.3 That the obligation is being charged to the appropriate account; and
   2.2.1.4 That procurement requirements have been satisfied.

2.2.2 Inclusions. Commitment vouchers include any approved form of purchase order, State contract, travel authorization, grant contract, license agreement, parking license agreement, and other written authorizations for disbursement that satisfy the requirements.
2.10 Small Purchase Documentation

2.10.1 Applicability. Small purchase documentation is required for purchases of $5,000 or less.

2.10.2 Elements.

2.10.2.1 Documentation shall include:

2.10.2.1.1 Description of goods or services being purchased or other reasons for the disbursement of funds; and
2.10.2.1.2 The amount to be paid.
2.10.2.2 The department shall ensure that:
   2.10.2.2.1 The obligation is being charged to the appropriate account; and
   2.10.2.2.2 Procurement requirements have been satisfied.

2.10.3 Inclusions. Small purchase documentation includes, without limitation, an invoice, billing, receipt, court order, or any other document appropriate to the transaction and approved by the Controller.

2.10.4 Exclusions. Small purchase documentation is not required for purchases that do not require a receipt under Fiscal Rule 5-1(Travel).

2.11 State Contract – See Fiscal Rule 3-1 (State Contracts).

2.12 Statutory Violation – A statutory violation occurs when liabilities are incurred or payments are made on the University’s behalf without prior approval of a purchase order or contract by the Controller, when required under this Fiscal Rule.

2.13 Vendor Agreement – A vendor agreement is any form of agreement provided by a vendor, including an on-line agreement, containing contractual provisions relating to the goods and/or services to be provided by such vendor.

3 RULE
A department shall not disburse funds unless the disbursement is supported by a commitment voucher or small purchase documentation. With respect to proposed expenditures, departments shall ensure that the commitment voucher:

3.1 Expenditure is authorized by the appropriation and required approvals have been received;
3.2 Expenditure is reasonable and necessary;
3.3 Prices or rates are fair and reasonable;
3.4 Expenditure amount is within the available unencumbered balance;
3.5 Adequately defines the requirements, respective performance obligations of the parties, and pricing;
3.6 Terms and conditions represent a commercially reasonable allocation of risks between the parties;
3.7 Complies with applicable statutes, executive orders, rules and policies; and
3.8 Is encumbered, if a purchase order or contract. The encumbrance of funds is not required for interagency agreements between Agencies and Institutions of Higher Education charged to a special line item appropriation dedicated to that commitment, routine internal services, and other items specified in §4.2 (Exempt Disbursements) of this Fiscal Rule.

3.9 If applicable, verifies that the department shall be financially responsible for any and all penalties associated with the purchase or cancellation thereof.
4 DOLLAR LIMITS AND REQUIREMENTS

<table>
<thead>
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<th>TYPE OF AGREEMENT</th>
<th>DOLLAR LIMIT</th>
<th>REQUIREMENTS</th>
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<tr>
<td></td>
<td>Total value of the commitment.</td>
<td></td>
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<tr>
<td>Goods</td>
<td>$5,000 and less</td>
<td>Small purchase documentation or any commitment voucher</td>
</tr>
<tr>
<td></td>
<td>Above $5,000</td>
<td>PO or State contract, Create Encumbrance</td>
</tr>
<tr>
<td>Services</td>
<td>$5,000 and less</td>
<td>Small purchase documentation or any commitment voucher</td>
</tr>
<tr>
<td></td>
<td>$5,001 to $100,000 per FY</td>
<td>PO or State contract, Create Encumbrance</td>
</tr>
<tr>
<td></td>
<td>Above $100,000 per FY</td>
<td>State contract, Create Encumbrance</td>
</tr>
<tr>
<td>Capital Construction / Controlled</td>
<td>NA</td>
<td>See Fiscal Rule 4-1 (Capital Construction Administration) and Fiscal Procedures Manual</td>
</tr>
<tr>
<td>Maintenance</td>
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<tr>
<td>Professional Services under CRS §24-30-1401, et seq., including architectural, engineering, land surveying, industrial hygienist, and landscape architect services</td>
<td>Any dollar amount</td>
<td>State contract, Create Encumbrance</td>
</tr>
<tr>
<td>Real Property</td>
<td>Any dollar amount</td>
<td>State contract, Create Encumbrance</td>
</tr>
<tr>
<td>lease or license of land, buildings, or a portion thereof for term of more than 30 days</td>
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4.1 Protecting the University’s Interests. State contracts shall be used in situations in addition to those described in this §4 if other commitment vouchers do not adequately protect the University’s interests. Refer questions regarding the proper form of commitment voucher to the Office of the Controller.

4.2 Exempt Disbursements. A purchase order or State contract is not required for the following types of disbursements regardless of the amount of funds disbursed:

4.2.1 Calculated payments required under a program within an Agency or Institution of Higher Education (e.g., formula distributions, other distributions required by regulatory or statutory formulas);

4.2.2 Conference registrations;

4.2.3 Financial aid or tuition assistance programs;

4.2.4 Insurance purchases;

4.2.5 Internal services routinely provided by an Agency or Institution of Higher Education (e.g., printing services and materials ordered from the Division of Central Services, Capitol Complex lease payments, or legal services provided to an Agency or Institution of Higher Education by the Department of Law);

4.2.6 Intra-Agency or intra-Institution purchases;

4.2.7 Moving expenses reimbursed to State employees;
4.2.8 Payroll and related disbursements (withholding, authorized benefits, etc.);
4.2.9 Postal and other delivery charges, including messenger fees;
4.2.10 State program payments to or on behalf of individuals qualified for the program’s benefits;
4.2.11 Subscriptions for journals, informational publications or similar materials (electronic or hard copy), which do not include services;
4.2.12 Utility hook ups and line extensions performed by a utility company;
4.2.13 Water, gas, electric, and customary local and long-distance telephone services, including pagers and cell phones, which are routinely purchased by an Agency or Institution of Higher Education; and
4.2.14 Other disbursements approved in writing by the Controller.

5 STATE PURCHASE ORDERS
5.1 Standard Provisions – All purchase orders issued by the University shall include the provisions set forth in §11 (Purchase Order Terms and Conditions) of this Fiscal Rule.
5.2 Interagency Purchase Orders – An Agency or Institution of Higher Education issuing a purchase order to another Agency or Institution of Higher Education may change or delete any standard provision.
5.3 Revision of Standard Terms and Conditions – A department issuing a purchase order to a party, other than another Agency or Institution of Higher Education, shall not change or delete the standard purchase order provisions unless it obtains prior written approval of a procurement officer or authorized Controller delegate, except that:

5.3.1 No changes to the provisions governing Changes, Vendor Offset, Assignment and Successor, Independent Contractor, and Funds Availability may be made without the prior approval of the Controller; and

5.3.2 No changes to the Choice of Law, Public Contracts for Services, or Public Contracts with Natural Persons provisions may be made without legal review and written approval by the Office of the Controller, Attorney General, or a Reviewing Attorney.

5.4 Services involving transfer of confidential information - All purchase orders issued by a department that involve the transfer of or access to confidential electronic information shall comply with Data Security policies issued by the Governor’s Office of Cyber Security or by the contracting Institution of Higher Education.

6 STATE CONTRACTS
Departments shall use a State contract as the commitment voucher for all purchases or leases of goods and services as required under Fiscal Rule 3-1 (State Contracts). State contracts shall comply with the requirements of Fiscal Rule 3-1 and this Fiscal Rule.

7 STATUTORY VIOLATIONS
A statutory violation occurs when liabilities are incurred or payments are made on the State’s behalf without prior approval of a State purchase order or contract when required under this Fiscal Rule.

7.1 Payment Prohibition. The University shall not make payments to a vendor when a
statutory violation has occurred, unless the violation has been ratified by the Controller.

7.2 **Personal Liability.** Under CRS §24-30-202(3) any person(s) who incurs, orders or votes for an obligation or makes a payment that creates a statutory violation shall be personally liable for such obligation, unless the statutory violation is ratified by the Controller.

7.3 **Internal Controls.** The University shall maintain an adequate system of internal controls to identify statutory violations, to prevent or minimize such violations, and to implement the provisions of this section.

7.4 **Ratification.** The Controller, in his or her sole discretion, may ratify the expenditure or obligation creating a statutory violation, if he or she finds all of the following:

- 7.4.1 The prices or rates are fair and reasonable;
- 7.4.2 The amount of the expenditure is within the unencumbered balance of the department’s budget;
- 7.4.3 The department provides a written explanation in accordance with the Controller Policy entitled “Statutory Violations”;
- 7.4.4 The parties did not act in bad faith or in a fraudulent manner; and
- 7.4.5 The violation is not repeated or part of a consistent pattern of statutory violations.

8 **ADVANCE PAYMENTS/PRE-PAYMENTS**
An advance payment is a payment made for goods or services prior to the receipt thereof.

8.1 **General Prohibition.** State contracts and other commitment vouchers shall not provide for advance payment for goods supplied and/or services performed or for any other contractual obligation, except as permitted in subsection 8.3 of this Fiscal Rule.

8.2 **Waiver Process,** The Controller, in his or her sole discretion, may grant the request of a department for a waiver, allowing an advance payment not listed in the exceptions in subsection 8.3. The waiver request shall include evidence that advance payment is an established industry standard and/or provides a benefit to the State at least equal to the cost and risk of the advance payment.

8.3 **Exceptions -Prior Approval Not Required.** Advance payments for a period of one year or less are permitted without prior approval of the Controller for the following:

- 8.3.1 Advertising services and related goods;
- 8.3.2 Charter transportation;
- 8.3.3 Construction permits;
- 8.3.4 Federal grants awarded by the State to sub-grantees (in compliance with Federal requirements);
- 8.3.5 Overnight travel accommodations such as hotels, motels, etc. (See Fiscal Rule 5-1 Travel);
- 8.3.6 Insurance premiums;
- 8.3.7 Interagency agreements;
- 8.3.8 Licenses, including licenses for software, internet access, and systems/database access;
- 8.3.9 Maintenance of office equipment or information technology (IT) (software and hardware), and other maintenance agreements;
- 8.3.10 Membership dues;
8.3.11 Personal property leases or rentals;
8.3.12 Post Office Box rentals;
8.3.13 Professional services provided by expert witnesses hired for litigation purposes, mediators, entertainers, and speakers;
8.3.14 Real property leases, where the State is a tenant, and perpetual easements, if the entire interest is purchased and all attendant rights are transferred upon payment;
8.3.15 Subscriptions for journals, informational publications or similar materials (electronic or hard copy), which do not include services;
8.3.16 Tuition, registration, and fees charged for trainings, classes, conferences, and seminars;
8.3.17 Utility hook ups and line extensions performed by a utility company; and
8.3.18 Water rights purchases or temporary leases.

9 EMERGENCIES
Disbursements for emergency procurements may be made upon presentation of invoices, receipts, or other statements describing goods or services purchased and the amount to be paid. Goods and services necessary to respond to an emergency may be procured immediately, without issuing a commitment voucher or obtaining a written waiver from the Controller, where all of the following conditions are met:

9.1 The nature of the threat requires an immediate response and there is insufficient time to issue a commitment voucher;
9.2 The procurement is authorized by the individual who has final executive authority for the University;
9.3 The procurement is made with such competition as is practicable under the circumstances;
9.4 A commitment voucher is executed as soon as possible to define future performance obligations, if any, of the vendor and State, as required by Fiscal Rules; and
9.5 The department notifies the Controller in writing, as soon as possible, of the circumstances, goods and services purchased, and the dollar amount of the commitment.

10 VENDOR AGREEMENTS
A vendor agreement is any form of agreement provided by a vendor, including an on-line agreement, containing contractual provisions relating to the goods and/or services to be provided by such vendor.

10.1 Prohibited Use. A vendor agreement shall not be used in lieu of a State purchase order or contract, where one is required, absent the prior written approval of the Controller. A vendor agreement shall not be used where a State purchase order or contract is not required, except as provided in this §10.

10.2 Permitted Use. The Controller or delegate may authorize the use of vendor agreements up to $5,000, if a State contract or purchase order is not required.

10.3 Conditions of Use. All of the conditions set forth in the Controller Policy entitled “Vendor Agreements” shall be met whenever a vendor agreement is used.

11. PURCHASE ORDER TERMS AND CONDITIONS
1. **Offer/Acceptance.** If this purchase order (“PO”) refers to vendor’s bid or proposal, this PO is an ACCEPTANCE of vendor’s OFFER TO SELL in accordance with the terms and conditions of the “solicitation” identified in vendor’s bid or proposal. The solicitation includes an RFP, IFB, or any other form of order by buyer. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to vendor’s acceptance, demonstrated by vendor’s performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order is issued by buyer accepting a counter-offer. This PO shall supersede and control over any vendor form(s) or part(s) thereof included in or attached to any bid, proposal, offer, acknowledgment, or otherwise, in the event of inconsistencies or contradictions, regardless of any statement to the contrary in such form(s) or parts thereof.

2. **Safety Information.** All chemicals, equipment and materials proposed and/or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

3. **Changes.** Vendor shall furnish products and/or services strictly in accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by purchasing agent and accepted by vendor. Each shipment received or service performed shall comply with the terms of this PO, notwithstanding invoice terms or acts of vendor to the contrary, unless this PO has been modified, superseded or otherwise altered in accordance with this section.

4. **Delivery.** Unless otherwise specified in the solicitation or this PO, delivery shall be FOB destination. Buyer is relying on the promised delivery date, installation, and/or service performance set forth in vendor’s bid or proposal as material and basic to buyer’s acceptance. If vendor fails to deliver or perform as and when promised, buyer, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

5. **Intellectual Property.** Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials (collectively “materials”) delivered by vendor in performance of its obligations under this PO shall be the exclusive property of buyer. Ownership rights shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the materials. Vendor shall comply with all applicable Cyber Security Policies of the State of Colorado (the “State”), or buyer, as applicable, and all confidentiality and nondisclosure agreements, security controls, and reporting requirements.

6. **Quality.** Buyer shall be the sole judge in determining “equals” with regard to quality, price and performance. All products delivered shall be newly manufactured and the current model, unless otherwise specified.

7. **Warranties.** All provisions and remedies of the Colorado Uniform Commercial Code, CRS,
Title 4 ("CUCC"), relating to implied and/or express warranties are incorporated herein, in addition to any warranties contained in this PO or the specifications.

8. **Inspection and Acceptance.** Final acceptance is contingent upon completion of all applicable inspection procedures. If products or services fail to meet any inspection requirements, buyer may exercise all of its rights, including those provided in the CUCC. Buyer shall have the right to inspect services provided under this PO at all reasonable times and places. "Services" as used in this section includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to PO requirements, buyer may require vendor to perform the services again in conformity with PO requirements, without additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, buyer may (a) require vendor to take necessary action to ensure that future performance conforms to PO requirements and (b) equitably reduce the payment due vendor to reflect the reduced value of the services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.

9. **Cash Discount.** The cash discount period will start from the later of the date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized buyer representative.

10. **Taxes.** Buyer and the State are exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all State and local government sales and use taxes [CRS, Title 39, Article 26, Parts I and II]. Such exemptions apply when materials are purchased for the benefit of State, except that in certain political subdivisions (e.g., City of Denver) vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to buyer. Buyer shall not reimburse such sales or use taxes.

11. **Payment.** Buyer shall pay vendor for all amounts due within 45 days after receipt of products or services and a correct notice of amount due. Interest on the unpaid balance shall begin to accrue on the 46th day at the rate set forth in CRS §24-30202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to buyer’s obligation to pay all or a portion of the amount due. Vendor shall invoice buyer separately for interest on delinquent amounts due, referencing the delinquent payment, number of day’s interest to be paid, and applicable interest rate.

12. **Vendor Offset.** [Not Applicable to Inter-governmental POs] Under CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State’s vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

13. **Assignment and Successors.** Vendor shall not assign rights or delegate duties under this PO, or subcontract any part of the performance required under this PO, without the express, written consent of buyer. This PO shall inure to the benefit of and be binding upon vendor and buyer and their respective successors and assigns. Assignment of accounts receivable may be made only upon written notice furnished to buyer.
14. **Indemnification.** If any article sold or delivered under this PO is covered by a patent, copyright, trademark, or application therefore, vendor shall indemnify and hold harmless buyer from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions or judgments arising out of manufacture, sale or use of such article in violation or infringement of rights under such patent, copyright, trademark or application. If this PO is for services, vendor shall indemnify, save, and hold harmless buyer, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, incurred as a result of any act or omission by vendor, or its employees, agents, subcontractors or assignees, arising out of or in connection with performance of services under this PO.

15. **Independent Contractor.** Vendor shall perform its duties hereunder as an independent contractor and not as an employee. Neither vendor nor any agent or employee of vendor shall be deemed to be an agent or employee of buyer. Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through buyer and buyer shall not pay for or otherwise provide such coverage for vendor or any of its agents or employees. Unemployment insurance benefits will be available to vendor and its employees and agents only if coverage is made available by vendor or a third party. Vendor shall pay when due all applicable employment, income, and local head taxes incurred pursuant to this PO. Vendor shall not have authorization, express or implied, to bind buyer to any agreement, liability or understanding, except as expressly set forth herein. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by buyer, and (c) be solely responsible for its acts and those of its employees and agents.

16. **Communication.** All communication concerning administration of this PO, prepared by vendor for buyer’s use, shall be furnished solely to purchasing agent.

17. **Compliance.** Vendor shall strictly comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

18. **Insurance.** Vendor shall obtain, and maintain, at all times during the term of this PO, insurance as specified, and provide proof of such coverage as requested by purchasing agent.

19. **Termination Prior to Shipment.** If vendor has not accepted this PO in writing, buyer may cancel this PO by written or oral notice to vendor prior to shipment of goods or commencement of services.

20. **Termination for Cause.** (a) If vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified herein, buyer may notify vendor in writing of nonperformance and, if not corrected by vendor within the time specified in the notice, terminate vendor's right to proceed with the PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated and be liable for excess costs incurred by buyer in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the price set forth in this PO. (b) Buyer may withhold amounts due to vendor as buyer deems necessary to reimburse buyer for excess costs incurred in curing, completing or procuring similar goods and services. (c) If after rejection, revocation, or other termination of vendor's right to proceed under the CUCC or this clause,
21. **Termination in Public Interest.** Buyer is entering into this PO for the purpose of carrying out the public policy of the State, as determined by its Governor, General Assembly, and Courts. If this PO ceases to further the public policy of the State, buyer, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of buyer’s obligations hereunder. This section shall not apply to a termination for vendor’s breach, which shall be governed by §20. Buyer shall give written notice of termination to vendor specifying the part of the PO terminated and when termination becomes effective. Upon receipt of notice of termination, vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, buyer shall pay (a) reasonable settlement expenses, (b) the PO price or rate for supplies and services delivered and accepted, (c) reasonable costs of performance on unaccepted supplies and services, and (d) a reasonable profit for the unaccepted work. For existing goods, buyer shall pay (e) reasonable settlement expenses, (f) the PO price for goods delivered and accepted, (g) reasonable costs incurred in preparation for delivery of the undelivered goods, and (h) a reasonable profit for the preparatory work. Buyer’s termination liability under this section shall not exceed the total PO price plus a reasonable cost for settlement expenses. Vendor shall submit a termination proposal and reasonable supporting documentation, and cost and pricing data as required by CRS §24-106-101, upon request of buyer.

22. **PO Approval.** This PO shall not be valid unless it is executed by a purchasing agent. Buyer shall not be responsible or liable for products or services delivered or performed prior to proper execution hereof.

23. **Fund Availability.** Financial obligations of buyer payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. Buyer represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.

24. **Choice of Law.** State laws, rules and regulations shall be applied in the interpretation, execution, and enforcement of this PO. The CUCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference which conflicts with such laws, rules, and regulations is null and void. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Unless otherwise specified in the solicitation or this PO, venue for any judicial or administrative action arising out of or in connection with this PO shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against buyer.

25. **Public Contracts for Services.** [Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects,]
integovernmental POs, or information technology services or products and services] Vendor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this PO and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5102(5)(c), Vendor shall not knowingly employ or contract with an illegal alien to perform work under this PO or enter into a contract or PO with a subcontractor that fails to certify to vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this PO. Vendor shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this PO, (b) notify subcontractor and buyer within three days if vendor has actual knowledge that subcontractor is employing or contracting with an illegal alien for work under this PO, (c) terminate the subcontract if subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If vendor participates in the Department program, vendor shall deliver to the buyer a written, notarized affirmation that vendor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If vendor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., buyer may terminate this PO for breach and, if so terminated, vendor shall be liable for damages.

26. Public Contracts with Natural Persons. Vendor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced a form of identification required by CRS §24-76.5-103 prior to the date vendor delivers goods or begins performing services under terms of the PO.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 2-3
RECEIVING REPORTS

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees Formed)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
Receiving reports, or other sufficient documentation, shall be prepared for all goods and services received, showing actual quantities, any unsatisfactory condition, and compliance with specifications, prior to processing a voucher for payment.

EXCEPTIONS TO RULE:
1. A receiving report need not be prepared for personal service expenditures.

2. When an adequate system of internal accounting and administrative controls exists to provide sufficient verification that goods or services were received, the University may not require a certified receiving report.
Rule 2-4
PURCHASE DISCOUNTS

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
Payments shall be processed in a timely manner and made within the allowable discount period to ensure the University takes advantage of purchase discounts.
AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (State Controller Authority)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Payable - A payable is a liability incurred by the University. A liability shall arise upon receipt of supplies and services and a correct notice of the amount due. A liability shall not arise if a good faith dispute exists as to the University's obligation to pay all or a portion of the liability.

Delinquent - A payable is delinquent if a disbursement is not made within forty-five days after a liability arises, unless the time of payment has been otherwise provided in the contract or purchase order. A payable being disputed by a vendor shall become delinquent if a disbursement is not made within forty-five days after resolution of the dispute.

RULE:
The University shall process invoices and other notices of liability as efficiently as possible in order to ensure payment in accordance with contractual or invoice terms, and in the absence of such terms, as soon as possible, or in accordance with statutory provisions. A delinquent payable shall be assessed interest at 1% per month as required by 24-30-202(24), C.R.S.

All written contracts and purchase orders shall provide for a reasonable time of payment considering the nature of the goods or services provided and review and approval required for payment. If no time for payment has been provided for in writing, interest on the unpaid balance shall be calculated beginning with the forty-sixth day after the liability for such payment arises under this Fiscal Rule. Interest shall be assessed at 1% per month or as stated in the contract or purchase order and, if higher, approved by the Controller.

Payment of the interest liability incurred under this fiscal rule shall be processed on a separate voucher. The voucher shall be supported by a written claim, prepared by the University or the vendor, referencing the delinquent payment, the number of days of interest to be paid, and the applicable interest rate. Such claims may be modified by the University to adjust payments to include such items as additional interest due for time required to process interest payments.
Rule 2-6
INTERAGENCY PURCHASES AND PAYMENTS

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (State Controller Authority)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
The University shall make payment for purchases of goods and services from another state agency or institution of higher education within 30 days after receipt of a valid invoice.

Disputes Arising from Interagency Purchases
If a dispute arises as a result of an interagency purchase, the following steps will be used to resolve the dispute:

1. The state agency or institution of higher education disputing the charge shall notify the state agency or institution of higher education providing the goods or services and attempt to resolve the dispute. If necessary, the chief executive officer of these agencies involved shall assist in the resolution.

2. If the state agencies and/or institutions of higher education involved cannot reach a satisfactory resolution, the state agency or institution of higher education disputing the charge shall, within 30 days of the date of the last meeting held to resolve the dispute, petition the State Controller to resolve the dispute.

3. If the State Controller is petitioned to resolve the dispute, the decision of the State Controller will be rendered within a reasonable time and be final and binding on all parties concerned.
AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Official Function - A meeting, conference, meal, or other function that is hosted by the chief executive officer, or representative, of the University, attended by guests and/or University employees, and held for official University business purposes.

Training Function - A meeting, conference, or other function which is hosted by the University, attended by customers of the University and/or University employees, and held to enhance staff knowledge or to educate customers of the University, that are affected by the University’s operations or regulations. Training functions should have a written agenda, study materials, and be led by an identified presenter.

RULE:
Official functions and training functions shall be held to achieve program objectives and shall be limited to reasonable and actual costs. The attendance of University employees at official functions shall be kept to a minimum and shall include only those individuals directly related to the purpose of the function. Expenditures shall be kept to a minimum as they have the potential of being perceived to be for personal benefit and an abuse of public funds. The President or Vice President of a department must approve expenditures incurred for official functions prior to the event.
Rule 2-8
MISCELLANEOUS COMPENSATION
AND OTHER BENEFITS (PERQUISITES)

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-2-103 (Compensation for State Employees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Benefits - Any pecuniary or material advantage provided by the University to an employee other than salary, leave, incentives, awards, retirement benefits, insurance benefits, and travel and non-travel related reimbursements. Incentive awards, salary increases, fringe benefits established pursuant to CRS 24-50-104(8) and (9) are not considered benefits under this Fiscal Rule.

Economic Rent Study - A study conducted by a state agency or institution of higher education to determine the rent to be charged for a state-owned house or dwelling. The purpose of the study is to determine the rental rate the house or dwelling would command if available on the open market.

Limitations Placed on Employees - Limitations placed on an employee as a condition of employment may include that the employee is required to be available twenty-four hours a day to perform the assigned duties, or that the employee is required to live in close proximity to the state facility in order to provide protection or discourage trespassers from entering the property.

RULE:
An employee of the University shall not receive any type of benefit by virtue of their position unless such benefit is provided by state statutes or University fiscal rule. An employee shall not have the authority to grant any perquisites, nor shall any employee receive any perquisite except as provided by statute or fiscal rule. Monetary allowances shall not be given to employees in lieu of benefits, except as provided by statute or approved by the Controller. Where state statutes provide allowances for maintenance and ordinary expenses incurred in the performance of duty, it is the responsibility of the Controller of the University to establish specific expenses that are covered by the allowance so that the same expenses are not also directly reimbursed.

1. Miscellaneous Compensation
   1.1 Honorariums
   Employees may be asked to address an audience for which they receive an honorarium. If such speaking engagements occur outside normal working hours, or their normal work load,
or while on annual leave, or there is no cost to the University for travel expenses, the employee may retain the honorarium in full. However, if the engagement is a cost to the University, the employee shall reimburse the University actual amounts up to, but not exceeding, the amount of the honorarium.

2. Other Benefits (Perquisites)

2.1 Clean air transit benefit for University employees:
To promote the state's mission of mitigating traffic congestion and creating clean air solutions, and to help equalize benefits for those employees that do not receive free parking, the President of the University may offer a clean air transit benefit to employees.

Prior to offering the benefit, the University shall develop an implementation plan. The plan shall contain the number of employees expected to receive the benefit, the estimated cost, if any, to be paid by the employee, and the estimated fiscal impact on the University.

The University shall maintain records showing the actual number of employees receiving the benefit, the actual cost, if any, paid by the employee and the cost to the University for providing the benefit.

2.2 Events sponsored by the University:
The University may offer a reasonable discount to officials and employees to improve attendance or participation in University sponsored events. Examples include discounts on admission to athletic games and cultural, educational, recreational, or other events.

2.3 Temporary housing provided to visitors and guests:
Temporary housing/lodging may be provided to visitors and guests by the University with the approval the President, or a delegate. The payment for such accommodations shall be reasonable in comparison to the charge for similar housing. The University shall maintain adequate documentation to substantiate the cost paid for the housing provided.

2.4 Uniforms and maintenance of uniforms:
Uniforms required to be worn by University employees and the necessary maintenance of these uniforms may be provided to the employee by the University at no charge, or at a reduced charge, or through a uniform allowance.

3. EXCEPTIONS TO RULE:

3.1 The governing board of MSU Denver, consistent with policies developed by the Commission on Higher Education and approved by the Controller, may provide housing or a housing allowance for the chief executive as part of his/her employment contract.

3.2 Self-liquidating facilities such as faculty apartments and student housing or trailer houses used as temporary housing at remote work place stations are exempted from this fiscal rule.
3.3 The governing board of MSU Denver, with the recommendation of the President and the CFO, may authorize a voluntary separation incentive plan for its employees who are exempt from the State Personnel System under Article XII, Section 13(2) of the Colorado Constitution and Section 24-50-135, C.R.S. Any such plan shall offer uniform and equitable incentives to all employees similarly situated in defined categories within the institution or agency for which the plan is proposed. All proposed separation incentives in the plan must be justified as reasonable and necessary expenditures.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 2-9
MOVING AND RELOCATION

AUTHORITY:
24-50-134, C.R.S. (Moving and Relocation Expenses)

DEFINITIONS:
Household Effects - Household or personal effects such as furniture, clothing, musical instruments, household appliances, foods, and other items which are usual and necessary for the maintenance of a household.

Installation - Normal hookup of appliances to existing utilities. It does not include adding wiring, plumbing, or vents.

APPLICABILITY:
This fiscal rule applies only to employees in the University’s personnel system.

RULE:
The University shall not reimburse or pay moving expenses for an employee when the move is made solely for personal reasons. Moving expenses shall be authorized by the President, or a delegate, if the move of residence is occasioned by a change in assignment, a promotion, or for another reason related to the employees' duties. The President or his/her designee must approve the reimbursement of moving expenses made to new hires prior to the move.

1. Reimbursement for Moving Expenses and Allowances
   1.1 Moving of household effects - commercial mover:
       University payment shall be allowed for the necessary expenses incurred for the packing, insurance, transportation, and storage in transit not to exceed thirty days, unpacking, and installation at the new location of an employee's household effects.

       University payment shall not be made for moving household effects in excess of ten thousand pounds net weight for those with dependents and five thousand pounds net weight for those without dependents. Any expenses, including insurance for household effects exceeding the weight limitations shall be borne by the employee being moved. Claims shall be accompanied by at least two competitive bids and University payment shall be made at the rates proposed in the lowest responsible bid. If a move is billed at an hourly rate, the carrier shall weigh the items moved and this weight shall be used to apply the above weight limitations.

   1.2 Employee moves household effects:
       A University employee may prefer to move household effects by rental trailer or truck in lieu of using a commercial mover. Two responsible bids shall be required for reimbursement of the rental trailer or truck if the cost exceeds $1,000.
If the employee chooses to move household effects and requests reimbursement for moving expenses from the University, two responsible bids shall be obtained from a commercial mover, prior to the move. The employee shall be reimbursed for actual commercial moving expenses not to exceed $5,000 and be reimbursed for the rental trailer or truck at the lowest responsible bid if required.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 2-10
PROCUREMENT CARD

CRS §23-54-102 (MSU Denver Board of Trustees Formed)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

1. **Personal Services**
   Procurement cards may be used to pay for goods only. It is the responsibility of the Controller to have in place a methodology to identify and report 1099 reportable information.

2. **Purchases in Excess of $5,000**
   If authorized by the Controller, procurement cards may be used to pay invoices in excess of $5,000. Use of the procurement card is not a substitute for a commitment voucher or encumbrance as required by Fiscal Rule 2-2.

3. **Pre-audit Responsibility**
   Use of the procurement card shall be subject to audit. The University is responsible for reconciling the disbursements made to the bank with the total of validated individual charges for the University. The dispute mechanism shall be used when charges from the bank are challenged.

4. **Reporting Misuse**
   All incidents of procurement card misuse that are recurring, significant, or in excess of $500 should be reported in writing to the Controller at least annually. Reports shall be submitted to the Controller’s Office by November 1 each year. This report should include results of any investigation or follow-up including corrective measures implemented to prevent or reduce the likelihood of future occurrences.

All incidents of procurement card suspected theft or embezzlement shall be reported according to Fiscal Rule 1-9.

5. **Open Charge Accounts**
   Departments participating in the procurement card program must use the University’s procurement card for purchases at local vendors in lieu of charge accounts. The University’s Controller or delegate must approve exceptions to this requirement in advance. Open accounts should be closed as soon as procurement cards are available to departments.

6. **Exceptions**
   Exceptions may be requested in writing and granted by the Controller or delegate.
CHAPTER 3: STATE CONTRACTS

FISCAL RULE NUMBER
State Contracts 3-1
Rule 3-1

STATE CONTRACTS

1. Authorities
2. Definitions
3. Categories
4. Rule
5. Content of State Contracts
6. Approved State Contract Forms
7. State Contract Approvals
8. State Contract Legal Review
9. State Controller Review and Approval
10. Accounting for State Contracts
11. Independent Contractor Relationship
12. Exceptions to Fiscal Rule 3-1

1. AUTHORITIES

Article V, Section 33, Constitution of Colorado - Disbursement of public money
Article XI, Section 1, Constitution of Colorado – Public Indebtedness.
Article XII, Section 13 (2), Constitution of Colorado - Personnel system of state – merit system
Governor's Executive Order signed April 7, 1978 (Authority to sign contracts, deeds, and leases)
Governor’s Executive Order D 016 07 - Improving State Information Technology Management
University Procurement Rules
CRS §24-2-102(4) (Appointment of officers and employees)
CRS §2-2-320(2) (Legislative contracts approval)
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-17-201, et seq. (State contingency-based contracts)
CRS §24-30-202 (State Controller authority)
CRS §24-30-202 (13) (Higher Education Authority)
CRS §24-30-903(1)(d) (Telecommunications approval authority)
CRS §24-30-1104(1)(h) (Central Services approval authority)
CRS §24-30-1107 (Central Services approval authority)
CRS §24-30-1303(1)(a) and (d) (State Buildings approval authority)
CRS §24-30-1404(4) (Prohibition against contingency fees)
CRS §24-30-2001, et seq. (Utility cost-savings measures)
CRS §24-31-101(1)(c) (State Attorney General - powers and duties)
CRS §24-31-104 (Appointment of subordinate officers and employees)
CRS §24-34-101, et seq. (Department of Regulatory Agencies)
CRS §24-37.5-101, et seq. (Office of Information Technology)
CRS §24-50-135 (Exemptions from personnel system)
CRS §24-50-501, et seq. (Contracts for Personal Services)
CRS §24-75-302 (Capital construction fund)
CRS §24-102-205 (Centralized contract management system)
CRS §24-103.5-101 (Monitoring of vendor performance)
2. DEFINITIONS  All references to “contract” or “agreement” refer to State contracts, which are formal, legally binding documents. The terms “contract” and “agreement” are used interchangeably in the following definitions to reflect their common usage and include any amendments to the contract or agreement. The following definitions include terms used in this Fiscal Rule as well as various types of contracts entered into by the University.

   Advice of Employment – A document that includes an offer of employment.

   Capital Construction – A capital construction project or controlled maintenance project funded wholly or in part by the State capital construction fund (CRS §24-75-302) or any cash resources of the University.

   Central Approver – Executive directors of Agencies and Elective Officers, whose prior approval is required by statute or Fiscal Rule for certain types of State contracts. Central approvers include, without limitation, the State Personnel Director, State Architect, Director of the Real Estate Programs, and the State Attorney General.

   Central Services Contract – An agreement between the University and another party for the acquisition of services, service equipment, and software related to services. Centralized services include motor pool operation, motor vehicle maintenance, and mail or messenger services. See CRS §24-30-1104(1)(h).

   Contingency-Based Contract – A contract for services between the University and a vendor where:

   1. All or part of the vendor’s compensation is computed by multiplying a stated percentage by the measurable savings in the Agency’s expenditures or costs of operation attributable to the vendor’s services under the contract; and

   2. The contingency-based contract is not specifically authorized by statute. See CRS §24-17-203. Contingent fees are prohibited in professional services contracts. See CRS §24-30-1404(4).

   Debt Contract - A financial obligation reported in the University’s Annual Report under standards promulgated by the Governmental Accounting Standards Board. Debt contracts include without limitation contracts for revenue bonds, tax revenue anticipation notes, lease purchases, certificates of participation, and other multi-year transactions with outside third party facilitators, issued or otherwise incurred by the University and blended component units.

   Elective Officer – A State officer elected and holding office under the laws of the State. Elective officers include the State Attorney General, Governor, Lieutenant Governor, Secretary of State, and Treasurer. For purposes of this Fiscal Rule, Elective Officer also includes the Elective Officer’s second-in-command (e.g., the Governor’s Chief of Staff), but does not include any other individual (e.g., executive directors of an Office of the Governor See CRS §24-2-102(4))
Employee Voluntary Separation Agreement – A contract between the University and a State employee setting forth the terms of the employee’s voluntary separation from State service.

Expenditure Contract – An agreement between the University and another party resulting in an expenditure of funds, directly or indirectly, or the creation of an obligation on the part of the University. Expenditure contracts include non-financial and in-kind contracts where the University incurs an obligation.

Franchise Agreement – An agreement where the University grants to a party a concession or right to provide goods or services in a particular market or geographical area controlled by the University, such as concession stands, hotels, and other services provided in certain State parks. The University may regulate service level, quality and price, but users of the service pay the other party directly and the other party provides the goods or services and exercises control over other management decisions.

Fund Management Services – Professional consulting services regarding the management of University funds.

Goods Contract – A contract between the University and another party for the purchase of goods. The term “goods” includes commodities, supplies, and products as such terms are used in the University’s Procurement Rules and the Uniform Commercial Code (CRS §24-1-201 General Definitions).

Grant Contract – An agreement between the University and another party where the University:
1. Receives grant funds from or through the other party to the grant contract. The University may receive grant funds from or through any contract type, including without limitation, revenue contracts, sponsored project agreements, intergovernmental contracts, and interagency agreements, depending on the nature of the grant; or
2. Provides funds from State, federal, or other sources to the other party to the grant contract. The University may grant funds to the other party from or through any contract type, including without limitation, personal services contracts or capital construction contracts, depending on the nature of the grant.

Information Technology Contract – A contract between the University and another party, where the other party provides information technology services or products and services. An information technology contract is a type of personal services contract. See CRS §24-37.5102 and Controller Policy entitled “Information Technology Contracts” for a comprehensive list of information technology products and services.

Institution of Higher Education. A public college, community college, or university established as a part of the State. This definition includes, without limitation, the Auraria Higher Education Center.

Interagency Agreement – An agreement between two Agencies, two Institutions of Higher Education, or an Agency and Institution of Higher Education that includes a dispute resolution process giving the State Controller final decision-making authority. An interagency agreement is a State contract, subject to the provisions and requirements of this Fiscal Rule.
Intergovernmental Contract – An agreement between the University and a political subdivision of the State, another state, a political subdivision or public institution of higher education in another state, or an agency of the federal government.

Investment Advisory Services - Professional consulting services regarding securities and investments.

License – A grant by the owner of rights in real or personal property to another of a personal privilege to use such property, without the transfer of the underlying ownership interest therein.

Loan Contract – An agreement between the University and another party, where the University agrees to lend funds to such other party.

No-Cost/Non Cash Contract – An agreement between the University and another party involving an exchange of resources, goods, or services, that does not result in the direct or indirect expenditure of funds.

Outsource Contract-Third Party Payor – An agreement between the University and another party for personal services, where the University:

1. Is charged with providing the function or services that are the subject matter of the contract to members of the public;
2. Delegates performance of a part of the function or service to the other party, but does not dictate the third party’s operations beyond providing limited input regarding the third party’s performance of its obligation; and

Party – An individual or entity who is not an Agency or Institution of Higher Education. If appropriate in the context, the term “party” may also refer to multiple individuals or entities who are not Agencies or Institutions of Higher Education.

Personal Property Lease Agreement – An agreement between the University, as lessee, and the owner of personal property, as lessor, where the University pays the lessor for the right to use such personal property for the term of the lease. A personal property lease may be an operating lease or a capital lease. See Controller Policy entitled “Lease Purchases and Capital Leases”.

Personal Services Contract – A contract between the University and another party, where the other party provides personal services for the benefit of the University or a third party. An individual or entity performing services under a personal services contract is an independent contractor and not an employee of the State.

Personal Services Exempted From Personal Services Review – Personal services that are:

1. Exempted from the State classified personnel system, including State Attorney General subordinate officers and employees under CRS §24-31-104; professors at Institutions of Higher Education, under CRS §24-50-135, and employees of the judicial branch and the offices of the Governor and Lieutenant Governor under the State Constitution Article XII, Section 13; and
2. Non-recurring services lasting six months or less, where the need for such services is not expected to recur on a regular basis. Temporary services that do not meet these criteria are subject to personal services review.

Price Agreement – A contract between the Department of Personnel and Administration, Division of Finance and Procurement, State Purchasing Office, the University, and a vendor, which allows the University to order goods or services from the vendor, pursuant
to the terms of the price agreement, by issuing a purchase order, task order, or other approved order form.

**Professional Services Contract** – A contract between the University and another party for the performance of any of the following services: architectural, engineering, land surveying, industrial hygienist, and landscape architect.

**Real Property Lease Agreement** – An agreement between the University and another party, where the University:
1. As landlord, owns the real property subject to the lease and gives the other party to the Lease, as tenant, the right of possession of such property for the lease term; or
2. As tenant, obtains the right of possession of the real property subject to the lease from the owner of such property, as landlord, for the lease term.

**Real Property Purchase Agreement** – An agreement for the purchase of an interest in land (fee title or lesser interests) and improvements to land, such as buildings and other structures.

**Revenue Contract** – An agreement between the University and another party where cash and/or property are paid to the University, resulting in revenue recognition. Revenue contracts do not require the expenditure of University funds or create an obligation on the part of the University.

**Reviewing Attorney** – An assistant attorney general, special assistant attorney general, or other attorney authorized by the State Attorney General and employed by the University, who has received a written designation as a Reviewing Attorney from the State Controller. A written designation from the State Controller is personal to the Reviewing Attorney and may not be assigned or further delegated. The designation is limited to the specific responsibilities and authority set forth in the written designation, which may be terminated or modified at any time at the sole discretion of the State Controller.

**Sale of Securities** – The offer, issuance or sale of securities by the University. Securities include certain debt contracts.

**Settlement Agreement** – A contract between the University and another party for the purpose of ratifying agreements concerning employment or contractual disputes.

**Sponsored Project Agreement** – An agreement between the University and another party, where the University receives or expends restricted funding for use in connection with oversight responsibilities for research and development or other specified programmatic activities sponsored by federal, state, or local governments, or private agencies or organizations.

**State** – The State of Colorado.

**State Contract** – An agreement between two Agencies, two Institutions of Higher Education, an Agency and an Institution of Higher Education, or an Agency and/or Institution of Higher Education and another party. State contracts, as used in this Fiscal Rule, do not include purchase orders.

**Utility Cost-Savings Contract** – An energy performance contract, shared-savings contract, or other agreement in which utility cost savings are used to pay for services or equipment. See CRS §24-302001(6).
3. CATEGORIES
The following categories provide examples of different types of State contracts, but are not all inclusive.

3.1 Expenditure Contracts
3.1.1 Capital construction contracts;
3.1.2 Employee voluntary separation agreements;
3.1.3 Fund management services agreements;
3.1.4 Goods contracts;
3.1.5 Information technology contracts;
3.1.6 Investment advisory services agreements;
3.1.7 Outsource contracts-third party payor;
3.1.8 Personal property leases/licenses -State as lessee or licensee;
3.1.9 Personal services contracts;
3.1.10 Personal services review exempted contracts;
3.1.11 Professional services contracts;
3.1.12 Real property leases/ licenses – State as tenant or licensee;
3.1.13 Real property purchase agreements – State as buyer; and
3.1.14 Settlement agreements.

3.2 Revenue Contracts
3.2.1 Franchise agreements;
3.2.2 Real property leases/licenses – The University as landlord or licensor; and
3.2.3 Real property purchase agreements – The University as seller.

3.3 Other Contract Types
3.3.1 Debt contracts;
3.3.2 Grant contracts;
3.3.3 Interagency agreements;
3.3.4 Intergovernmental contracts;
3.3.5 Loan contracts;
3.3.6 No cost/non cash contracts;
3.3.7 Price agreements;
3.3.8 Sale of securities agreements; and
3.3.9 Sponsored project agreements.

4. RULE
The University shall:
4.1 Use a State contract as the commitment voucher, as required in Fiscal Rule 2-2, “Commitment Vouchers”; and
4.2 Ensure that all constitutional, statutory, Fiscal Rule, and Controller Policy requirements have been met prior to signing a State contract.

5. CONTENT OF STATE CONTRACTS
5.1 Expenditure Contracts, Other State Funded Contract Types, Debt Contracts, and Price Agreements. The general provisions of subsection 5.1.1 shall apply to all contract
types noted in subsection 5.1 except as limited or excluded in the specific §5 subsections covering: (a) real property purchases (University as buyer), leases (University as tenant), and licenses (University as licensee) and (b) settlement agreements and employee voluntary separation agreements. See Controller Policy entitled “Content-Mandatory Provisions in State Contracts.”

5.1.1 General Provisions-The following provisions shall be included in (a) expenditure contracts, (b) grant contracts where the University is the grantor and provides funds from State, federal, or other sources to the other party, (c) intergovernmental agreements where the University provides funds to the other governmental entity, (d) debt contracts, and (e) price agreements, to-wit:

5.1.1.1 Identification of the parties;
5.1.1.4 Statement of Work;
5.1.1.5 Payment terms, including maximum dollar amount;
5.1.1.6 Performance period;
5.1.1.7 General terms and conditions;
5.1.1.8 Special Provisions (see Appendix to this Fiscal Rule);
5.1.1.9 Signature page; and
5.1.1.10 Statement that the contract shall not be valid until it has been approved by the University’s Chief Financial Officer or delegate.

5.1.2 Personal Services Contract Provisions – In addition to the elements listed in subsection 5.1.1 above, each personal services contract over $100,000 (other than sponsored project agreements) shall include all of the contract requirements of §24-103.5-101 as follows:

5.1.2.1 Performance measures and standards developed specifically for the contract by the University;
5.1.2.2 Accountability standards requiring regular vendor reports on achievement of the specified performance measures and standards;
5.1.2.3 Payment provisions allowing the University to withhold payment until successful completion of all or specified parts of the contract and requiring prompt payment upon successful completion;
5.1.2.4 Monitoring requirements specifying how the University and the vendor will evaluate each other’s performance, including progress reports, site visits, inspections, and reviews of performance data; and
5.1.2.5 Processes for resolving disputes between the University and the vendor.

5.1.3 Real Property Purchases (University as Buyer), Leases (University as Tenant) and Licenses (University as Licensee). State contracts for the purchase, lease or license of real property shall contain the following provisions:

5.1.3.1 If the University is the buyer, tenant or licensee, the contract shall include the following Special Provisions:
5.1.3.1.1 University’s Chief Financial Officer or delegate Approval;
5.1.3.1.2 Funds Availability; and
5.1.3.1.3 Vendor Offset.
5.1.3.2 If the University is the buyer, tenant or licensee, the contract may include the other Special Provisions, at the discretion of the University.
5.1.3.3 If the University is the tenant or licensee, the contract shall include provisions specifying cancellation rights, if the real property leased or licensed is destroyed by fire and/or becomes subject to eminent domain.

5.1.4 Capital Construction Contracts – See Fiscal Rule 4-1, “Capital Construction Projects”. See also approved contract forms, available on the website of the Office of the State Architect.

5.1.5 Settlement Agreements and Employee Voluntary Separation Agreements – See Controller Policy entitled “Settlement Agreements.”

5.2 Content for other Contract Types

5.2.1 Interagency Agreements - All interagency agreements require approval of the University’s Chief Financial Officer, or delegate. Each interagency agreement shall include, at a minimum, the following elements:

5.2.1.1 Identification of the parties;
5.2.1.3 Statement of work;
5.2.1.4 Statement of consideration (if applicable);
5.2.1.5 Payment and other performance terms; and
5.2.1.6 Definition of breach and remedies, consistent with Fiscal Rule 2-6, “Interagency Purchases and Payments”.

5.2.2 Intergovernmental Contracts

5.2.2.1 Special Provisions – The University contracting with governmental entities outside of the State shall not agree to modify the Special Provision requiring the governance of Colorado law, but, if requested, may agree to strike the Choice of Law Special Provision, resulting in contractual silence as to governing law. Any other change to the Choice of Law Special Provision shall require the prior written approval of the Controller and a Reviewing Attorney.

5.2.2.2 Federal Government Contracts – All intergovernmental contracts with any agency of the Federal Government shall be reviewed by a Reviewing Attorney. See Controller Policy entitled “Federal Government Contracts.”

5.2.3 Sponsored Project Agreements – See Controller Policy entitled “Sponsored Projects”.

5.3 Content for All Contract Types

5.3.1 Indemnification by the State Prohibited – Unless specifically authorized by statute, the University shall not indemnify and/or hold harmless another party (no matter how it is phrased) against any liability incurred as a result of the acts or omissions of the University. See Constitution of Colorado, Article V, §33 and Article XI, §1.

5.3.1.1 CRS §24-30-1510(3)(e) authorizes limited indemnification of an owner of property leased to the University for State purposes.

5.3.1.2 Limited indemnification may be authorized solely by the Board of Trustees of the University, provided funds are available and encumbered for the purpose.

5.3.2 Limitation of Liability

5.3.2.1 Limitation of Vendor’s Liability - Bodily Injury and Property Damage. The University shall not limit the vendor’s liability for claims or damages,
including consequential damages, arising out of bodily injury (including death) and damage to tangible property, if tangible risk is inherent in the nature of the contract.

5.3.2.2 Limitation of Vendor’s Liability - Other Types of Damages. The University may accept commercially reasonable limitations of liability and/or remedies provisions, or the exclusion of consequential damages, if the benefits are deemed to outweigh the risks and this determination is documented in the contract file. Such action requires approval of the Controller, and may include a Reviewing Attorney or an Agency procurement or contracts officer.

6. APPROVED STATE CONTRACT FORMS
All State expenditure contracts shall be in a form approved by the Controller. The Controller has approved the following contract forms and may approve additional forms at his or her sole discretion.


6.2 Model Contracts – The Controller has approved model contracts for personal services, information technology and interagency agreements, and may approve other model contracts in the future, at his or her sole discretion. See Controller Policy entitled “Model Contracts”.

6.3 Contract Amendments – All modifications to a State contract shall be made by a formal written amendment signed by the parties to the contract and approved by University’s Chief Financial Officer, unless an alternative modification tool has been approved by the Controller. A contract cannot be amended or extended (revived) after the contract term has expired. A form of contract amendment and forms of alternative modification tools are set forth in Controller Policy entitled “Modifications of Contracts-Tools and Forms” (“Modification Policy”).

6.4 Alternative Modification Tools and Forms – The University may use an approved alternate modification tool to modify a contract in lieu of a contract amendment only in the specific circumstances identified in the Modification Policy. A contract cannot be modified or extended after the expiration of the contract term. Approved alternative modification tool forms are set forth in the Modification Policy.

6.4.1 Required Provision and Attachment. An approved modification tool may be included as a part of a State contract only if the contract contains a provision referencing the specific modification tool, in the form set forth in the Modification Policy, and the form of the specific modification tool is attached as an exhibit to the contract.

6.4.2 Caveat. Each contract modification tool was created for use in connection with specific types of contracts and scopes of services and is not universally applicable. Each modification tool shall be used only for its intended purposes, as set forth in the Modification Policy, and shall not be changed or combined with any other contract modification tool.
6.5 Real Property Lease Agreements – Lease agreements involving real property shall be in a form approved by and set forth on the website of the Office of the State Architect, except for:

6.5.1 Leases exempted by statute (see subsection 7.6 of this Fiscal Rule), and
6.5.2 Leases where the Department of Personnel and Administration is a party, which may be in any form approved by the State Controller.

6.6 Special Provisions – All State (a) expenditure contracts, (b) grant contracts where the University is the grantor and provides funds from State, federal, or other sources to the other party, (c) intergovernmental agreements where the University provides funds to the other governmental entity, (d) debt contracts, (e) price agreements, and (f) capital construction contracts shall contain the Special Provisions. See §13 to this Fiscal Rule. No modification shall be made to a Special Provision without the prior written approval of the Controller and, in the case of the Choice of Law Special Provision, a Reviewing Attorney, except as otherwise expressly provided in subsection 5.2.2 above.

6.7 Other contract forms – Any other contract form which may be approved by the Controller from time-to-time.

7. STATE CONTRACT APPROVALS
The President of the University, or authorized delegate, shall sign all State contracts on behalf of the University. The University, at its discretion, may require such additional internal signatures as it deems proper. The University shall obtain all required approvals and signatures and retain documentation thereof in its files for the period specified in Controller Policy entitled “Records Retention.” Unless the University is exempted by statute or has delegated approval authority, prior approval of the State contract by one or more of the Central Approvers is required as follows:

7.1 Capital Construction and Controlled Maintenance contracts require the approval of the State Architect or delegate, unless otherwise exempted by statute or waived by the State Architect. See CRS §24-30-1303(1)(d).

7.2 Contingency-Based contracts require the approval of the Office of State Planning and Budgeting. See CRS §24-17-204.

7.3 Financial Information contracts used by the University to record financial transactions and information, develop financial reports, or prepare financial statements require the approval of the State Controller. See CRS §24-30-202(12).

7.4 Legal Services contracts require the approval of the State Attorney General or delegate. See CRS §2431-101.

7.5 Personal Services contracts require the approval of the State Personnel Director or delegate. See CRS §24-50-501, et seq.

7.6 Real Property contracts, including leases where the University is the tenant, easements, and rights-of-way contracts, require the approval of the State Architect/Director of Real Estate Programs, Department of Personnel and Administration, or delegate, unless otherwise exempted by statute.

7.7 Utility Cost-Savings contracts require the approval of the State Personnel Director or delegate. See CRS §24-30-2003(1)(b).
8. STATE CONTRACT LEGAL REVIEW
At the discretion of the Controller, a State contract may be subject to legal review by and approval of the Office of the State Attorney General.

8.1 Mandatory Review. Legal review shall include, without limitation, scrutiny of contract provisions to ensure that the following requirements are met:
8.1.1 Compliance with the United States and Colorado Constitutions, federal and State statutes, State regulations, and Governors’ executive orders;
8.1.2 Authority of the contracting Agency or Institution of Higher Education;
8.1.3 All essential elements of a legally binding contract;
8.1.4 A statement of work or comparable provisions and business or commercial terms, which are sufficiently clear and definite, under the applicable circumstances, to be enforceable;
8.1.5 Required signatures; and
8.1.6 Compliance with Fiscal Rules and Controller Policies.

8.2 Discretionary Review. At the discretion of the Controller legal review also may include:
8.2.1 Review and analysis of the significant risks and issues of a particular transaction;
8.2.2 Inquiry into the availability of specific remedies; and
8.2.3 Review of compliance with grant conditions, federal funding requirements, and required assurances, where provided by the University.

9. CONTROLLER REVIEW AND APPROVAL
Controller review and approval of all State expenditure contracts, intergovernmental agreements, and price agreements is mandatory. The Controller’s Office will, in its discretion, review other types of contracts, for example, non-expenditure contracts. All Controller reviews and approvals shall be conducted in accordance with the provisions of this §9.

9.1 Outsource Contracts -Third Party Payor. All outsource contracts shall be submitted to the Controller or delegate for review and approval, including without limitation, any outsource contract that diverts revenues due to the State, unless specifically exempted by State statute. For example, see CRS §24-34-101.

9.2 Process for Review, Approval, and Signature
9.3.1 Review. The Vice President of Administration, Finance, and Facilities or delegate shall review all expenditure contracts to determine if the:

9.3.1.1 Expenditure:
9.3.1.1.1 Is authorized by the appropriation to which it will be charged;
9.3.1.1.2 Does not exceed the unencumbered balance of the appropriation;
9.3.1.1.3 Complies with all applicable constitutional and statutory provisions, Fiscal Rules and Controller Policies;
9.3.1.1.4 Is encumbered; and
9.3.1.2 Prices or rates are fair and reasonable and in accordance with State law and administrative rules;
9.3.1.3 Form and Content of the contract are sufficient and appropriate for the parties and subject matter under applicable State and federal laws, Fiscal Rules, including Section 5 (Content of State Contracts) of this Fiscal Rule, and Controller Policies; and
9.3.1.4 **Risk** of the contract is outweighed by the contract’s benefits.

9.3.2 **Approval and Signature.** After review, the Vice President of Administration, Finance, and Facilities or delegate shall approve or disapprove the State expenditure contract. If approved, the Vice President of Administration, Finance, and Facilities or delegate shall evidence such approval by signing the contract.

9.4 **Contracts Not Approved by Controller**

9.4.1 **Not Binding.** An expenditure contract is not binding on or enforceable against the State unless and until it is signed by the Vice President of Administration, Finance, and Facilities or delegate.

9.4.2 **Null and Void.** Any expenditure contract disapproved by the Vice President of Administration, Finance, and Facilities or delegate is null and void.

9.4.3 **Personal Liability.** A person incurring an obligation on behalf of the University through an expenditure contract or other State-funded contract type without the approval and signature of the Vice President of Administration, Finance, and Facilities or delegate shall be personally liable, jointly and severally, for the obligation. See CRS §24-30-202(3).

10. **ACCOUNTING FOR STATE CONTRACTS**

10.1 **Encumbrances.** The University shall encumber expenditure contracts in accordance with Fiscal Rule 2-2, “Commitment Vouchers”, and the Fiscal Procedures Manual.

10.2 **Outsource Contracts – Third Party Payor.** The University shall record all gross revenues and expenditures for each outsource contract in the University’s financial system and shall not net the expenditures against the revenues, unless specifically exempted by State statute.

11. **INDEPENDENT CONTRACTOR RELATIONSHIP**

The University shall take care in maintaining the distinctions between services performed by persons who are employees of the University and services performed by independent contractors, and their employees, agents and representatives, pursuant to a personal services contract. The University’s responsibilities and obligations with respect to employee/employer arrangements differ from its responsibilities and obligations with respect to independent contractors. The University may be liable to a third party for the actions of its employees, whereas independent contractors and their employees, agents and representatives are liable for their own actions. The University is responsible for social security taxes and benefits for its employees, whereas independent contractors are responsible for social security taxes and benefits of their employees. The University shall follow guidelines issued by the Internal Revenue Service, the Colorado Division of Human Resources, Colorado statutes, and opinions of the State Attorney General in determining whether an individual is an employee or independent contractor.

12. **EXCEPTIONS TO FISCAL RULE 3-1**

12.1 **Personal Services Contracts** - This Fiscal Rule does not apply to State contracts for personal services paid through the payroll system. Examples of exempted contracts include advices of employment engaging the services of the following:
12.1.1 Appointees by the Governor and Lieutenant Governor and their administrative staffs;
12.1.2 Members of State boards or commissions;
12.1.3 Faculty and other exempted members of Institutions of Higher Education;
12.1.4 Attorneys-at-law serving as assistant attorney generals; and
12.1.5 Employees of the Legislative and Judicial Departments of the State.

12.2 Elective Officers - An Elective Officer acting within the scope of his or her authority may elect to exempt any contract from the requirements of either or both of CRS §24-30-202 including the Fiscal Rules and Title 24 Article 101 (Procurement Code) by personally signing a contract. See CRS §24-2102(4). If the contract signed by the Elective Officer is outside the scope of his or her authority, the Elective Officer may be personally liable for all claims arising therefrom.

13. SPECIAL PROVISIONS

See next page.
SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

1. **APPROVAL BY THE VICE PRESIDENT OF ADMINISTRATION, FINANCE, AND FACILITIES.** SB10-003. This contract shall not be valid until it has been approved by the Vice President of Administration, Finance, and Facilities or designee.

2. **FUND AVAILABILITY.** SB10-003. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §1346(b) and 2671 et seq., as applicable now or hereafter amended.

4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall
   (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law,
   (b) provide proof thereof when requested by the State, and
   (c) be solely responsible for its acts and those of its employees and agents.

5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable
licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor’s services and Contractor shall not employ any person having such known interests.

10. **VENDOR OFFSET. CRS §24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]** Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State’s vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. **PUBLIC CONTRACTS FOR SERVICES. CRS §§8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]** Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §§8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §817.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee,
and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.
CHAPTER 4: PROJECTS

**FISCAL RULE NUMBER**
Capital Construction Administration 4-1
Capital Construction Projects 4-2
Capital Construction Project Retainage 4-3
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 4-1
CAPITAL CONSTRUCTION ADMINISTRATION

AUTHORITY:
CRS §24-30-1301 (State Buildings)
CRS §24-75-3 (Capital Construction Fund)
CRS §24-91 et seq. (Construction)
CRS §24-92 et seq. (Construction Bidding)
CRS §38-26-106 (Contractor Bonds)

DEFINITIONS:
Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the state.

RULE:
The State Capital Construction Fund was established to provide a source for appropriations to state agencies and institutions of higher education to acquire and maintain their physical facilities. The fund has special requirements that must be followed by state agencies and institutions of higher education receiving appropriations from the fund.

1. Capital Construction Contracts
   1.1 Formal contracts shall be required when expending funds in excess of $100,000 appropriated for emergency maintenance projects including construction services or installation of fixed equipment unless previous approval has been obtained from the Director of the State Buildings Program to use a purchase order.

   Purchases of fixed equipment that do not require installation services may be purchased with a state purchase order.

   A purchase order may be used for construction not exceeding $100,000 if the Director of State Buildings Program or a delegate records written approval on the face of the purchase order. Such approval by the Director of State Buildings Program or a delegate shall require compliance with approved building codes and signify compliance with bonding requirements in C.R.S. 38-26-106 and 24-105-201. In addition, the purchase order shall be bilateral requiring written acknowledgment of acceptance by the contractor prior to the beginning of work.

   1.2 Capital construction fund contracts shall follow the contract routing procedures established by the State Controller's Office.
Rule 4-2
CAPITAL CONSTRUCTION PROJECTS

AUTHORITY:
CRS §24-30-1301 (State Buildings)
CRS §24-30-1404 (Contracts)
CRS §24-75-3 (Capital Construction Fund)
CRS §24-91 et seq. (Construction)
CRS §24-92 et seq. (Construction Bidding)
CRS §38-26-106 (Contractor Bonds)
CRS §38-26-107 (Supplier Claims)

DEFINITIONS:
Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the University.

Capital Construction Project - A construction project funded wholly or in part by funds from the University’s capital construction fund.

Controlled Maintenance Project - A maintenance project funded wholly or in part by funds from the state capital construction fund.

Deferred Maintenance Project – A maintenance project wholly funded by the University and/or AHEC.

RULE:
All funds appropriated for capital construction projects shall be used for their intended purpose. The University shall not use the capital construction fund to pay or reimburse University employees for construction management, administrative activities, direct labor performed, or any other expense outside the scope of the capital construction or controlled maintenance project.

Contracts funded by the state capital construction fund shall be executed and the funds encumbered within the time limits established by 24-30-1404, C.R.S. If the University determines that the deadlines imposed by the statute cannot be met, the University may request the Capital Development Committee to recommend to the State Controller that the deadline be waived. The State Controller may grant the waiver request.
Rule 4-3
CAPITAL CONSTRUCTION PROJECT RETAINAGE

AUTHORITY:
CRS §24-30-1301, C.R.S. (State Buildings)
CRS §24-75-3 (Capital Construction Fund)
CRS §24-91 et seq. (Construction)
CRS §24-92 et seq. (Construction Bidding)
CRS §38-26-106 (Contractor Bonds)
CRS §38-26-107 (Supplier Claims)

DEFINITIONS:
Capital Construction Fund - A fund created by statute for the purpose of purchasing and/or maintaining land, buildings and equipment and for constructing buildings for use by the University.

Capital Construction Project - A construction project, as defined in 24-30-1301, C.R.S., funded wholly or in part by funds from the state capital construction fund.

Controlled Maintenance Project - A controlled maintenance project, as defined in 24-30-1301, C.R.S., funded wholly or in part by funds from the state capital construction fund.

Deferred Maintenance Project – A maintenance project wholly funded by the University and/or AHEC.

RULE:
The University shall withhold retainage for all capital construction and controlled maintenance projects where the total amount of the contract exceeds the limit established by 24-91-103, C.R.S. The retainage shall be in the form of monies withheld from the contractor or in any other form authorized by statute and acceptable to the University.

The retainage shall be released by the University only when the contract has been satisfactorily completed and accepted, the University has proof of publication of "Notice of Final Settlement", in accordance with 38-26-107, C.R.S., and there are no outstanding claims against the project.
CHAPTER 5: TRAVEL

FISCAL RULE NUMBER
Travel 5-1
Rule 5-1
TRAVEL

1. Authorities
2. Definitions
3. Rule
4. Travel Authorization
5. Travel Advance
6. Traveling Away from Home
7. Non-Allowable Travel Expenses
8. Certification and Approval
9. Reimbursement Requirements
10. Payment of Travel Expenses
11. Special Situations
12. Per Diem Rates - Meals and Incidental Expenses

1. AUTHORITIES
CRS §24-9-104(2) - Mileage Allowances
CRS §24-30-202(20.1) (Travel Advance Limits)
CRS §24-30-202 (13) (Higher Education Authority)
CRS §23-54-102 (MSU Denver Board of Trustees)
SB10-003 (Higher Education Flexibility Act)
Executive Order D 005-03 - Concerning State Employee Travel
Executive Order D 021-07 - Efficient Management of State Employee Travel Expenses
1CCR 103-1 State Travel Management Program Rules
U.S. Code, Title 26, §§162(a), 262, and 274(d) (Internal Revenue Code)
26 CFR Ch 1, §1.274-5T Substantiation Requirements (Temporary) (Treasury Regulations)
IRS Publication 463 (2008) - Travel, Entertainment, Gift, and Car Expenses

2. DEFINITIONS
Agency – An executive department of the State, office of the Governor, or any subdivision thereof.
Approving Authority - An individual who has authority to approve travel for University business and related matters.
CONUS - The 48 continental United States, including the District of Columbia.
Electronic Signature - Any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as a manual signature. “Electronic signature” includes digital signatures.
Expenses Incurred for the Benefit of the University - Expenses incurred that enable a University employee or University official to perform assigned duties or enable the University to carry out responsibilities required by law.
Foreign Travel - Travel to any out-of-country destination not included within the definitions of In-State Travel or Out-of-State Travel.
In-State Travel - Travel within the State of Colorado and to the immediate area outside the State that is a necessary part of an otherwise "in-state" trip.

Incidental Expenses – Fees and tips given to porters, baggage carriers, bellhops, hotel maids, and skycaps for airport check-in, and cost of personal telephone calls. Incidental Expenses do not include expenses for laundry, cleaning and pressing of clothing, and Lodging taxes.

Lodging - Any commercial accommodations available or offered for use for which a rental schedule has been established and payment is required.

Metropolitan Area – A region including a city and the densely populated surrounding areas that are socially and economically integrated with it. See Controller Technical Guidance entitled “Taxability of State Travel.”

Out-of-State Travel - Travel within CONUS, other than In-State Travel, or within Alaska or Hawaii.

Political Expenses - Expenses incurred in relation to activities that are primarily designed to further the interests of a candidate, political party, or special interest group.

Reimbursement Request – A request for reimbursement of travel expenses submitted by a Traveler pursuant to §9 of this Fiscal Rule.

University Business – Official University business or other duties undertaken for purposes and for the benefit of the University.

State Travel Management Program (STMP) – The program provided by the State Travel Management Program Office.

Temporary Work Location – A location where employment is expected to continue, and does continue, for one year or less.

Travel Compliance Designee – An individual responsible for overseeing compliance and enforcement of travel rules and policies in accordance with Executive Order D 005 03.

Travel Advance – The advance of funds to a Traveler for approved travel expenses by an Institution of Higher Education pursuant to § 5 of this Fiscal Rule.

Traveler – An employee or University official who receives required approvals to travel on University Business.

Traveler’s Regular Work Location – Generally, the primary location where the Traveler works, including the entire Metropolitan Area of the Traveler’s regular work location. See Controller Technical Guidance entitled “Taxability of State Travel” for exceptions.

Traveler’s Residence – The location where the Traveler maintains his or her primary family home.

Traveling Away from Home – A Traveler is traveling away from home if: a) the Traveler’s duties require him or her to be away from the Traveler’s Regular Work Location substantially longer than an ordinary day’s work, and b) the Traveler needs to sleep or rest to meet the demands of his or her work while away from home.

Transportation -Travel by commercial airline, railroad, bus, taxicab, State owned, leased, or personally owned automobile or airplane or any other means of conveyance.

3. RULE

3.1 Scope -Fiscal Rule 5-1 addresses Travel Advances and reimbursement of travel expenses to University employees and officials. University employees and officials shall follow
this Fiscal Rule when Traveling Away from Home and for all other situations included in this Fiscal Rule.

3.2 Reimbursement – A Traveler may be reimbursed for travel expenses, only if the:

3.2.1 Traveler is Traveling Away from Home, or meets the criteria in one of the special situations described in §11 of this Fiscal Rule;

3.2.2 Travel:
   3.2.2.1 Is on University Business - travel charged to the University, regardless of the funding source, shall be for the benefit of the University;
   3.2.2.2 Is only for the time period necessary;
   3.2.2.3 Is completed using the most economical means available which will satisfactorily accomplish the University Business; and
   3.2.2.4 Is approved by the Approving Authority as required by §4 of this Fiscal Rule;

3.2.3 Expenses are reasonable under the circumstances;

3.2.4 Traveler submits adequate documentation of the travel expenses to the Approving Authority;

3.2.5 Reimbursement Requests and Travel Advances are settled as required by §9 of this Fiscal Rule

3.3 Traveler’s Responsibilities – A Traveler is responsible for controlling expenses at a reasonable level and ensuring that the University receives adequate value for the amounts expended. A Traveler shall identify Expenses Incurred for the Benefit of the University while traveling away from home and request an advance or reimbursement for only those expenses.

3.4 Approving Authority’s Responsibilities - The Approving Authority shall review the expenses claimed by a Traveler and authorize an advance or reimbursement for only those expenses incurred for University business. The Approving Authority may require documentation, in addition to the documentation prescribed by this Fiscal Rule, deemed necessary or advisable by the Approving Authority in connection with the review and authorization of expenses.

4. TRAVEL AUTHORIZATION

All travel shall be authorized in accordance with the procedures in this §4, regardless of the sources of funding (including reimbursements by third parties).

4.1 In-State Travel - Prior written or electronic authorization by the Approving Authority for all In-State Travel may be required, at the discretion of the University.

4.2 Out-of-State Travel - Prior written or electronic authorization by the supervisor, shall be required for all Out-of-State travel.

4.3 Foreign Travel - Prior written or electronic authorization by the President, or delegate, of the University shall be required for all Foreign Travel.

4.4 Travel at No Cost to the State - Prior authorization by the Approving Authority is required for any University travel for which reimbursement is made directly to a University employee by a non-State organization. Absent this authorization, a Traveler shall submit a Reimbursement Request to the University, and the University will send an invoice to the non-State organization for the amount of reimbursement requested by the Traveler.
5. TRAVEL ADVANCE

5.1 Travel Advance Form – A Traveler shall complete a Travel Advance form to obtain an advance for approved travel expenses, which shall contain a statement as to the purpose of the travel.

5.2 Use of State Travel Cards – When possible, Travel Advances shall be withdrawn from one of the State travel cards described in §10.2 of this Fiscal Rule. A Travel Advance may be requested from the University if the Travel Advance cannot be obtained from one of the State travel cards.

5.3 Amount of Advance - The amount of the advance shall be computed using the applicable per diem rates and other allowable estimated out of pocket amounts. Under no circumstance shall a Travel Advance exceed the $1,500 statutory limit per Traveler per trip. See CRS §24-30-202(20.1).

5.4 Approval - Travel Advances requested from the University require prior authorization from the Approving Authority.

5.5 Settlement of Advance – Upon completion of travel, a Traveler shall settle his or her Travel Advance by following the requirements for timing, content and receipts set forth in §9 of this Fiscal Rule. The Traveler shall reimburse the University to the extent that the amount of a Travel Advance received by the Traveler pursuant to §5 of this Fiscal Rule exceeds the actual expenditures for reimbursable items in §6 of this Fiscal Rule.

6. TRAVELING AWAY FROM HOME

A Traveler traveling away from home shall be reimbursed for the items set forth in this section, if all other requirements of §3 of this Fiscal Rule are met.

6.1 Lodging – The Traveler shall submit receipts for lodging as documentation of the expense and shall be reimbursed for the actual cost of lodging, provided the Traveler complies with §3.2 of this Fiscal Rule.

6.2 Meals – Under regulations issued by the Internal Revenue Service, Travelers are required to use the method chosen by the University for reimbursement of meals. The University has chosen to use the standard allowance method for meals, rather than the actual cost method. Under the standard meal allowance method, a Traveler shall claim the authorized meal per diem rate for each meal the Traveler would normally have eaten while Traveling Away from Home. If a meal is included in a conference fee or is provided with the cost of Lodging, a Traveler shall not request reimbursement for the standard meal allowance, unless the meal is determined to be inadequate by the Traveler. Under no circumstances shall a Traveler request reimbursement for more than the applicable per diem rate. Receipts for meals are not required. See §12 of this Fiscal Rule for reference to the current standard per diem rates for meals.

6.3 Meals for Days Traveler Departs and Returns – A Traveler may claim meals based on departure and arrival time. Breakfast cannot be claimed unless departure is prior to 5:00 a.m. at the departing city. Lunch cannot be claimed unless departure is before 11 a.m. at the departing city or return is after 1:00 p.m. at the destination city. Dinner cannot be claimed unless return is after 8:00 p.m. at the destination city. Under this method, the applicable per diem rate is based on where the meal is eaten.
6.4 Incidental Expenses – Under regulations issued by the Internal Revenue Service, Travelers are required to use the method chosen by the University for reimbursement of Incidental Expenses. The University has chosen to use the standard allowance method for Incidental Expenses, rather than the actual cost method. Under the standard allowance method, a Traveler shall include the total Incidental Expense per diem rate for each overnight stay but shall not be reimbursed for Incidental Expenses for days that do not include an overnight stay. Under no circumstances shall a Traveler request reimbursement for more than the applicable per diem rate. Receipts for Incidental Expenses are not required. See §12 of this Fiscal Rule for reference to the current rates for Incidental Expenses.

6.5 Transportation – A Traveler shall be reimbursed only for the dollar equivalent of the most cost beneficial method of Transportation available to the Traveler that satisfactorily accomplishes the University’s business. Reimbursement shall be limited to the actual cost of commercial Transportation. A Traveler requesting reimbursement shall submit receipts for all Transportation expenses except as provided in §6.10 of this Fiscal Rule.

6.6 Rental Vehicles – A Traveler shall be required to use a State awarded vehicle rental company, if available, to control travel costs and ensure that insurance coverage is adequate. Various upgrades provided at extra cost by vehicle rental companies, such as satellite radio, GPS units, etc., are not reimbursable unless necessary for University business or safety reasons and approved by the Approving Authority. A Traveler shall submit receipts for rental vehicles as documentation of the expense and shall be reimbursed for the actual cost of rental vehicles, provided the Traveler complies with §3.2 of this Fiscal Rule.

6.7 Mileage for Personal Vehicles – A Traveler shall be allowed mileage reimbursement for each mile actually and necessarily traveled on University business using the Traveler’s personal vehicle as provided in the Controller Policy entitled “Mileage Reimbursement.” A Traveler normally shall be reimbursed at the mileage rate designated for two-wheel drive vehicles. A Traveler shall be reimbursed at the mileage rate designated for four-wheel drive vehicles only when the use of four-wheel drive is necessary because of road, terrain, or adverse weather conditions. Commuting expenses incurred while traveling between a Traveler’s Residence and Traveler’s Regular Work Location are non-reimbursable personal expenses. CRS §24-9-104(2) establishes the mileage rate to be used for reimbursement of University business travel. The current mileage rates are posted on the website of the Office of the State Controller at: http://www.colorado.gov/dpa/dfp/sco/FiscalRules/mileage.htm.

6.8 Airfare - A Traveler shall follow the travel policy of the University regarding the use of State awarded airlines. A Traveler shall be reimbursed for baggage fees if not included in the airfare.

6.9 Tips – A Traveler cannot claim tips as a separate item on a Reimbursement Request. Tips paid to porters, baggage carriers, bellhops, hotel maids, and skycaps for airport check-in are included in Incidental Expenses. Tips paid in conjunction with meals are included in the standard meal allowance. Tips paid in connection with taxi and shuttle expenses should be included as part of these expenses.
6.10 Other Allowable Travel Expenses - In addition to Lodging, meals, and Transportation, the actual expenses identified below, incurred as a part of approved travel, are allowable if necessary to complete University Business:

6.10.1 Commercial Transportation such as taxi and shuttle expenses, including tips. A receipt shall be required for each individual ride in a commercial vehicle costing over $25;
6.10.2 Camping site fees paid for a commercial camp ground or a state or national park. A receipt shall be required for any fee over $25;
6.10.3 Parking fees. A receipt shall be required for any single fee over $25;
6.10.4 Registration fees for conferences or other meetings. A receipt shall be required for all registration fees;
6.10.5 Telephone, fax, internet access, and other similar miscellaneous business expenses paid for University Business. A receipt shall be required for any single charge over $25;
6.10.6 Toll road charges. A receipt shall be required for charges over $25; and
6.10.7 Traveler's checks or transaction charges for the use of the State Travel Card. A receipt shall be required if the total reimbursement claim for such checks or charges is over $25.

6.11 Summary of Allowable Travel Expenses

<table>
<thead>
<tr>
<th>Type of Travel Expense</th>
<th>Reimbursement</th>
<th>Receipt Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodging</td>
<td>Actual</td>
<td>Yes</td>
</tr>
<tr>
<td>Meals</td>
<td>Per Diem Rate</td>
<td>No</td>
</tr>
<tr>
<td>Incidental Expenses</td>
<td>Per Diem Rate</td>
<td>No</td>
</tr>
<tr>
<td>Transportation (other than airfare)</td>
<td>Actual</td>
<td>Yes if over $25</td>
</tr>
<tr>
<td>Rental Vehicles</td>
<td>Actual</td>
<td>Yes</td>
</tr>
<tr>
<td>Mileage for Personal Vehicles</td>
<td>Miles x 90% x current federal mileage rate (95% for 4-wheel drive)</td>
<td>No</td>
</tr>
<tr>
<td>Airfare</td>
<td>Actual</td>
<td>Yes</td>
</tr>
<tr>
<td>Tips</td>
<td>Included in Per Diem Rate</td>
<td>No</td>
</tr>
<tr>
<td>Other Allowable Travel Expenses</td>
<td>Actual</td>
<td>Yes if over $25</td>
</tr>
</tbody>
</table>

7. NON-ALLOWABLE TRAVEL EXPENSES
A Traveler shall not be reimbursed for the following expenses:
7.1 Alcoholic beverages;
7.2 Entertainment expenses;
7.3 Personal expenses incurred during travel that are primarily for the benefit of the Traveler and not directly related to University business;
7.4 Political Expenses;
7.5 The cost of traffic fines and parking tickets;
7.6 Late fees for University credit cards; and
7.7 Certain insurance coverage - The Travel Card provides travel insurance for Travelers who use one of the University credit cards listed in §10.2.1 of this Fiscal Rule. The cost
of additional or other types of coverage shall not be reimbursed by the University, including without limitation, expenses paid by a Traveler for the following:
7.7.1 Supplemental liability insurance on rental vehicles;
7.7.2 Value premiums on airline tickets;
7.7.3 Trip cancellation insurance;
7.7.4 Personal accident insurance on rental vehicles; and
7.7.5 Supplemental life insurance for airline or common carrier travel.

7.8 Notwithstanding §7.7 of this Fiscal Rule, any and all use of rental vehicles must be covered by standard collision and/or liability insurance. If the Traveler does not use the Travel Card, s/he must add insurance coverage to the rental contract and, to the extent the Traveler is required to pay a fee for such coverage, will be reimbursed for that fee.

8. CERTIFICATION AND APPROVAL

8.1 Certification - Each Travel Advance request form or Reimbursement Request shall contain the following certification signed manually or electronically by the Traveler: "I certify that the statements in the above schedule are true and correct in all respects; that payment of the amounts claimed herein has not and will not be reimbursed to me from any other source; that travel performed for which an advance or reimbursement is claimed was or will be performed by me while on University Business and that no claims are included for expenses of a personal or political nature or for any other expenses not authorized by the Fiscal Rules; and that I actually incurred or paid the operating expenses of the motor vehicle for which reimbursement is claimed on a mileage basis. Further, I hereby authorize the University to deduct from my pay any amount paid to me in excess of my authorized expenses as provided by Fiscal Rule 5-1."

8.2 Approval – If approved, the Approving Authority shall endorse the Reimbursement Request or Travel Advance request manually or by electronic signature.

9. REIMBURSEMENT REQUIREMENTS

9.1 Timing - A Reimbursement Request shall be filed within 60 days of completion of travel to allow for proper recording of expenses and to obtain reimbursement for approved travel expenses.

9.2 Content - The Reimbursement Request form shall contain all of the following:
9.2.1 Amount – The amount of each separate expenditure incurred while traveling away from home, such as the cost of transportation or lodging;
9.2.2 Time – Dates of departure for and return from Traveling Away from Home and the number of days spent on University business while Traveling Away from Home;
9.2.3 Place – Destinations or locality of travel, described by name of city or town or other similar designation; and
9.2.4 State Purpose – Reason for travel or nature of University business benefit derived or expected to be derived as a result of the travel.

9.3 Receipts
9.3.1 Receipts Required - Receipts are required for all expenses over $25, except for meals, Incidental Expenses, mileage for personal vehicles, and tips, which do not require receipts regardless of dollar amount. Receipts are required for Lodging, rental
vehicles and airfare, regardless of the amount. See §6.11 of this Fiscal Rule. Receipts shall be original, detailed vendor receipts. Non-specific charge card transaction slips shall not be accepted as proper documentation.

9.4 Application to Travel Advances – The requirements with respect to timing, content and receipts set forth in this §9 shall apply to the settlement of Travel Advances as provided in §5 of this Fiscal Rule.

9.5 Compliance – A Traveler shall comply with the reimbursement requirements in this §9 regardless of the method of payment used. See §10 of this Fiscal Rule.

10. PAYMENT OF TRAVEL EXPENSES
The University shall use one or more of the methods set forth in this §10 to pay for travel expenses or reimburse Travelers.

10.1 Electronic Reimbursement – The University shall pay a Traveler for expenses claimed on the Reimbursement Request form or the Travel Advance form by direct deposit using electronic funds transfer (EFT) or by check.

10.2 Travel Cards – The University may pay travel expenses directly or indirectly with travel credit cards.

10.2.1 Types of Credit Cards Approved for University Travel
10.2.1.1 Individual Travel Card (Travel Card) – The Travel Card is issued in the Traveler’s name. The Traveler is personally liable for the card and transactions paid for with the card are not tax exempt. If a Traveler receives a Travel Card, the Traveler shall sign the cardholder agreement and comply with the requirements of the Travel Card agreement.

10.2.1.2 Central Travel System Account (ghost card) – The Central Travel System Account is maintained by the State and the State is liable for the use of the Account. This Account enables the University to book airline reservations through travel agencies. Transactions paid through the Account are not tax exempt because all common carriers, such as airlines, always charge tax. All airfares shall be billed to the Central Travel System Account.

10.2.1.3 Central Travel Card (Event Card) – The Central Travel Card is issued to the University. The State is liable for the use of the card and transactions paid for with the card are tax-exempt. The University may issue a Central Travel Card to an individual employee or official for personal travel not to exceed $5,000.

10.2.2 Procurement Card – The Procurement Card shall not be used to pay for travel expenses without prior approval of the Controller.

10.3 Travel Advance – See §5 and §9 of this Fiscal Rule.

11. SPECIAL SITUATIONS
11.1 Travel within a Single Day – If travel is completed wholly within a single day, reimbursement for lunch shall not be allowed. If, however, an employee or official leaves home prior to 5:00 a.m. on University Business that requires the employee to extend the workday, the Approving Authority may allow a meal per diem for breakfast. In addition, if an employee or official remains away from home after 8:00 p.m. on
University Business that requires the employee to extend the workday, the Approving Authority may allow a meal per diem for dinner. See State Controller Technical Guidance entitled “Taxability of State Travel Reimbursement.”

11.2 Travel to a Temporary Work Location - A Traveler may be reimbursed for Transportation expenses to a Temporary Work Location if the temporary work location is further away than the permanent location.

11.3 Travel to Conferences, Meetings, Training Sessions, and Other Business-related Activities – Reimbursement for these transportation expenses will only be for the amount of travel expense over and above the normal transportation expense an employee or official incurs traveling to their primary place of business. For example: if an employee travels 25 miles to their normal place of business, but the distance to the meeting etc, is 28 miles the traveler will only receive reimbursement for 3 miles.

11.4 Allowances for Members of Statutory Boards or Commissions - Board and commission members shall be paid in accordance with the statute establishing the board or commission. Board members may be reimbursed for actual and necessary expenses incurred in the performance of their duties. Actual and necessary expenditures shall be reasonable under the circumstances and board and commission members shall be made aware that public funds are the source of the reimbursement. Board and commission members also may be reimbursed for childcare services. The president of the University or delegate shall determine the need for childcare reimbursement. Reimbursement shall not be made for services provided by a family member. Receipts shall be furnished with all Reimbursement Requests.

11.5 Allowances for University Job Applicants - To obtain the best-qualified individual for a given University employment position, it may be necessary to pay interview related travel expenses for job applicants. At the discretion of the president of the University or delegate, such travel expenses, including the meal per diem rate established by the State Controller for Travelers, may be reimbursed to the applicant.

11.6 Allowances for Travel Not Solely for University Business - In some instances, the purpose of travel may be partially for University business and partially for personal or political reasons. In these instances, the Traveler shall make a reasonable allocation of the expenses between University business and personal or political purposes and the Reimbursement Request for such expenses shall contain such allocation and sufficient documentation to explain the basis for the allocation. If a University employee obtains lower rates for Lodging or Transportation because travel is extended for personal or political reasons, these lower rates shall also apply to the University business portion of the travel.

11.7 Allowances for Travel Paid Directly by a Non-State Entity - In limited instances, University officials and employees may be invited to attend a committee meeting, seminar, or conference concerning University business where their travel expenses are paid directly or reimbursed by the sponsor of the meeting, seminar or conference. In such instances the official or employee may accept the invitation, if the travel has been approved by the appropriate Approving Authority and does not violate other State statutes or constitutional provisions.
11.8 Allowances for Travel with Spouse, Relatives, or Friends - The University shall not reimburse the cost of an employee's spouse or other person(s) accompanying the University employee on a business trip, unless specifically permitted in this Fiscal Rule.

11.9 Allowances for Travel by Leased or Privately Owned Aircraft

11.9.1 The University shall not lease an aircraft without the prior written approval of the Aircraft Section of the Colorado State Patrol in the Department of Public Safety, regardless of the source of funds.

11.9.2 The University shall not authorize the use of a privately owned aircraft without prior written approval from the Office of Risk Management. Reimbursement for the use of a privately owned aircraft shall not be allowed unless the required prior written approval has been secured.

11.10 Allowances for Travelers Furnishing Their Own Lodging and Meals - When a Traveler furnishes his or her own Lodging and meals, the University may negotiate a special per diem rate for that period of travel. The rate negotiated shall be on a case-by-case basis and under no circumstance shall the negotiated rate exceed the normal per diem rates established by this Fiscal Rule.

12. PER DIEM RATES - MEALS AND INCIDENTAL EXPENSES

The current maximum meal and Incidental Expense per diem rates are posted on the website of the Office of the State Controller at:
http://www.colorado.gov/dpa/dfp/sco/FiscalRules/FR_Travel.htm

These rates include the following:
- Appendix A1 – Domestic (CONUS) Per Diem Rates
- Appendix A2 – Allocation of Domestic (CONUS) Per Diem Rates
- Appendix B – Alaska, Hawaii and US possessions Per Diem Rates
- Appendix C1 - Foreign Per Diem Rates
- Appendix C2 - Allocation of Foreign Per Diem Rates
- Appendix C3 – Footnote References for Foreign Per Diem Rates
MILEAGE REIMBURSEMENT POLICY

1) DEFINITIONS
   a. IRS – The Internal Revenue Service, established under the U.S. Department of the Treasury.
   b. Metropolitan Area - The region including a city and the densely populated surrounding areas that are socially and economically integrated with it. For the State of Colorado, metropolitan area shall be defined as the 35-mile radius surrounding the Traveler’s Regular Work Location, regardless of the location of the Traveler’s Residence. See the attached map for the 35-mile radius for Denver.
   c. University Business - Official University business or other duties undertaken for University purposes and for the benefit of the University.
   d. Temporary Work Location – A location where employment is expected to last, and does last, for one year or less.
   e. Traveler – A University employee or University official who receives required approvals to travel on University Business.
   f. Traveler’s Regular Work Location – Generally, the traveler’s regular work location is the primary location where the traveler works. For purposes of assessing taxability, Traveler’s Regular Work Location includes the entire metropolitan area of the traveler’s regular work location. See State Controller Technical Guidance entitled “Taxability of State Travel” for exceptions.
   g. Traveler’s Residence – The location where the Traveler maintains his/her primary family home.

2) POLICY. When a Traveler uses his/her personal vehicle while on University Business, the Traveler shall be reimbursed for an amount equal to the prevailing mileage rate established by the Colorado General Assembly, multiplied by the allowable miles as outlined below.

3) PREVAILING MILEAGE RATE.
   a. Colorado Statute - CRS §24-9-104(2) establishes the mileage rate to be used for reimbursement of travel while on University business.
   b. Percentage of Prevailing Internal Revenue Service (IRS) Rate - CRS §24-9-104(d) provides that on and after January 1, 2008, State officers and employees shall be allowed a mileage reimbursement of 90% of the prevailing IRS rate per mile for each mile actually and necessarily traveled while on University business (to the nearest cent) and, when authorized to be utilized and necessary for University business, 95% of the prevailing IRS rate per mile (to the nearest cent) for four-wheel-drive vehicles (necessary because of road, terrain, or adverse weather conditions).
   c. Current Mileage Rate - The current mileage rate is posted on the website of the Office of the State Controller at: http://www.colorado.gov/dpa/dfp/sco/FiscalRules/mileage.htm

4) ALLOWABLE MILES
   a. Actual Miles or Miles Greater than Normal Commute
      i. Travel to a Temporary Work Location – When a personal vehicle is the usual method of commuting - Traveler shall be reimbursed to the extent the number of
miles between the Traveler’s Residence and the Temporary Work Location exceeds
the normal commuting miles from the Traveler’s Residence to the Traveler’s Regular
Work Location. See Fiscal Rule 5-1 Travel, §11.2 and Controller Technical Guidance
entitled “Taxability of State Travel Reimbursements”.

ii. Travel to a Temporary Work Location – When a personal vehicle is NOT the
usual method of commuting -Traveler shall be reimbursed for the number of miles
between the Traveler’s Residence and the Temporary Work Location. See Fiscal
Rule 5-1 Travel, §11.2 and Controller Technical Guidance entitled “Taxability of
State Travel Reimbursements”.

iii. Travel to conferences, meetings, training sessions, and other business-related
activities – When a personal vehicle is the usual method of commuting – For travel
to these activities, when not covered by another subsection of this §4, Traveler shall
be reimbursed to the extent the number of miles between the Traveler’s Residence
and the location of the conference, meeting, training session or other training activity
exceeds the normal commuting miles from the Traveler’s Residence to the Traveler’s
Regular Work Location. See Fiscal Rule 5-1 Travel, §11.3 and Controller Technical
Guidance entitled “Taxability of State Travel Reimbursements”.

iv. Travel to conferences, meetings, training sessions, and other business-related
activities – When a personal vehicle is NOT the usual method of commuting – For
travel to these activities, when not covered by another subsections of this §4 of this
policy, Traveler shall be reimbursed for the actual miles traveled between the
Traveler’s Residence and the location of the conference, meeting, training session or
other training activity. See Fiscal Rule 5-1 Travel, §11.3 and Controller Technical
Guidance entitled “Taxability of State Travel Reimbursements”.

b. Actual Miles for Travel to and from Airport – For travel to and from the airport, a
Traveler shall be reimbursed for the actual miles traveled between the Traveler’s
Residence and the airport or between Traveler’s principal place of business and the
airport, whichever is shorter.

c. Actual Miles when Traveler’s residence is the Traveler’s Principal Place of Business
– This only applies if the University employee works permanently and solely from
his/her residence – The Traveler’s Residence is considered to be the Traveler’s principal
place of business if the Traveler works permanently and solely from his/her residence. If
this applies, the Traveler shall be reimbursed for actual miles traveled between the
Traveler’s Residence/Work Location and University work locations as long as the
Traveler is conducting University business. The Traveler’s Residence shall not be
considered to be the Traveler’s principal place of business in the following situations:
i. If the Traveler participates in alternative work arrangements, where the Traveler
continues to have a regular place of business other than the Traveler’s Residence, the
Traveler shall be reimbursed for mileage according to §4(a) above.
CONTROLLER TECHNICAL GUIDANCE
TAXABILITY OF STATE TRAVEL REIMBURSEMENTS

1) AUTHORITY.
U.S. Code, Title 26, §§162(a), 262, and 274(d) (Internal Revenue Code)
26 CFR Ch 1, §1.274-5T - Substantiation Requirements (Temporary) (Treasury Regulations)
Rev Rul. 99-7, 1999-5 C.B. 4 - Deductibility of Daily Transportation Expenses
IRS Publication 463 (2008) – (Travel, Entertainment, Gift, and Car Expenses)

2) PURPOSE OF THIS TECHNICAL GUIDANCE. The Office of the Controller is providing this technical guidance to inform University employees of tax issues related to reimbursement for State travel. The University is responsible for compliance with all IRS regulations and should consult a tax advisor as it deems necessary.

3) DEFINITIONS.
a. Internal Revenue Code – U.S. Code, Title 26, §§, et seq.
b. IRS Publications – Publications issued by the Internal Revenue Service, including without limitation the Internal Revenue Service cumulative bulletins.
c. IRS Regulations – The rules and regulations of the Internal Revenue Service/Department of the Treasury promulgated under the Internal Revenue Code.
d. Metropolitan Area -The region including a city and the densely populated surrounding areas that are socially and economically integrated with it. For the State of Colorado, metropolitan area shall be defined as the 35-mile radius surrounding the Traveler’s Regular Work Location, regardless of the location of the Traveler’s Residence. See the attached map for the 35-mile radius for Denver.
e. Regular Work Location – Generally, the traveler’s regular work location is the primary location where the traveler works. For purposes of assessing taxability, Traveler’s Regular Work Location includes the entire metropolitan area of the traveler’s regular work location.

f. State Business – Official State business or other duties undertaken for University purposes and for the benefit of the University.
g. Temporary Work Location – A location where employment is expected to last, and does last, for one year or less.
h. Traveler – An employee or State official who receives required approvals to travel on State Business.
i. Traveler’s Residence –The location where the Traveler maintains his/her primary family home.
j. Traveling Away from Home – A Traveler is traveling away from home if:
i. The Traveler’s duties require him/her to be away from the Traveler’s Regular Work Location (Metropolitan Area) substantially longer than an ordinary day’s work, and
ii. The Traveler needs to sleep or rest to meet the demands of his/her work while away from home.

4) RELATIONSHIP BETWEEN REIMBURSEMENT AND TAXABLE INCOME
a. Reimbursement - Travel expense reimbursement policies are set by the State.
i. Traveling Away from Home – Fiscal Rule 5-1, §6 provides for the reimbursement of various types of travel expenses provided that the Traveler is traveling away from home, with one exception for breakfast and dinner in a single day in Fiscal Rule 5-1 §11.1.

ii. Standard Allowance – The University has chosen to use the standard allowance method, rather than the actual cost method, for meals and incidental expenses.

iii. Actual Costs - For lodging, rental vehicles, airfare, and other allowable expenses included in Fiscal Rule 5-1, §6, the University will reimburse a Traveler for actual costs.

iv. Mileage - For mileage, the State will reimburse a Traveler based on mileage, as provided in the Controller Policy, entitled “Mileage Reimbursement,” and at rates as provided in CRS §24-9-104(2).

b. Taxable Income or Deduction – The Internal Revenue Code, IRS Regulations, and IRS Publications determine if a reimbursement is taxable income to the Traveler or if a non-reimbursed amount may be taken as a deduction on a Traveler’s income tax return.

c. Income Tax Consequences – Once the Traveler determines the allowable State reimbursement, by referring to Fiscal Rule 5-1, Controller Policy entitled, “Mileage Reimbursement,” and travel policies of the University, the Traveler can determine the income tax consequences of that reimbursement. The Internal Revenue Code, IRS Regulations, and IRS Publications determine the taxability of the reimbursement or the availability of a deduction.

5) MILEAGE – TRANSPORTATION EXPENSES

a. COMMUTING.

The cost of commuting from a Traveler’s residence to the Traveler’s Regular Work Location generally is a nondeductible personal expense and will not be reimbursed by the University.

b. GENERAL REIMBURSEMENT FOR MILEAGE

A state may choose a reimbursement plan for mileage that differs from the IRS rates and allowable miles. The Colorado Legislature, in CRS §24-9-104(2), provided that Travelers shall be reimbursed at 90% of the prevailing IRS mileage reimbursement rate for two-wheel drive vehicles and 95% of the IRS rate for four-wheel drive vehicles. Under the Controller Policy entitled “Mileage Reimbursement,” when a Traveler uses his/her personal vehicle while on University business, the Traveler shall be reimbursed for an amount equal to the State’s prevailing mileage rate multiplied by the allowable miles as outlined in the Policy. The difference between the reimbursement provided by the State Agency or Institution of Higher Education and the allowable reimbursement provided by the IRS regulations will result in a tax consequence for the Traveler. Travelers should seek independent tax advice regarding their individual tax situation if they believe the difference between the IRS allowable amount and the State reimbursement amount is significant.
c. TRAVEL TO A TEMPORARY WORK LOCATION

The University may reimburse a Traveler for the cost of traveling to a Temporary Work Location in accordance with the Controller Policy entitled entitled, “Mileage Reimbursement.” Taxability does not govern reimbursement. Rev Rule 99-7 provides three exceptions to the general rule, that commuting expenses are nondeductible personal expenses:

i. One or More Regular Work Locations – This exception is likely to apply to State office employees - In this exception, a Traveler has one or more regular work locations. A Traveler may be reimbursed for transportation expenses to a temporary work location as an IRS qualified reimbursable nontaxable travel expense, regardless of distance, only if the temporary work location is in the same trade or business as the Traveler’s regular work location.

1. A Traveler may go directly from his/her residence to the temporary work location rather than going to the regular work location first. In this instance, under Rev Rule 99-7, there is no distance requirement that would act to make the reimbursement taxable to the Traveler.

2. The temporary work location may be inside or outside the metropolitan area in which the taxpayer normally lives and works.

3. Key elements for this exception: 1) the temporary job is in the same trade or business as the employee’s regular job, and 2) the Traveler has a regular work location away from his/her residence.

4. Example 1 – Traveler’s residence is Aurora and Traveler’s regular work location is Denver. The University assigns the Traveler to a temporary work location in Lakewood, and the Traveler does the same work he/she did at the Denver location. Lakewood is within the Denver Metropolitan Area. The Traveler goes directly from the Traveler’s residence to the temporary work location in Lakewood. If the University has a travel reimbursement policy that provides for reimbursement of the Traveler for travel expenses from Traveler’s residence in Aurora to the temporary work location in Lakewood, this reimbursement is nontaxable to the Traveler (reimbursement would not be reported on the Traveler’s W2). Alternatively, if the University does not reimburse the Traveler, the Traveler may deduct the travel expenses on the Traveler’s income tax return.

5. Example 2 – Same facts as in Example 1 except that the University follows the Controller Policy entitled “Mileage Reimbursement,” which provides that a Traveler will be reimbursed to the extent the number of miles between the Traveler’s residence and the temporary work location exceeds the normal commuting miles from the Traveler’s residence to the Traveler’s regular work location (assuming the Traveler normally commutes by personal vehicle). In this example, the distance from the Traveler’s residence in Aurora to the temporary work location in Lakewood is 24 miles. The distance from the Traveler’s residence in Aurora to the regular work location in Denver is 15 miles. The distance to the Traveler’s temporary work location exceeds the distance to the Traveler’s regular work location by 9 miles. Under the University’s policy, the Traveler would be reimbursed for the cost of this travel (9 miles multiplied by the
90% of the prevailing IRS mileage rate provided in CRS §24-9-104(2)). Using the rates as of January 1, 2009, the Traveler would receive $4.50 each way (9 miles multiplied by $0.50 per mile) or $9.00 per day as reimbursement (reimbursement would not be reported on the Traveler’s W2). The Traveler may deduct the difference between the total amount allowed by the IRS and the amount reimbursed on the Traveler’s income tax return. The total amount allowed by the IRS is $13.20 each way (24 miles x $0.55) or $26.40 per day. The Traveler could deduct the difference between the total amount allowed by the IRS ($26.40 per day) and the amount reimbursed ($9.00 per day), or $17.40 per day on the Traveler’s income tax return.

ii. Traveler’s residence is the Traveler’s Principal Place of Business – This only applies if the University employee works solely from his/her residence – In this exception, the Traveler’s residence is considered to be the Traveler’s principal place of business within the meaning of Internal Revenue Code Sec 280A(c)(1)(A). A Traveler may be reimbursed for transportation expenses to a Temporary Work location as an IRS qualified reimbursable nontaxable travel expense, regardless of distance, only if the temporary work location is in the same trade or business as the Traveler’s regular business.

1. The temporary work location may be inside or outside the Metropolitan Area in which the Traveler normally lives and works.
2. Key elements for this case: 1) the temporary job is in the same trade or business as that of the regular job, and 2) the Traveler’s residence is the Traveler’s principal place of business.
3. Example 3 – Traveler’s residence is in Aurora, which is also the Traveler’s principal place of business. The Traveler visits clients in Denver. The Traveler performs the same work at a temporary work location in Denver as the Traveler performs at the Traveler’s residence/principal place of business. In this case, the Traveler may deduct the travel expenses from the Traveler’s residence in Aurora to the temporary work location in Denver on the Traveler’s income tax return. If the Traveler is reimbursed, the reimbursement is a qualified reimbursable nontaxable travel expense and would not be included on the employee’s W2. Alternatively, if the University does not reimburse the Traveler, the Traveler may deduct the travel expenses on the Traveler’s income tax return.

iii. No Regular Work Location – This is unlikely to apply to State office workers – In this exception, a Traveler does not have a regular work location.

1. A Traveler may be reimbursed for transportation expenses to a temporary work location as an IRS qualified reimbursable nontaxable travel expense only if both of the following conditions are met:
   a. The temporary work location is outside the Metropolitan Area of the Traveler’s residence, and
   b. The Traveler normally lives and works in the same Metropolitan Area and has no regular work location.
2. If the Traveler does not meet both of the conditions, then the Traveler’s reimbursed amount is taxable income, and the University shall include the amount
reimbursed on the Traveler’s W-2. For instance, if the Traveler’s residence is located in one Metropolitan Area and the Traveler commutes to his or her regular work location located outside of that Metropolitan Area, any reimbursement amounts paid by the University to the Traveler, shall be included the Traveler’s W-2.

3. Key elements for this exception: 1) Traveler has no regular work location, 2) Traveler’s temporary work location is located outside of the Metropolitan Area in which the Traveler’s residence is located, and 3) the Traveler normally works and lives in the same Metropolitan Area.

Example 4 – The Traveler’s residence is in Aurora. The Traveler is a skilled laborer who does not have a regular work location outside of the Traveler’s residence, but travels within the Metropolitan Area in which Traveler’s residence is located working on temporary projects at temporary work locations. In this example, the Traveler is prohibited from deducting transportation expenses on his/her income tax return related to travel from the Traveler’s residence to the Traveler’s first job of the day and from the Traveler’s last job of the day to the Traveler’s residence. If the Traveler is reimbursed for the travel from the Traveler’s residence to the first job of the day or from the Traveler’s last job of the day to the Traveler’s residence, those amounts are taxable and must be included on the employee’s W2.

d. TRAVEL TO CONFERENCES, MEETINGS, AND TRAINING SESSIONS
A Traveler may be reimbursed for transportation expenses to conferences, meetings, and training sessions as an IRS qualified reimbursable nontaxable travel expense if the purpose of the conference, meeting, or training session is connected to the Traveler’s present business or area of responsibility. If the Traveler is reimbursed, the reimbursement is a qualified reimbursable nontaxable travel expense and would not be included on the employee’s W2.

i. Time Limitations – There are no limitations in the IRS Regulations as to the duration of conferences, meeting or training sessions. Examples provided in the IRS Regulations include time periods extending for days or weeks. If a training period extends beyond weeks, to months, then the training situation may fall outside of the IRS Regulations pertaining to conferences, meetings, and training sessions.

ii. Distance Requirements – There are no distance requirements. A Traveler may be reimbursed as an IRS qualified reimbursable nontaxable travel expense for travel to a conference, meeting, or training session that is held in the same city as or a different city from the Traveler’s regular work location.

6) LODGING

a. Reimbursement and Traveling Away from Home – If the University reimburses a Traveler for travel expenses incurred while the Traveler is traveling away from home, such reimbursement is an IRS qualified reimbursable nontaxable travel expense and would not be included on the employee’s W2.

b. Reimbursement and Not Traveling Away from Home - If the University reimburses a Traveler for travel expenses incurred while the Traveler is not traveling away from home,
then that reimbursement is taxable income to the Traveler and must be included on the employee’s W2.

7) MEALS – TRAVEL WITHIN A SINGLE DAY
Generally, if the University reimburses a traveler for breakfast and/or dinner while the traveler is traveling in a single day, the amount paid is reportable as income on the W-2.
### 8) SUMMARY

<table>
<thead>
<tr>
<th>Type of Travel Expense</th>
<th>Reimbursement</th>
<th>Taxable Income if Reimbursed?</th>
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<td>Traveling Away from Home</td>
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<tr>
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<tr>
<td>Meals</td>
<td>Per Diem Rate</td>
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<tr>
<td>Incidental Expenses</td>
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<tr>
<td>Rental Vehicles</td>
<td>Actual</td>
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<tr>
<td>Mileage for Personal Vehicles</td>
<td>Miles x 90% x prevailing mileage rate (95% for 4 wheel drive)</td>
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</tr>
</tbody>
</table>

1. One or more regular work locations

2. Residence is principal place of business

3. No regular work location

4. Travel to conferences, meetings, and training sessions

Airfare | Actual | No | Yes |

Tips | Included in Per Diem Rate | No | Yes |

Other Allowable Travel Expenses | Actual | No | Yes |
CHAPTER 6: CASH

FISCAL RULE NUMBER
Cash Receipts and Deposits 6-1
Change Funds and Petty Cash Funds 6-2
Imprest Cash Accounts and Bank Accounts 6-3
State Treasury Loans and Advances 6-4
Refunds and Reimbursements 6-5
Checks Returned for Insufficient Funds 6-6
Federal Cash Management 6-7
Rule 6-1
CASH RECEIPTS AND DEPOSITS

AUTHORITY:
24-36-103, C.R.S. (Transmit Monies to State Treasurer)

DEFINITIONS:
Bank Account - An account approved by the State Controller and State Treasurer that is established by the University in any financial institution for the purpose of conducting University business.

RULE:
When the University receives money for any reason it shall make timely deposits to the State Treasury, unless otherwise provided by statute or fiscal rule. All money received and not deposited during the month shall be deposited on the last working day of the month. Deposits or transfers to the State Treasury from any bank account shall be made as required by the State Treasurer.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 6-2
CHANGE FUNDS AND PETTY CASH FUNDS

AUTHORITY:
24-36-103(2), C.R.S. (Transmit Monies to State Treasury)
24-36-104(2.5) C.R.S. (Monies to be Deposited)

DEFINITIONS:
Change Fund - A fund established at the University that receives cash to allow for making change.
Petty Cash Fund - A fund established to allow cash payment for small, incidental expenses.

RULE:
Change funds and petty cash funds may be established based upon a written request from an authorized signatory and approval of the Director of Accounting Services. The request for approval shall state the purpose of the fund and contain justification for the amount requested.

Change funds shall only be used for making change when cash receipts are accepted from the public, such as for fees and fines. No expenditures of any kind shall be authorized from a change fund.

Petty cash funds shall only be used for payment of incidental expenses of a nominal amount such as postage, parking or expenses not otherwise appropriately billed by invoice and paid by voucher or warrant. Petty cash expenditures shall be consistent with all applicable statutes, rules, regulations, and executive orders.

All petty cash funds and all change funds shall be recorded on the University’s Financial System.
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 6-3
IMPREST CASH ACCOUNTS AND BANK ACCOUNTS

AUTHORITY:
24-36-103(2), C.R.S. (Transmit Monies to State Treasury)
24-36-104(2.5), C.R.S. (Monies to Be Deposited)
24-75-202, C.R.S. (Imprest Cash Accounts)

DEFINITION:
Bank Account - An account that is established by the University in any financial institution for
the purpose of conducting University business.

Imprest Cash Account - A bank account that is established by the University for the purpose of
paying operating expenses.

RULE:
Bank account balances shall be limited to the minimum amount necessary to be consistent with
legal requirements and operating efficiency. Written approval is required from the State
Controller and State Treasurer prior to the University establishing a bank account. Deposits to
imprest cash accounts shall only be in the form of reimbursements for expenditures, interest
earnings, and other miscellaneous adjustments credited by the banking institution.

Reimbursements to imprest cash accounts shall be limited to actual expenditures. Request for
reimbursements shall be made so that all disbursements are properly reported on the University’s
financial system.

All imprest cash accounts and bank accounts shall be recorded on the University’s financial
system.
Rule 6-4
STATE TREASURY LOANS AND ADVANCES

AUTHORITY:
24-75-203, C.R.S. (Loans and Advances)
24-75-204, C.R.S. (Loans and Advances - Report)

DEFINITIONS:
Loans - Funds borrowed from the State Treasury by the University to provide working capital for business operations or programs that generate their own revenue and have the capacity to repay the funds borrowed. Loans shall bear interest at a rate established by agreement or by statute. Interest shall be calculated by the State Treasurer and shall be paid as provided in the agreement.

Advances - Funds borrowed from the State Treasury by the University to provide working capital for operations of programs, or for federal programs for which federal advances and letters of credit are not available. Advances shall be made without interest. Advances are limited to a total of twelve million dollars to the University at any time.

RULE:
The University shall make a written request to the State Controller for a loan or advance from the State Treasury. The request shall include the amount requested, justification for the request, and the method and time period for repayment. The University shall keep their working capital requirements to a minimum by following good business practices.

Loans and advances shall be made for a period no greater than twelve months. Loans and advances may be renewed for additional periods upon the University demonstrating continuing purpose and need.

Loans and advances shall be limited to the extent that funds are available in the State Treasury that are not immediately required to be disbursed. Advances shall not exceed twelve million dollars at any given time.

Loans shall be approved by the Office of the Governor, the State Controller, and the State Treasurer. Advances shall be approved by the State Controller and the State Treasurer.
Rule 6-5
REFUNDS AND REIMBURSEMENTS

AUTHORITY:
CRS §24-30-202 (13) (Higher Education Authority)
CRS §23-54-102 (MSU Denver Board of Trustees)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Non-augmenting Revenue Account - An account used to record a refund or reimbursement from a prior fiscal year. Such revenue accounts do not serve as funding sources for appropriated expenditures.

Refund - An amount or credit received because of an overpayment or the return of an item purchased.

Reimbursement - Repayment received for amounts remitted on behalf of another party.

RULE:
The University will normally use either an account receivable or a revenue account to record refunds and reimbursements. However, incidental and non-recurring refunds or reimbursements for activities that involve a routine University function may be credited against the original account coding if the recovery occurs in the same fiscal year as the original expenditure. If such recoveries are made in a subsequent fiscal year, such as an audit recovery, they should be credited to a non-augmenting revenue account.

EXCEPTIONS TO RULE:
Capital construction funds - Refunds or reimbursements received for expenditures of capital construction fund appropriation during the life of the project shall be treated as if they were received in the same fiscal year as the original expenditure. If the recovery is made after the term of the appropriation has expired, the recovery shall be credited to a non-augmenting revenue account.

Federal funds - Refunds or reimbursements received for expenditures of federal funds, prior to the expiration of the award, shall be treated as if they were received in the same fiscal year as the original expenditure. If the recovery is made after the award has expired, the recovery shall be refunded to the federal government.

Contracts and grants - Refunds or reimbursements received for expenditures made from contracts and grants shall be handled as set forth in the terms of the contract or the conditions of the grant.
Rule 6-6
CHECKS RETURNED FOR INSUFFICIENT FUNDS

AUTHORITY:
CRS §24-30-202 (13) (Higher Education Authority)
CRS §24-30-202(25) (Returned Check Penalty)
CRS §23-54-102 (MSU Denver Board of Trustees)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Insufficient Funds - Not having a sufficient balance in an account with a bank or other drawee to cover a check when it is presented for the payment.

RULE:
If the University receives a check that is returned for insufficient funds it shall assess a reasonable fee against the person who issued the check. The fee assessed shall be at least equal to the additional bank charges incurred by the University and may include up to an additional 25% of the additional bank charges to cover the University’s administrative costs. This penalty is in addition to any other penalty provided by statute except the penalty provided by 24-35-114, C.R.S.
FISCAL RULES

Rule 6-7
FEDERAL CASH MANAGEMENT

AUTHORITY:
31 CFR, Part 205 (Federal Cash Management Act)
24-22-107 (6), C.R.S. (Duties of the State Treasurer)

RULE:
The University shall make draws of federal funds as closely as possible with the use of those funds. By statute, the State Treasurer shall ensure compliance with applicable federal and state laws, including any liability for interest payable to the federal government for major federal programs.
CHAPTER 7: BUDGET

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METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 7-1
CASH AND CUSTODIAL FUNDS

AUTHORITY:
24-37-303, C.R.S. (Governor's Budget Authority)
24-37-304, C.R.S. (Office of State Planning and Budgeting)

DEFINITIONS:
Cash Funds - Funds received by the University from fees charged to the public, non-
governmental entities, intra-agency service funds, internal service funds, and other state agencies
and institutions of higher education for goods or services provided.

Custodial Funds - Funds set aside for a specific purpose generally by agreement with a donor,
trustee or by court order that are generally not available for other University purposes. Federal
funds originating from the federal government are considered custodial funds for the purpose of
this fiscal rule.

RULE:
Spending authority for cash or custodial funds shall be approved by both the Office of State
Planning and Budgeting and the State Controller. Spending authority remaining for custodial
funds at year end due to an incomplete grant or contract may be reestablished in the new fiscal
year, as approved by the State Controller.

Spending authority for cash and custodial funds may arise from various sources including: the
federal government, the State Constitution, the State Legislature, and court decisions. Expenditures
of cash and custodial funds are contingent on the availability of a positive fund balance, current revenue, or an approved working capital loan or advance from the State Treasurer.

Any excess revenue from cash funds shall be reverted to the general fund unless otherwise
provided by statute. Custodial fund revenues shall be closed to the appropriate account as
provided by agreement with the grantor, trustee or by court order.
AUTHORITY:
24-75-102, C.R.S. (Appropriation Expiration and Rollforward)

RULE:
Unexpended appropriations expire at the end of each fiscal year and do not carry over to a subsequent fiscal year, unless otherwise authorized by statute. Encumbrances that remain at the end of a fiscal year do not constitute an expenditure against that year's appropriation. Outstanding encumbrances that are carried over to the subsequent fiscal year and the resulting expenditure are charged against the subsequent fiscal year appropriation.

EXCEPTIONS TO RULE:
The Budget Director may approve the carryover of unexpended appropriations to a subsequent fiscal year under one or more of the following:
1. The appropriated funds have been legally committed by purchase order or contract and there are extenuating circumstances that warrant carryover of the remaining appropriation.
2. The appropriation is from the capital construction fund.
Rule 7-3
OVEREXPENDITURES AND REQUIRED REPORTING

AUTHORITY:
24-37-303, C.R.S. (Governor's Budget Authority)
24-75-109, C.R.S. (Overexpenditures)

DEFINITIONS:
Overexpenditure of Appropriated Funds - An overexpenditure of appropriated funds exists when the total expenditures, based on the accrual basis of accounting, exceed the amount statutorily appropriated, as reflected on the University’s financial system. An overexpenditure also exists when accrued revenue is less than the expenditures in any fiscal year and where the fund balance at fiscal year end is insufficient to cover the revenue shortfall.

Overexpenditure of Non-appropriated Funds - An overexpenditure of cash, custodial, or other funds exists when the accrued revenues in the cash funds or custodial funds are less than the actual expenditures in any fiscal year for a particular program or project, and where the residual balance for the cash, custodial, or other fund is insufficient at fiscal year end to cover the revenue shortfall.

RULE:
For appropriated funds, expenditures shall only be made for the purpose intended and statutorily appropriated by the state Legislature and shall be limited to the amount authorized and appropriated.
For non-appropriated funds, expenditures shall be limited to:

When the chief executive officer becomes aware of an overexpenditure condition within the University, a report shall be submitted within 20 working days to the Governor through the Office of State Planning and Budgeting and the State Controller.
1. The spending authority provided by the Office of State Planning and Budgeting and the State Controller.
2. The amount of accrued revenue and/or fund balance.
3. The actual amount approved by the governing board for the University.

Required Report of Overexpenditures
When the chief executive officer becomes aware of an overexpenditure condition within the University, a report shall be submitted within 20 working days to the Governor through the Office of State Planning and Budgeting and the State Controller.

Statutory Penalty
If any official, officer, or employee of the University knowingly causes an expenditure of funds to be made in excess of the amount authorized by the State Legislature, upon conviction, statutory fines and/or imprisonment may be imposed.
EXCEPTIONS TO RULE:
The State Controller may, with the approval of the Governor, allow an overexpenditure. Prior to recommending to the Governor that the overexpenditure be approved, the State Controller shall verify that the statutory requirements allowing the overexpenditure have been met.

Overexpenditures shall only be approved between May 1 of any fiscal year and the close of that fiscal year.

For any approved overexpenditure the State Controller shall restrict an amount equal to the overexpenditure in the next fiscal year's appropriation for the University. The amount shall be restricted from a corresponding item or items of appropriation.
CHAPTER 8: REPORTING

FISCAL RULE
Financial Statements 8.1
Quarterly Financial Reporting 8.2
Cost Allocation Plans 8.3
METROPOLITAN STATE UNIVERSITY OF DENVER
FISCAL RULES

Rule 8-1
FINANCIAL STATEMENTS

AUTHORITY:
24-75-102, C.R.S. (Appropriations Expended - When -Balance)

DEFINITIONS:
Financial Statements – Comprehensive reports prepared in accordance with generally accepted accounting principles, as adopted by the Governmental Accounting Standards Board.

Financial Reports - Financial information compiled periodically to assist in management decision-making or for reasons other than financial statement purposes.

RULE:
Annual financial statements prepared by the University shall be submitted to and approved by the State Controller’s Office as required by the State Controller. Unless otherwise provided by this fiscal rule, financial statements shall be prepared in accordance with generally accepted accounting principles.

Any state agency or institution of higher education that have individual audits of its financial statements by the Office of the State Auditor or its contractor, may provide draft financial statements to the Office of the State Auditor or its contractor to facilitate a timely and efficient audit. The draft financial statements must be submitted to the State Controller’s Office at the same time. Before publication of the financial statements, the statements must be submitted to the State Controller’s Office for approval. State agencies and institutions of higher education, upon request, shall also provide copies of their financial statements to other interested parties.

1. Financial Statements for the State of Colorado
   The annual financial statements for the State of Colorado shall be prepared by the State Controller’s Office in accordance with generally accepted accounting principles. These annual financial statements shall reflect all of the financial activities of State Government.

2. Financial Statements for University Reporting
   The state financial system generates a balance sheet and an income statement for each state agency or institution of higher education utilizing the system. These system generated financial statements are considered acceptable financial statements for the purpose of complying with this fiscal rule.

   Financial statements prepared by the University for formal third party reporting shall be prepared in accordance with generally accepted accounting principles.

   Financial statements prepared by the University will be presented at institution or governing board level.
Exhibit information required in the fiscal year-end closing instructions issued by the State Controller and any post-closing adjustments are an integral part of the financial statements and are considered part of the University’s reporting requirement.

3. **Required Reconciliation to the State Financial System**
   Financial statements prepared by the University shall be reconciled to the state financial system. A copy of this reconciliation shall be provided to the State Controller.

   Should the state financial system generate the required University financial statements, these system generated financial statements shall satisfy the requirement for this reconciliation.

4. **Financial Reports Provided to State Agencies and Institutions of Higher Education or Other Interested Parties**
   As required by statute or regulation, or upon written request, financial reports shall be provided to state agencies and institutions of higher education or other interested parties. These reports shall be based on financial data obtained from or reconciled to the state financial system. If the report provided contains additional financial information or if the report has been modified, a copy of the reconciliation of the report to the state financial system shall be retained by the University.
Rule 8-2
QUARTERLY FINANCIAL REPORTING

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201 (State Controller Authority)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
The University shall submit quarterly financial reports as required by the State Controller. Quarterly financial reports shall be available for use by the Governor, state legislators, executive management, and their respective staffs for planning purposes and decision-making.

1. The state financial system shall be the system used to record the state's financial information and the system from which standard reports shall be prepared and forwarded to the State Controller in compliance with the reporting requirement of this rule.

2. The State Controller shall determine what is reasonable and necessary to be included in the report, the funds which are to be included, the state agencies and institutions of higher education required to submit the reports, and the date each report is due.

Each quarterly reporting period shall be regarded as an integral part of the fiscal year. Revenues shall be allocated to quarterly reporting periods in accordance with generally accepted accounting principles. Expenditures such as salaries, operating expenditures and accruals of expenditures shall be allocated to interim periods in which they are incurred or, where appropriate, allocated among quarterly periods on the basis of benefit received or time expended. Arbitrary assignment to a quarterly period shall not be allowed.
Rule 8-3
COST ALLOCATION PLANS

AUTHORITY:
CFR: Title 48, Chapter 99, Subchapter B, Part 9904:
"OMB" Cost Accounting Standards Board, Cost Accounting Standards"
Federal OMB Circular A-21: "Cost Principles for Educational Institutions"
Federal OMB Circular A-87: "Cost Principles for State and Local Governments"

DEFINITIONS:
Basis of Allocation - The best suited statistic that may be used for assigning pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither a benefit nor cause and effect relationship is determinable.

Cash Funds - Funds received by the University from fees charged to the public, non-governmental entities, internal service funds, and other state agencies for goods or services provided.

Cost Objective - A project, grant, program, or other activity to which costs are being allocated.

Cost Pool - An aggregation of costs for subsequent allocation to another cost pool or a cost objective.

Costs - All expenses incurred by a project or program, either directly or indirectly. Costs include such items as labor, material, supplies, rent or building charges, operating expenses, and administrative expenses that might properly be assigned to the project or program.

Direct Cost - A cost incurred by a state agency that exclusively benefits a specific cost objective and that may be readily identified with the same specific cost objective.

Equitable Relationship - A relationship that is based on cause and effect or logic and reason.

Federal Funds - Funds received by state either directly or indirectly from the federal government.

Full Cost - The total of all direct and indirect cost associated with a specific cost objective.

Indirect Cost - A cost incurred by a state agency that does not exclusively benefit a specific cost objective and that cannot be readily identified with the same specific cost objective, and, therefore shall be allocated to cost objectives on some basis of assumed service/benefit or other equitable distribution basis.

Indirect Cost Allocation - A systematic and rational allocation of indirect cost to benefiting programs and activities that result in the calculation of an indirect cost recovery rate or the
identification of the amount of indirect cost assigned to the benefiting program for cost recovery purposes and/or to establish appropriations and fees. Four types of documentation representing indirect cost allocations to cost objectives are recognized in this fiscal rule:

a. Statewide Federal Indirect Cost Allocation Plan - The plan prepared by the State Controller's Office, using federally approved costing principles, to allocate the allowable central administrative costs of state government to state agencies for inclusion in its state agency Federal Indirect Cost Rate Proposal/Plan.

b. Statewide Budget/Cash Indirect Cost Allocation Plan - The plan prepared by the State Controller's Office using full costing principles, to allocate the central administrative costs of state government to state for inclusion in its state agency Budget/Cash Program Indirect Cost Determination Worksheet.

c. State agency Federal Indirect Cost Rate Proposal/Plan:
   - Proposal - A document prepared by a state agency to establish a rate used to recover indirect costs from federally funded programs or activities.
   - Plan - A document prepared by a state agency to document indirect cost allocation algorithms used for federal indirect cost recovery purposes.

d. Documentation of an indirect cost allocation prepared separately or as a part of a fee formulation process, the allocations from which are used to establish a component of fees for state cash programs and services.

**Indirect Cost Allocation Methodology** - A system of principles, practices, and procedures that identify:
1) the types of services provided;
2) the cost of each service;
3) the reasonable basis of allocation for each type of service which shall produce a service/benefit based or other equitable distribution of costs; 4) the cost objective(s); and
4) the appropriate mathematical computation to make an equitable allocation of costs.

**RULE**
The University shall prepare a documented indirect cost allocation or indirect cost rate proposal/plan that assigns indirect costs to their programs, activities, and services relative to their benefits received from the activities whose costs are being allocated or on another equitable relationship. The allocated costs shall be used as the basis of recovering indirect costs from the federal government, determining fees for program services and activities, and assessing the cost effectiveness of a program or activity.

The University shall use a cost allocation methodology that assures that the allocations made through the methodology represents a service/benefit or other equitable relationship between the cost of the services provided and the value of the benefits received by users of the services.

The University shall periodically review their cost allocation methodology to ensure that the methodology represents the best allocation attainable. Allocations should be reconciled to actual expenditures to ensure all costs have been captured and allocated.
1. Indirect Cost Allocations Made for Federal Indirect Cost Recovery Purposes
A state agency that receives federal funds shall prepare a state agency federal indirect cost rate proposal/plan in accordance with OMB A-21 or OMB A-87 and sign an indirect cost rate or allocation methodology agreement with the federal government. The University federal indirect cost rate proposal/plan shall include all costs allocated to the University in the statewide federal indirect cost allocation plan and other approved cost allocation plans.

When the University receives federal funds primarily from federal programs that do not allow indirect costs to be recovered it is exempted from preparing a state agency federal indirect cost rate proposal/plan to obtain an agreement with the federal government. However, documentation supporting this fact shall be sent to the State Controller's Office by the University for review.

Grants, contracts, and other agreements that do not allow for the recovery of the full cost incurred under the agreement should be closely evaluated to determine if their acceptance is cost effective and in the best interest of the State of Colorado.

When the University has prepared and submitted an indirect cost rate proposal or plan or a plan revision to the federal government and negotiated an indirect cost rate or allocation agreement with the federal government it shall submit a copy of the agreement with the federal government to the State Controller within three weeks after a signed copy is received from the federal government.

2. Indirect Cost Allocations Made For Use in Establishing Fees and Appropriations
When the University receives cash funds based on fees charged to users it shall compute an indirect cost allocation that identifies and allocates all indirect costs to all appropriate cost objectives. Allocations to cash programs shall be used as a component in the calculation of fees that recover the full cost of cash funded programs and services. The allocations made to cash funded programs and services shall be documented. Documentation of the allocated components may take any form that is convenient for the University, but shall adequately document the allocations of indirect costs used in establishing the fees for cash funded programs and services and be available for review. The allocations shall include all costs allocated to the University in the Statewide Budget/Cash Cost Allocation Plan.

If a statewide central service agency provides services to federally funded programs and is charging a fee for the services provided, the statewide central service agency's fees charged to the federal programs shall be based upon only allowable cost for federal programs as defined in federal regulations. The statewide central service agency that charges a fee for services to federally funded programs shall include the allocation from the Statewide Federal Indirect Cost Allocation Plan, as opposed to the allocation from the Statewide Budget/Cash Cost Allocation Plan, as a component of the costs used to formulate its fees for services provided.

3. Accounting for Indirect Cost Recoveries
Indirect cost recoveries shall be recorded when earned in separately identifiable accounts as determined by the State Controller. All Indirect cost recoveries shall be credited to the state
general fund, unless otherwise appropriated or directed by law.

Revenues from indirect cost recoveries shall not be deferred at the end of the fiscal year.

EXCEPTIONS TO RULE:

1. If the University can document that use of their state agency federal indirect cost rate or allocation, in lieu of a separate indirect cost determination for establishing fees would not result in a significant reduction in the potential costs recovered, the University may use the University’s Federal Indirect Cost Rate Proposal/Plan as their basis for recovering indirect costs from cash funded programs.

2. Direct costs are generally defined as costs that may be identified specifically with a particular final cost objective. All other costs are defined as indirect costs. However, for institutions of higher education, under OMB Circular A-21, a cost that cannot specifically be identified with a particular final cost objective (a sponsored project, an instructional activity, or other institutional activity), but may be directly assigned to such activities relatively easily with a high degree of accuracy may be allocated to federal contracts and grants as a direct cost.

3. If the University has negotiated a multiple year indirect cost recovery rate with its federal cognizant agency, based upon their Federal Indirect Cost Rate Proposal, the University is not required to prepare or submit another Federal Indirect Cost Rate Proposal to the State Controller's Office as long as the negotiated multiple year rate is in effect.
FISCAL RULE NUMBER
Use of the State Payroll System 9-1
Direct Deposit Payroll for State Employees Paid on the State Payroll System 9-2
Final Pay for a Terminating State Employee 9-3
Overpayments 9-4
Rule 9-1
USE OF THE STATE PAYROLL SYSTEM

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201(1)(e)
CRS §24-30-202(1); (8.5); (13)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
State Payroll System - The official payroll system for the State of Colorado as designated by the State Controller.

RULE:
All state agencies and institutions of higher education shall use the state payroll system to record and maintain employee payroll information and data; and to pay employees, unless the State Controller has granted an exception.
Rule 9-2
DIRECT DEPOSIT PAYROLL FOR UNIVERSITY EMPLOYEES

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201(1)(e)
CRS §24-30-202(1); (8.5)
CRS §24-30-202 (13) (Higher Education Authority)
CRS §24-50-104(8)(a) (Payment of Salaries)
SB10-003 (Higher Education Flexibility Act)

DEFINITIONS:
Direct Deposit Payroll Program - A payroll program where an employee's net pay is deposited directly to the employee's legally established checking or savings account via an electronic fund transfer system.

RULE:
University employees paid either monthly or bi-weekly shall be on the direct deposit payroll program unless an exception is approved by the Controller, or delegate.
Rule 9-3
FINAL PAY FOR A TERMINATING STATE EMPLOYEE

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-201(1)(e)
CRS §24-30-202(1); (8.5); (13)
CRS §24-30-202 (13) (Higher Education Authority)
CRS §24-50-104(8)(a) (Payment of Salaries)
SB10-003 (Higher Education Flexibility Act)

RULE:
Final pay shall be available to terminating University employees as follows:

1. When an employee terminates employment with the University, with or without giving notice, final payment shall be made no later than their next regular pay day.

2. When the University terminates an employee, final payment shall be made within three working days of the date of termination.
Rule 9-4
OVERPAYMENTS TO UNIVERSITY EMPLOYEES

AUTHORITY:
CRS §23-54-102 (MSU Denver Board of Trustees)
CRS §24-30-202 (13) (Higher Education Authority)
SB10-003 (Higher Education Flexibility Act)

RULE:
Through error, a University employee may be paid more than is due. When the error is detected, provisions shall be made for the repayment of the overpayment.

If the overpayment is nominal, it shall all be deducted from the employee's next paycheck. However, in some cases the overpayment may be significant and require a repayment schedule extending over a period of time. The chief executive officer, or a delegate, of the University shall establish a repayment schedule based on the particular facts involved in each case. The Controller shall approve any repayment schedule extending for more than six months.

An employee's maximum liability for repayment, should an error go undetected for over a two year period, shall be limited to the total amount of the overpayment for the first two years in which the employee was overpaid.