

Comments on Fiscal Rules Prior to Fiscal Hearing July 30, 2007

Person Commenting	Agency	Rule Commented On
Dianne Stump on behalf of the Controller's Forum	Department of Natural Resources	5-1
Vicki Nichol on behalf of the Higher Education Financial Advisory Council	Higher Education Financial Advisory Committee	2-2, 3-1, 5-1
Vicki Nichol on behalf of the Higher Education Financial Advisory Council	Higher Education Financial Advisory Committee	2-2, 3-1, 5-1
Don Rieck	Public Health & Environment	5-1
Sue Griswold	Department of Natural Resources	5-1
Brent Voge	Department of Revenue	5-1
Dave Grier	Department of Education	5-1
Mike Coulter	Department of Revenue	5-1
Robert Schur	Colorado State University	2-2, 3-1
Mary Catherine Gaisbauer	University of Colorado	2-2, 3-1, 5-1

July 27, 2007

Mr. Leslie Shenefelt
State Controller
633 17th Street, Suite 1500
Denver, CO 80203

Dear Les,

On behalf of the members of the Controller's Forum, we would like to voice our concerns regarding the proposed changes to Fiscal Rule 5-1 regarding reimbursement of travel related expenses to state employees.

The proposed changes to the rule include removing existing language regarding travel advances and replacing the advance with a prepayment for authorized per diem expenses. We are concerned that this change may put the state out of compliance with the accountable plan requirements of the federal government. The proposed rule states that an after trip reconciliation is only required when the trip is not taken, or varies in length. An adequate accounting per the federal rules requires the employee to provide a statement of expenses entered at or near the time the expense was made. If the employer provides an expense allowance before the expenses are incurred by the employee, the employee must adequately account to the employer for the advance and return any excess. The proposed rule does not seem to comply with the federal requirements.

Another requirement of an accountable plan is that the employee must adequately account to his/her employer for travel related expenses within a reasonable period of time. The proposed rule does not seem to comply with the federal requirements as it does not contain any time reporting requirements.

Should this fiscal rule not comply with the accountable plan requirements, all travel reimbursements to employees will need to be reported as income to the employee, which will create an administrative hardship to the employee and employer as well. We strongly suggest that you seek the advice of a qualified tax attorney regarding compliance with federal regulations prior to adopting the prepayment provisions of the proposed rule.

The language regarding the granting of the prepayment is confusing. It appears to be up to the employee to request the prepayment, which most employees should like, but the prepayment needs approval of the approving authority and authorization by the chief fiscal officer. You have placed an undue hardship on the chief fiscal officers of each

Department, if they choose not to grant the prepayment option. The members of the Forum believe we currently have a mechanism to grant advances through the existing rule and through the Statewide Travel Management Program. Additional methods of advancing funds to employees are unnecessary.

We are appreciative of the return to per diem rates, rather than receipts for meals. This will benefit the traveler and the administrative staff who process the reimbursement requests. However, should the prepayment provision of the rule become effective, additional work will be incurred to deliver the prepayment to the employee within five days of travel, which is especially troublesome for Departments with employees stationed all over the state. When a prepayment has occurred, and the traveler is reimbursed for lodging, car rental and other expenditures, administrative staff will be handling the transactions two times resulting in additional workload. Time for supervisory approval and accounting staff approval will also increase.

We would encourage you to reconsider the move to a prepayment, and continue to use the resources currently available to Departments to authorize cash advances through the State individual travel card, or allow a cash advance in extenuating circumstances as currently authorized in the rule.

While this letter represents the opinion of a majority of department controllers, some may have a different view and will be communicating their thoughts to you directly.

Thank you for your attention to our concerns.

Sincerely,

Dianne Stump
Co-Coordinator Controller's Forum

**Colorado Higher Education Governing Boards
HIGHER EDUCATION FISCAL COORDINATOR**

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July 26, 2007

Leslie Shenefelt
State Controller
633 17th St. Suite 1500
Denver, CO 80202

Mr. Shenefelt,

On behalf of the Higher Education Financial Advisory Committee (FAC), I would like to request a delay in the adoption of changes to Fiscal Rules 2-2, 3-1 and 5-1. Members of the committee have raised preliminary questions regarding the proposed changes and believe they did not have the opportunity to complete a comprehensive review of the modified rules. The following issues have been presented:

- ♦ The timing of the hearing during fiscal year-end makes it difficult for institutions to provide the appropriate level of review. All financial and fiscal expertise is dedicated to the fiscal year-end close process. Some controllers from the smaller institutions with very limited staff will not be able to review the changes by the hearing date due to year-end deadlines.
- ♦ The changes include references to OSC policies. Currently, the institutions are legally bound to comply with fiscal rules, but not policies. Due process procedures have been prescribed in statute regarding the implementation and changes of all fiscal rules. Questions have been raised regarding the authoritative standing of fiscal policies when referenced in rules and implications on due process procedures. The OSC has indicated that these questions have not been addressed at this time. Without further clarification, the FAC does not believe they can agree or disagree with the proposed changes where policies are referenced.
- ♦ Changes to Fiscal Rule 3-1 were made without the input of the Higher Education Contract Improvement Process Committee. This committee was delayed until late summer because the contract process within Higher Education includes unique circumstances that would be better addressed separately from other state agencies. Many participants on this committee were not aware that fiscal rule changes impacting Higher Education would be introduced prior to their meeting.
- ♦ The fiscal rule changes are still under review by Higher Education legal offices. The OSC indicated the Attorney General's Office had approved the changes. However, we found one change which conflicts with statute specific to Higher Education. Therefore, we feel a legal review by the institutions is required before agreeing to the modified rules.
- ♦ It is still unclear whether or not changes to Fiscal Rule 5-1 regarding prepayment of travel expenses complies with IRS rules and regulations for an accountable expense reimbursement

plan. We ask the OSC to seek a professional opinion from a tax expert or allow the institutions time to have their tax managers/consultants review the changes.

Due to the timing of the hearing, the magnitude of the changes and the fact that several questions remain unanswered we ask that you consider delaying the adoption of the changes until these issues are addressed.

Sincerely,

Vicki Nichol
Higher Education Fiscal Coordinator

**Colorado Higher Education Governing Boards
HIGHER EDUCATION FISCAL COORDINATOR**

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July 26, 2007

Leslie Shenefelt
State Controller
633 17th St. Suite 1500
Denver, CO 80202

Mr. Shenefelt,

On behalf of the Higher Education Financial Advisory Committee (FAC), I would like voice our concerns regarding the proposed changes to Fiscal Rules 2-2, 3-1 and 5-1. Members of the committee have raised the following issues:

General Concerns

- ♦ The timing of the hearing during fiscal year-end makes it difficult for institutions to provide the appropriate level of review. All financial and fiscal expertise is dedicated to the fiscal year-end close process. Some controllers from the smaller institutions with very limited staff will not able to review the changes by the hearing date due to year-end deadlines.

Fiscal Rule 2-2 Commitment Vouchers and 3-1 State Contracts

- ♦ The changes include references to OSC policies in several sections listed below. Currently, the institutions are legally bound to comply with these fiscal rules, but not policies. Due process procedures have been prescribed in statute regarding the implementation and changes of all fiscal rules. Questions have been raised regarding the authoritative standing of fiscal polices when referenced in rules and implications on due process procedures. Unless this issue is addressed, the FAC requests that such references be deleted. If it is the intent that a reference is listed for informational purposes only and no fiscal rule authority will be transferred to such policies, then we ask for that to be clarified within the rule.
 - FR 2-2 section 4.3
 - FR 2-2 section 7.2.3
 - FR 2-2 section 8.2
 - FR 2-2 section 10.3
 - FR 3-1 section 6

- ♦ Fiscal Rule 3-1 section 4.9 should not apply to institutions of Higher Education and should be noted in the rule.

Fiscal Rule 5-1 Travel

- ♦ It is still unclear whether or not changes to Fiscal Rule 5-1 regarding prepayment of travel expenses complies with IRS rules and regulations for an accountable expense reimbursement plan. If the proposed changes do not comply with the IRS requirements for accountable plans, such reimbursements would have to be reported as income to employees. We ask the OSC to seek a professional opinion from a qualified tax attorney regarding compliance with federal regulations prior to adopting the prepayment provisions of the rule. Otherwise we request the prepayment provisions be deleted and ask that the advance payment rules remain.

This letter is intended to provide you with general concerns shared among many members of the FAC. Some controllers may not agree or have additional concerns specific to their institution. It is anticipated that they will communicate their issues independently.

Sincerely,

Vicki Nichol
Higher Education Fiscal Coordinator

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

July 27, 2007

Mr. Leslie Shenefelt
Office of the State Controller
633 17th Street, Suite 1500
Denver, CO 80203

Dear Mr. Shenefelt:

The Department is submitting the following comments on the proposed changes to the State Travel Management Program (STMP) rules and the proposed changes to Fiscal Rule 5-1, Travel. These comments reflect discussion with more than twenty-five fiscal staff with extensive experience and responsibilities related to business-related travel by State employees.

State Travel Management Program

The requirement that the Travel Payment Program (TMP) be used for the payment of airfare, lodging, and vehicle rentals is expected to increase the number of State travel cards (i.e., individual liability card), currently more than 500, utilized by Department staff. However, the mandate to use the TMP, as will be commented on further in this letter, has the potential to adversely affect an already time consuming, inefficient, and completely manual system for processing employee travel expense reimbursements.

Fiscal Rule 5-1, Travel

The change which eliminates the need for meal receipts, substituting per diem reporting in its place, will have incalculable benefits to employees who travel, as well as to those who review and approve those expenses. Less time will be required for expense report preparation and compliance reviews, plus the savings from the reduction in paper attached to the expense reports is no less important.

However, the prepayment provisions, while well-intentioned, have the potential to more than offset the aforementioned gains. For example, it's quite likely that most business trips, and in particular those out of state, will result in an employee incurring additional expenses causing a second expense report to be submitted related to a single trip. In addition, it seems reasonable that a proper review of the additional expenses will require attaching the documentation associated with the original prepayment request, further increasing the time required for preparation and review, plus costs for paper, copying, etc. If a

prepayment and second expense report (for additional reimbursable expenses) be used for just the out-of-state trips (about a 1,000 annually) of our staff, we estimate the number of expense reports we process annually could increase by 20%. The recent Benchmark study coordinated by your Office revealed the average payment in our Department carries an associated processing cost in excess of \$40.

For the most part, employees having to "front" some travel costs has generally been a non-issue within our Department. This is especially true for the 500+ staff who already have a state travel card and who can, and do, use it for meals. Existing provisions for providing travel advances, including use of the State travel card for securing them, at the Department's discretion and for documented need have been quite adequate for addressing this issue with our employees. In addition, there will be a significant added administrative burden, particularly related to employees assigned at other than the Department's main facility or already in a travel status in insuring funds are only advanced within the currently proposed five day window (or even the thirty days allowed by IRS regulations). Thus, we would strongly recommend not changing existing provisions, methods, and rules for employees to secure advances.

Our Department does not currently, nor do we expect to, use the Central Travel Card option under the TPP. While how it operates generally mirrors the State's procurement card (P-card), the inherent control, reconciliation, and overall monitoring procedures that would be necessary would be far more time consuming and problematic than that associated with the P-card.

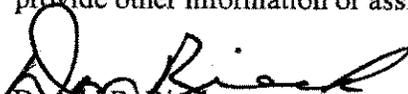
Some employees knowledgeable in the subject of personal credit scores have expressed strong objections to mandating use of the State travel card. They point out that an individual's personal credit score is a function of many factors including payment history, number of credit cards, and total credit availability and utilization. They question why they must secure a card that has limited use to them (both frequency and type of expenditure), but which is counted against their overall credit position. They prefer to utilize personal credit cards, obtained at their discretion, for their business travel and be reimbursed appropriately.

The proposed meal per diems include a \$3.00 "incidental expense per diem" per overnight stay. In defining incidental expenses one of the examples given is "miscellaneous tips" which is vague and not understandable in light of "Reasonable tips" under "Other Allowable Travel Expenses." The latter has examples that include tips related to maids and ground transportation. We would recommend that tips for maids be included within the expenses contemplated by the incidental expense per diem. Tips for ground transportation should be included in the amount reported for transportation making the total subject to the \$25 receipt requirements.

The proposed rules have no time requirement for the filing of expense reimbursement requests and we would recommend one be included in the rules. Absent that, our Department will institute its own policy on that issue.

* * * * *

We appreciate this opportunity to offer our comments on the proposed rules and would be pleased to provide other information or assistance as you may request of the Department.


Donald R. Rieck
Controller

PROPOSED CHANGES TO COLORADO STATE FISCAL RULES

Department of Natural Resources' Comments

July 27, 2007

The Department of Natural Resources believes that the proposed rules for "prepayment" of travel expenses creates unnecessary administrative tasks for accounting staff by resulting in the need to process paperwork for employee travel twice – once before the employee travels and again when the employee requests reimbursement for non-prepaid travel expenses.

In the past, travel advances have been discouraged, except in extenuating circumstances, in order to reduce the amount of paperwork associated with employee travel. DNR has issued only a handful of travel advances in the past 3-5 years. The State travel card has been utilized to avoid the need for employees to "front" their own money for travel. As long as the request for reimbursement is submitted for payment in a timely manner, the funds are available to the traveler by the time his/her bill is due.

If there is a desire for employees to have funds prior to their travel, using the "cash advance" function on the State travel card would avoid the double work of processing additional paperwork for travel. Although the rule says that prepayment must be approved by the approving authority and authorized by the chief fiscal officer, DNR is concerned that, by making the prepayment option available, most employees who travel will request it. A department policy that prohibits employees to request prepayment creates the view that DNR is being more restrictive than the fiscal rules. Allowing prepayments is much less efficient, reduces the ability to accurately account for dollars spent on travel, adds to the workload for both the employees and the accounting staff, may erode compliance with the State Travel Management Program, and eliminates the gains realized with reduced use of travel advances. Due to these perceived disadvantages, and limited accounting staff, it does not seem prudent to utilize the prepayment process.

For these reasons, DNR is opposed to the prepayment process for State travel. However, DNR favors the return to per diem for meals and eliminating the requirement for receipts.

DNR would also like to suggest that the numbering on Fiscal Rule 5-1 be revised as has been proposed in Fiscal Rule 2-1 to improve the ability to reference specific parts of the rule.

STATE OF COLORADO

DEPARTMENT OF REVENUE
Accounting and Financial Services
State Capitol Annex
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Denver, Colorado 80261
(303) 866-3279
FAX (303) 866-2990



Date: July 23, 2007
To: Bob Jaros
Deputy State Controller
From: Brent Voge
Subject: Comments on Proposed Changes to Fiscal Rules

Bill Ritter, Jr.
Governor
Roxanne Huber
Executive Director
Paul Doyle
Chief Financial Officer
Brent Voge
AFS Director

I am very supportive of the proposed changes to the Travel rule 5-1 overall. But, I have a few comments and suggestions I would like to offer. I am responding to the revised version published 7/9/2007.

1. I have a comment about the answers to the frequently asked questions. It is stated in a couple of places that the prepayment option will generally "improve the efficiency of processing travel payments". That is just not true. In 99.99% of the cases, when an employee is eligible for prepayment of meals, there will be lodging and other costs to be reimbursed. If every traveler requested a prepayment of the meal per diem, it will double the payment voucher workload for most travel expenses. How can the Controller's Office say this is an improvement of efficiency? It is inefficient for the traveler, supervisor, accounts payable staff, and payment voucher approvers

For my Department, we had 355 out of state trips last fiscal year. The in state trips would certainly exceed this number. As the Controller for the DOR, I can't advocate the widespread use of the prepayment option. With the Visa travel card, most employees have to use very little personal funds for a trip, so I don't see it as a big issue, nor have I been told that it is. Therefore, I would intend to authorize its use only with extenuating circumstances. If an employee travels frequently, I intend to activate the cash advance feature rather than authorize prepayments. As the rule is currently written, I believe I have that discretion.

2. Page 4 – 1st paragraph under Prepayment/Reimbursement of Travel Expenses – In the first sentence it states "such employee **shall** be prepaid". I think it should read "such employee **may** be prepaid". The reason I believe it should say "may" rather than "shall" is because in the next sentence, it states that it is at the discretion of the approving authority and the chief fiscal officer.
3. Page 4 – 2nd paragraph under Prepayment/Reimbursement of Travel Expenses – The second sentence gives two reasons for an after trip reconciliation. I think that you should add something like "or if expected expenses are not incurred", as another reason for an after trip reconciliation.
4. Page 5 – First line – "The following rates shall be..." should be "The following rules shall be...". No rates are discussed in this section.
5. Page 5 – 1st paragraph under .02 Meals and Incidental Expenses – In the first sentence it states "Employees authorized to travel **shall** be prepaid". I think it should read "Employees authorized to travel **may** be prepaid". The reason I believe it should say "may" rather than "shall" is the same as in 2. above.
6. Page 5 – 1st paragraph under .02 Meals and Incidental Expenses – The last sentence should be moved to the first sentence of the 2nd paragraph in this section since it is discussing incidental expenses, which is the subject of the 2nd paragraph.
7. Page 5 – 3rd paragraph under .02 Meals and Incidental Expenses – The last sentence should be expanded to include incidental expenses. "Receipts for meals **and incidental expenses** are not required".

8. Page 6 – 1st paragraph under .01 Other allowable travel expenses – Since incidental expenses and a section on Rental Vehicles was added to the previous section, they should be included in the 1st sentence. “In addition to lodging, meals **and incidental expenses**, and transportation, **and rental vehicles**, the ...”
9. Page 7 – Top of page, section E. – We have at least one employee in my Department who can't obtain a State Travel Card at the present time. If the employee is required to get a rental car, I would want the employee to have insurance coverage through the rental company if a State card can't be used for some reason. How would you suggest handling this situation?

new proposed fiscal rules

Jaros, Bob

From: Meade, Susan
Sent: Wednesday, July 18, 2007 2:55 PM
To: Jaros, Bob
Cc: Shenefelt, Leslie
Subject: FW: new proposed fiscal rules

David ok'd my forwarding his e-mail to you re: the new travel rule.

-----Original Message-----

From: Grier, Dave [mailto:Grier_D@cde.state.co.us]
Sent: Wednesday, July 18, 2007 12:02 PM
To: Meade, Susan
Subject: RE: new proposed fiscal rules

Do you realize that even the new revised fiscal rule is still a non accountable plan under IRS rules and must be reported as income to the employee? The second bullet on the questions and answers attempts to address this issues says "the employees **must** adequately account for expenses within 60 days". However the rule does not say the employee must account for expenses. Actually the rule only requires a reconciliation of costs if the trip is not taken or shortened. Because the reconciliation is optional (not required 100% of the time) this no longer qualifies as a non accountable plan.

Clearly the changes that have been made are an attempt to ensure that the plan qualifies as accountable under IRS rules. BUT it falls short because the reconciliation is not REQUIRED all the time. Being wrong on this interpretation would be devastating to the State and the State Controller's Office and would surely be Denver post material. Also, do we really want to be liable for penalties and interest if we are wrong?

My research indicates that if the reconciliation is optional then there is no chance the IRS will approve the plan as accountable.

For a prepayment to qualify as an accountable plan the reconciliation CANNOT in any way be optional.

Has anyone pointed this out as a problem?

Dave Grier, CPA
Controller
Colorado Department of Education
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E-mail: grier_d@cde.state.co.us

Jaros, Bob

From: Coulter, Michael (Mike) [mculter@spike.dor.state.co.us]
Sent: Friday, July 27, 2007 9:33 AM
To: Jaros, Bob
Subject: FW: Clarification on Incidental expenses (IE) allowed for overnight travel: Mike Coulter

Bob: Please let me know if there are questions. Thanks Mike

From: Sharon Coulter [mailto:sharoncoul@juno.com]
Sent: Friday, July 27, 2007 9:13 AM
To: mculter@spike.dor.state.co.us
Subject: Fw: Clarification on Incidental expenses (IE) allowed for overnight travel: Mike Coulter

sharoncoul@juno.com>
To: jor@cfpe.org
Date: Mon, 23 Jul 2007 18:58:13 -0600
Subject: Clarification on Incidental expenses (IE) allowed for overnight travel: Mike Coulter

Is IE part of the meal reimbursement amounts shown in the table at the end of Rule 5-1?
If IE is part of the meal amounts (i.e. \$39 daily in low cost areas) then that should noted.

If IE is in addition to the \$39+ meal reimbursement amounts, then an additional IE table could be added after the meal table at the end of Rule 5. DPA could show a table showing both the total IE amount for all domestic CONUS locations, and also the total IE amount allowed for international travel. Until about 1989, the state Fiscal rules had a separate \$3 per night IE. For example if \$3 is the IE for domestic CONUS travel, then the international IE could be shown as \$3-\$15.

Also page 5 of the proposed (marked through) .02 "Meals and Incidental Expenses" third paragraph comments need clarification. "Receipts for meals are not required." could have "and incidental expenses" inserted between "meals" and "are not required." I believe this clarification should remove questions about receipts on IE.

Finally, page 6 of the proposed "Other Prepaid or Reimbursable and Non-Reimbursable Travel Expenses under .01 Prepaid or Reimbursable travel expenses: "In addition to lodging, meals... and transportation" comments need clarification. Inserting "incidental expenses" between the above "lodging, meals" and "and transportation" would help eliminate questions about whether IE is part of the tips, etc. discussed under .01 paragraph A.

If you questions on the above, please call me, as I will be in the office at 303-355-0400 ext. 4623 the rest of the week. Please note my extension has changed, as a 4 has been added to all the extensions in Field audit.

PROPOSED FISCAL RULE AND PROCUREMENT RULE CHANGES
COMMENTS FROM: COLORADO STATE UNIVERSITY
FOR THE HEARING SCHEDULED JULY 30, 2007

Comments Submitted By:
Robert Schur, Interim Director of Purchasing, CSU/
Associate Legal Counsel, CSU System

Fiscal Rules Changes

Rule 2-2:

Section 2.1.1: "A document, approved by the State Controller..." should be changed to:
"A document, THE FORM OF WHICH HAS BEEN approved by the
State Controller...".

RATIONALE: the proposed wording implies that all commitment
vouchers must be specially approved.

Section 2.3: "A document prepared and signed..." should be changed to: "A
DOCUMENT PREPARED AND ISSUED...".

RATIONALE: Not all POs will be "signed" by the institution. E-
procurement systems (such as the one now being implemented at CSU)
will rely upon authorizations entered electronically into the system. The
rule as proposed forever mires state agencies and institutions in antiquated
processes.

Section 5.3: Delete entire section. Alternatively, change to read: "PURCHASE
ORDERS ISSUED BETWEEN STATE AGENCIES AND
INSTITUTIONS OF HIGHER EDUCATION NEED NOT COMPLY
WITH THIS RULE."

RATIONALE: As written, the rule can be interpreted to mean that the
issuing agency has unilateral authority to prescribe PO terms and
conditions for an interagency transaction.

Section 7.2: "The State Controller may ratify the expenditure..." should be changed to
read: "THE STATE CONTROLLER OR AUTHORIZED STATE
CONTROLLER DELEGATE MAY RATIFY...".

RATIONALE: Limitations on Controller delegates to ratify informal
commitments should be specified in annual delegation letters and/or SCO
policies rather than in the rule. Reasonable delegation of authority to
agency controllers should be expressly allowable within the scope of the
rule.

Rule 3-1

Section 2.2: “Expenditure contracts include non-financial and in-kind contracts where the State incurs an obligation” should be changed to: “EXPENDITURE CONTRACTS INCLUDE IN-KIND CONTRACTS WHERE THE STATE INCURS AN OBLIGATION.”

RATIONALE: The phrase “non-financial” has no explicit meaning and is confusing. A non-financial contract is probably not an “expenditure” contract under any circumstances. Agencies and institutions such as CSU process hundreds of agreements each year which do not result, directly or indirectly, in the expenditure of state funds and are not currently viewed as fiscal rule contracts. The proposed rule could lead to substantial additional expense and use of resources for the State Controller or delegate to review and approve non-fiscal-rule contracts and could introduce Special Provisions negotiations into transactions that should not require them. See proposed rule 3-1, section 6 (“proposed expenditure” is the focus for SCO review and approval).

//



University of Colorado

Boulder • Colorado Springs • Denver and Health Sciences Center

Office of University Controller

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July 24, 2007

Leslie M. Shenefelt
State Controller
State Controller's Office
State of Colorado
633 17th Street, Suite 1500
Denver, CO 80202

RE: Comments on Proposed State Fiscal Rules

Dear Les:

The system and campus administration offices of the University of Colorado system have reviewed the proposed changes to the State Fiscal Rules. This letter documents our collective concerns regarding specific proposed changes for your consideration before finalization of the policies.

Our objective was to provide thorough and constructive feedback. However, we are concerned about moving forward with fiscal rule 3-1 changes when we feel that the contract improvement process was not completed and fiscal rule 5-1 includes changes that we were unaware were being introduced based on previous communications with your office.

This is further complicated by the fact these rules were issued in June. Unfortunately, we had to make decisions between dedicating our limited time and staff to achieving our obligations for year-end financial accounting and reporting instead of reviewing these rules. We had to make the former responsibility our first priority and we believe this prioritization decision should be the one your office supports. We are concerned that our review was rushed. It did not include the normal process to ensure we adequately discuss concerns with the affected university community. A comprehensive review is necessary to ensure the business of the University is not disrupted or otherwise harmed.

Due to these issues, the University is respectfully requesting the Office of State Controller (OSC) to delay the adoption of the Fiscal rule changes until a comprehensive review may be completed.

To assist in expediting this comprehensive review, we have collected our initial reaction to the proposed fiscal rule changes in this letter.

Overall Comments

We support the new numbering system included in Fiscal Rules 2-2 and 3-1. This format will allow for easy reference to the Part when needed and is greatly appreciated.

It seems an efficient and reasonable principle to incorporate certain information in State Controller Policy that would not be subject to the rule-making process and creates an unacceptable level of future risk to the University. However, we are concerned that is not consistent with intent of rule-making required in CRS 24-30-202. Given the breadth of differences in the business purpose, operations and complexities across state agencies and institutions of higher education, we believe the rule-making process required by the statute is the best way to ensure that risks to the state are mitigated without unintended consequences.

There is no published process for ensuring that State Controller Policy will always go through a review process that is inclusive of all state agencies and institutions of higher education. This concern is amplified by the level of detail in State Controller Policy and the fact that the policy refers to model contracts that were not published for review with the fiscal rules. Although detail is usually how compliance is ensured, it is also usually how administrative costs and burdens are created.

We hoped to obtain a legal review of this issue, but resource limitations prevented it from being done by the hearing date. We would like to request a legal analysis is done and shared with those affected by the rules before the adoption of these fiscal rule changes. We believe the legal review needs to address:

- this new format is consistent with the statute requirements and intent,
- what level of review is required per the statute,
- what would be binding to the agencies and institutions of higher education if different levels of review are used; and
- what would be binding to the agencies and institutions of higher education if policies are referred to in fiscal rule, or are stand alone and unreferenced by fiscal rule.

Rule 2-2

In general, we support most of the changes to fiscal rule 2-2; however, we are requesting the following clarifications.

- Definitions – Since “State Contracts” are referred to multiple times in this section, it seems the definition of State Contract should be in this rule, or, at a minimum, referenced to Part 3-1.
- Part 4.1 – Under “Professional Services” and “Leasing and License of Real Property”, it states specifics types of these agreements for when a State Contract is required. But it is not clear when there are other types of “Professional Services” and “Leasing and License of Real Property” what commitment form is required. We assume any commitment voucher form would be allowable.
- Part 7.1 – The phrase “as described below” at the end of this Part seems confusing and should be

deleted. The definition of a “Statutory Violation” works without this phrase.

- Part 7.2 – Under the current rule, it seems that Ratification could not be delegated by the State Controller since the Part specifically requires the ratification to be done by the State Controller. We are concerned by the current administrative burden of this process, especially in institutions that are exempted from State Procurement rules. We believe it would be beneficial to the State for this Part to provide for ratifications by the “State Controller, or delegate”. This approach ensures the State Controller still makes the decision to delegate, if at all, but it allows for such delegation to be permissible without a fiscal rule waiver.

Rule 3-1

The University of Colorado actively participated in the State’s Contract Improvement Process during this last year. The University is committed to complying with state fiscal rules and working collaboratively and openly with the OSC. We were disappointed when the State suspended Higher Education’s participation to focus on the State Agencies, but understood the resource constraints facing the OSC. We have repeatedly committed to active participation when the State is ready.

We understood the intent of the State’s Contract Improvement Process was to address concerns identified with the State contracting process in performance audits by the state auditor while ensuring a cost-effective and efficient process to address the state’s business needs and risks. In addition, we understood that the OSC was committed to resolving ongoing compliance difficulties experienced by the institutions of higher education due to their inherent business process and statutory differences with other state agencies.

We are very concerned that these fiscal rules do not address these ongoing difficulties experienced by the institutions of higher education. But even more concerning, we believe these fiscal rules will create additional difficulties for the institutions.

Before we detail our concerns, we want to first recognize the results of the State Contract Improvement Process. We appreciate the OSC using our definition to identify the criteria for identifying a sponsored project contract and not requiring them to contain Special Provisions. We appreciate the OSC recognizing the FDP Subaward Agreement and vendor agreement as an approved contract form.

The following document highlights our concerns with the fiscal rules that we are requesting more dialogue and resolution (ordered numerically by part not by priority).

- Part 2 – We found it confusing that there is now a definition for “leases and licenses of real property” (part 2.2.4) but this only defines a lessee relationship. The University of Colorado has many leases where we are the lessor. To ensure that there are no future misunderstandings of authority and requirements, we are requesting that both types of leases be defined, and the rule states that the lessee lease is an expenditure contract (part 2.2) and the lessor lease is revenue contract (part 2.3).
- Part 2.2.1 – Although the proposed definition for “personal service contracts” is not different from prior years, we are concerned that definition does not accurately reflect what was reported in the annual

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personal service report. Given the adoption of Senate Bill 07-228, we are concerned that this definition has an increased significance going forward. We do not believe the term “goods” should be included in this definition.

- Part 2.2.2 – Although the proposed definition for “outsource contracts” is not different from prior years, we have the following two concerns:
 - Given the adoption of Senate Bill 07-228, it seems there is a need to make sure that outsource contracts are defined as a “type of personal service contracts with the additional characteristics” as detailed in the current definition.
 - We do not believe it is appropriate to include policy requirements in a definition and doing so increases the risk that the policy requirements will not be noticed or complied with. We believe the last two sentences in the definition are policy requirements detailing the submission and review requirements that should be included in Part 4.
- Part 2.2.4 – This definition would read better if “...agreement where the landlord give the...” is changed to “...agreement where a landlord gives the...”
- Part 2.4 – Since Part 2.1 identifies “sponsored projects contracts”, we believe it is more appropriate to use the same label for item 2.4 (or vice versa).
- Parts 3.2 and 3.3– This Part sets forth the required elements of state contracts and sets forth the approval process for contract form. Specifically, one of the required elements of state contracts is Special Provisions and the contract form of all state contracts is required to be approved by the State Controller. However, these parts do not exempt “revenue contracts”. This is a new requirement that has never existed before. In fiscal year 2006, the University recognized revenue (from contracts) of approximately \$835M or 48% of total operating revenues. Given the significance of these revenues and the need for minimal disruptions to our business, we do not understand what additional benefit is being gained by the inclusion of special provisions or state controller approval of the form. This requirement seems to be contrary to the goals of the contract improvement process and creates an administrative burden for both the OSC and University. We are requesting that this rule be changed to exempt revenue contracts from both of these requirements.
- Part 3.3 and State Controller Policy “Use of Model Contracts” and State Controller Policy “Sponsored Projects” – As part of State Contract Improvement Process, we admitted that the University fails to comply with the current provision that “all state contracts be in a form approved by the State controller”. However, the quantity of expenditure contracts processed by the University prevent this rule from being feasible; in fiscal year 2006, the university had:
 - 1,816 expenditure contracts (not including sponsored project contracts)
 - \$635M in sponsored project contracts

We believe the increased administrative burden on the University and OSC would be disruptive to both of our business processes. We would welcome the alternative that forms be approved

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by both delegated university counsel and the institution's state controller delegate. This approach provides an assurance mechanism about whom and how delegated responsibilities are carried out, including the possibility the State Controller would not identify any delegates.

- Part 3.3 – The State Controller Policy “Use of Vendor Agreements” is not referenced within this rule. Given this policy relates to State Contracts (not just commitment vouchers), it seems appropriate that it be referenced in this fiscal rule.
- Rules 3.3.1 and 3.3.3 – Our understanding that the intent of referencing State Controller Policy is to avoid lists in fiscal rules that may become outdated. It seems that including a list of types here is not eliminating this need. It seems that these rules just need to refer to the applicable State Controller Policy.
- Part 3.3.3 – The State Controller Policy referenced in this part seems to be titled “State Contract Modifications” not “Contract Modifications” as indicated.
- Part 3.3.4 – Items “c” and “e” are the only two items that do not provide a reference as to where the example wording can be found. We believe it would be beneficial to reference that the wording is available from State Buildings.
- Rules 3.3.5 and 3.3.6 – Both of the rules include the statement “all ... shall be in the form approved by the state controller”. However, this requirement is embedded in the overriding Part 3.3. It seems cleaner to eliminate the redundancy.
- Part 3.3.7 – This Part appears unnecessary. If the intent of the Part is to allow for the potential of a contract template form that can be used for multiple contracts without taking each individual contract to the OSC, then alternative wording is necessary -- we suggest that the State Controller Policy on Use of Model Contracts be modified to recognize the OSC may approve a model or template specific to an agency or institution. If the intent is another purpose, clarification should be provided.
- Part 4.1 – It seems more appropriate to use the defined term “personal service contracts” not “service contracts”.
- Rules 4.2 through 4.9 – Although the approach is consistent with the former version of fiscal rules, these rules describe contract types that are not defined terms. It would seem beneficial to define these terms to ensure institutions and agencies do not misinterpret the meaning.
- Part 4.9 – This is a new type of contract requiring central approval. However, unlike the previous contract types, this central approval does not appear to be vested in state statute. We believe the approval requirement stems from an executive order that is not applicable to institutions of higher education. By inserting this requirement into fiscal rule, you are binding institutions of higher education to this level of approval. This creates an undue administrative hardship on institutions that will be disruptive to our business.

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- Part 6 and forward – The formatting of the Part change from this point and do not include numbering of each section. We find the numbering to be very nice as it makes references to fiscal rule much easier than in the current version. Please continue the numbering format.
- Special Provisions (Part 3.2) – We are seeking clear concurrence from the OSC that we can rely on university counsel authority to modify special provisions and that they can delegate their authority in limited instances. We have received conflicting advice from the OSC and legal counsel regarding authority to modify special provisions. We believe that university counsel has delegated authority to modify certain special provisions and when exercised accordingly, we do not require concurrence from the OSC. However, the OSC has represented this is not true. I have requested our legal counsel to have the Attorney General discuss this issue with you.
- Part 8 – Although this fiscal rule has not changed, the University has concerns about the current wording. The University actively monitors the audit activities of the Internal Revenue Service (IRS) to identify key areas of risk. Based on recent activities of the IRS, the University has clarified and updated its policies and procedures over evaluating employee versus independent contractor relationships. In speaking with our tax counsel, we have deemed the most important factor is to clearly document our decisions. We are very concerned with the sentence “The status should be carefully considered and cases of doubt generally resolved in favor of the employee classification” and the risk it creates. It seems more prudent to change this sentence to “The status should be carefully considered and the criteria and decision process should be clearly documented to justify the classification.”
- Special Provision 10 – We are concerned about the change of the word “shall” to “has”. This change requires us to ensure that we have received the document before the contract may be executed as opposed to before the vendor receives any benefits. This will create significant administrative changes in our contracting processes. CRS 24-76.5-101 (6) makes it not only a contractual breach if the vendor signs the contract knowing they can not produce the required documentation but a violation of section CRS 18-8-503. Therefore, it seems the risk is appropriately minimized with the current wording.
- State Controller Policy “State Contract Modifications” – There is inconsistent labeling of “contract options” and “grant funding letters” within the policy. In addition, the policy language seems to imply it only affects “agencies” (and not institutions) but the referencing fiscal rule and some of the form language does not make this distinction. Further, because we did not know its applicability we did not do a thorough review of the policy or forms.
- State Controller Policy “Higher Education Review and Approval of State Contracts” – We have the following concerns:
 - This policy specifies a dollar amount. Given the various sizes of institutions in Colorado, the risk and materiality varies greatly across the state. As opposed to forcing large institutions to request fiscal rule waivers, it seems more efficient to provide that a threshold amount will be identified in the institution’s letter of delegation from the OSC. This approach ensures the State Controller still makes the decision of the appropriate threshold amount but it allows for such amount to vary based on the institution’s size and control structure without a fiscal rule waiver.

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- Item 9 under Institution Controller Delegate Responsibilities would be more efficient, timely, and accurate if it read “The central contract approvals have been obtained when required per Fiscal rule 3-1, part 4.”
- This policy requires legal review for every contract over the threshold. It appears this policy would be applicable to Sponsored Project Contracts. However, this is not the process currently used by the University. This process is not feasible due to the quantity of the University’s sponsored research activity (previously described). Currently, if legal counsel has approved a contract form for Sponsored Project Contracts, then specific legal review of the contract is not required. We use a process similar to how state controller review is performed in the State Controller Policy “Use of Model Contracts”; if the terms of the model are not being modified and no other risks are identified, then legal review is not done. The risks triggering legal review are not the 6 characteristics identified in this policy. This alternative approach needs to be recognized in the policy to ensure our sponsored research missions are carried out without disruption.
- This policy has several references to “agency” or “agency/institution”. Given this policy is unique to higher education, the more appropriate term seems to be “institution”.
- State Controller Policy “Review and Approval of State Contracts” - We have the following concerns:
 - Under the Institutions of Higher Education, it would seem more appropriate to reference the State Controller Policy “Higher Education Review and Approval of State Contracts” than the current wording.
 - This section is being referenced from Part 6 which governs Review and Approval by the State Controller; however, we are having a hard time understanding the correlation and need clarification. It seems the purpose of the policy is to define how the OSC will determine to grant state controller delegate authority to an agency or institution. We are assuming since the state contract improvement process with higher education was suspended, you are attempting to use a non-risk based approach to delegation. However, the statement here does not discuss how you will grant us our delegated authority but when you require legal review. Unless the policy is intended to exempt all contracts under \$50,000 from the state controller delegate and legal review. Our initial reaction to this approach is it would be an unacceptable level of risk. We assume based on our previous conversations that intention is to grant us full delegated authority which we will carry out in accordance with State Controller Policy “Higher Education Review and Approval of State Contracts”.
- State Controller Policy “Contract Signature Delegation” – The first paragraph under “executive Director signature delegation” should begin with “For agencies,...”. Otherwise you do not realize there are different provisions for Higher Education until you reach the next paragraph. In addition, the first sentence needs an “of” in the phrase “delegations signature authority”.
- State Controller Policy “Mixed Procurements and State Contracts” – The second sentence in this policy does not seem to be an accurate reflection of the fiscal rule; we did not see this policy position in the current fiscal rule 2-2 nor did we see it in the new version of Fiscal rule 2-2, part 4.1. This inconsistency

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needs to be resolved. We suggest you delete this sentence, because this sentence would cause a significant change in university business processes without an apparent off-setting benefit.

- The following State Controller Policy do not appear to be referenced in Fiscal Rule:
 - Higher Education Review and Approval of State Contracts – we suggest reference in Part 5
 - Non-Delegated Approach for Review and Approval of State Contracts
 - ***Risk-Based Approach for Reviewing and Approving Contracts***
 - Contract Dates
 - Contract Signature Delegation
 - ***Federal Sub-Recipient Grant Contracts***
 - ***Lease Payments to New Landlord***
 - ***Lease Purchase Agreements***
 - Mixed Procurements and State Contracts
 - ***Phase I Waivers (including Guidelines for Waiver of Central Contract Routing)***
 - ***Records Retention for Contracts***
 - ***Split Purchases***
- For the State Controller Policies that are bolded and preceded and followed by “*”, we have an additional concern. Do these to apply to institutions of Higher Education? We assume no. Therefore, we would like this clearly stated in the policy. Then, we are seeking assurance that before they would be applied to institutions, that there would be another Fiscal Rule Hearing. The current version of these policies cause the University some concerns related to:
 - How they relate to other exceptions in fiscal rule unique to higher education,
 - Potential conflicts with statutory authorities that are unique to higher education, and
 - Potential new administrative burdens due to the complexity and differences inherent in the higher education business.

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Rule 5-1

We are thankful that the meal receipt requirements have been removed and the fiscal rule 5-1 allows for meal and incidental per diems. The University believes the implementation of incidental per diems will reduce the burden on our travelers as well as reduce the risk of inappropriate costs on travel reimbursement requests. It will also be easy for our faculty (our most typical traveler) to understand as most are familiar with the federal per diem system. This portion of the changes is consistent with those discussed by the committee convened earlier in the year by the Department of Personnel and Administration.

However, we were surprised and concerned by some other changes to fiscal rule 5-1 as well as we have reviewed some existing elements and are taking this opportunity to address concerns therewith. We apologize that we did not realize the issues related to old wording during the committee review process.

- General Comment – This Rule does not include the numbering format that was introduced with the proposed changes to Fiscal Rules 2-2 and 3-1. The proposed numbering format is very beneficial in assisting with cross-referencing to the rules. We request that you consider adopting the numbering format in this fiscal rule also.
- Definitions - Political Expenses -- It currently reads "... further the interests of a candidate, political party, or special group." We feel that it would be better to read "... further the interests of a political party, its candidates or special interest group."
- Prepayment/Reimbursement of Travel Expenses - We have 4 major concerns with this portion of the policy which we will address first. Then, following those discussions, we have included several items intended to better clarify the rule.

First, the proposed changes to the fiscal rule no longer allow for prepayment of travel expenses other than authorized per diems. The University's business is dependent on travel; travel expenses totaled \$19.7M or 10% of our operating expenses in fiscal year 2006. The type of travel conducted by the university is very diverse, and is dependent on our ability to authorize advances/prepayments. These prepayments must allow for both per diem expenses and other allowable travel expenses.

Second, as indicated above, the University routinely grants advances/prepayments. We have established a strong internal control structure over this process to reduce our risk which we shared with the OSC earlier this year. Given these internal controls and the multiple work locations of our travelers, the University cannot achieve the proposed restriction that prepayments "shall be made only within 5 working days of the commencing the trip." The University requires this timeframe to allow for 7 days.

Third, the proposed changes **require** the University to issue a prepayment upon the request of the employee. We understand from the Frequently Asked Question (FAQ), the intent of this change is to reduce the burden on employees without an adverse impact on our internal controls. However, the University still has concerns about the effect on our internal controls. The University received significant feedback on travel advances from the Office of the State Auditor (OSA) as part of a 2005 performance audit and again this summer when the OSA performed a follow-up performance audit (this

report has not yet been released). This proposed change is inconsistent with all feedback we have received from the OSA regarding minimizing travel advances and the related risks of loss to the University. We believe our current travel reimbursement and advance policies (which were recently revised to respond to the OSA audits) are not creating an undue burden on our employees and providing adequate protections to the University. We ask that prepayments are not required by changing the word “shall” to “may” throughout the Part (includes section .02 Meals and Incidental Expenses).

Fourth, we are asking that the separate accounting of the prepayment be removed and be replaced with the requirement that a travel voucher be filed at the end of the trip that reconciles total travel expenses, including prepayments, for the following reasons:

- As written, the prepayment, including those processed through the state travel card, requires a separate travel voucher to facilitate its payment. This proposed process requires that every trip is comprised of two travel vouchers: one for the prepayment and one for the other travel expenses. This change results in a significant increase to the University by:
 - Requiring two vouchers and warrants for advances received through the State Travel Card; and
 - Requiring two “vouchers” for advances processed by University; currently the advance warrant is triggered by the travel authorization not a voucher; since we cannot eliminate the travel authorization, this new voucher is a new cost.

Given that prepayments are required, we further anticipate an increase of activity compared to the current advance activity. Given our volume of travel, these new costs appear to be significant; if it would helpful we could prepare a cost estimate.

- This requirement will adversely affect the University’s ability to analyze its travel spending at the trip level (not in total) by not allowing total trips cost to be captured on one document. Trip level evaluations are beneficial to managing our business given the volume of travel and the value thereof which is funded by sponsors (e.g., research projects).
- Although the FAQ attempted to address this issue, the University remains concerned about its risk under IRS regulations. For the reimbursement of business expenses to be excluded from the employees’ taxable income, the reimbursement must occur within an accountable plan. Currently, the university operates an accountable plan. Thus, we eliminated the administrative cost of taxable income reporting as well as the tax burden to our employees. The IRS regulations (specifically Reg § 1.62-2(d)(2)) require an accountable plan to meet the substantiation requirements contained in IRS Code Section 274. Substantiation requires the employee to attest to the (1) amount, (2) time and place, and (3) business purpose. The IRS places the burden on the University for maintaining sufficient documentation/evidence of this attestation. It is unclear from the FAQ if it was intended for the University to rely on pre-trip substantiation or post-trip substantiation.

In one place, the FAQ seems to imply the University is to rely on pre-trip information for substantiation. Our tax manager would not be comfortable defending that substantiation occurred

before the fact or pre-trip. We would like to see references in tax regulations or written tax advice from tax counsel of how pre-trip substantiation meets the IRS regulations.

In another place, the FAQ seems to imply the University is to rely on other post-trip documentation (such as boarding pass) to be able to substantiate the prepayment. However, currently the university has no business processes to gather this type of information. Further, the employee's burden would be increased by turning over the boarding pass or equivalent documentation at the conclusion of the trip. Given the majority of our travelers are faculty, they would be more inconvenienced (and, frankly, outraged) by submitting boarding passes than filing a single voucher at the trip conclusion. In addition, the University would incur administrative costs in redesigning its travel procedures to collect this new information.

- The University is concerned the proposed rule increases risks that the University would not have all unused prepayments properly returned to them. The university has 100's of trips on any given day. The assumption in the FAQ is that the supervisor not the central travel office would be responsible for monitoring that prepayments are returned. Given university travel is mostly taken by faculty who are supervised by faculty, this assumption is a far greater burden to our employees than the current requirement to file a travel voucher at the end of the trip. The university has an obligation to design administrative internal controls that allow our faculty to focus on the university's programmatic mission while minimizing burdens created by the need for strong internal controls. We believe the current process is more effective at achieving this goal.

The following items are intended to better the rule.

- This section of the Part sometimes uses the term "state agencies" instead of "state agencies or institution of higher education."
 - In the 2nd paragraph, 3rd sentence, the word "that" seems to be missing in this phrase "provide documentation the approved trip".
 - The definitions replaced "state travel card" with "travel payment program". This section of the Part uses the term "state travel individual card" which is not a defined term. The intention of the Part would be clearer if defined terms were used.
- .02 Meals and Incidental Expenses

First, we were surprised that the fiscal rules allows for the traveler to determine that a conference meal is inadequate. Given the structure of most conferences, there seems a low likelihood that a conference meal would be deemed to be inadequate. We cannot determine the added benefit to our employees or the university. The administrative burden of excluding provided meals from the per diem is significantly challenging under the current Part without adding this new intricacy. It seems if the goal of the changes are to reduce the burden created by these rules, the fiscal rule should be silent on the exclusion of provided meals.

Second, the rule states the incidental expense per diem is intended to cover personal telephone calls. We are requesting that agency and institutions be given the authority to add an incidental per diem maximum

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of \$20 per night. We base this higher amount on the actual costs of international calls. We can provide evidence of the cost of international calls upon request if it would assist you in evaluating the request.

- .02 Meals and Incidental Expenses and Other Allowable and Non-Allowable Travel Expenses

It seems contradictory to include both incidental per diems and tips (as described in 01. A). The federal government (whose rules are used as the basis for the per diem program) does not allow for both incidental per diems and tips. Tips are considered a type of expense funded by the incidental per diems. The federal Part does provide for the reimbursement of baggage transportation costs that are fee based (not tips). We are further concerned by the inclusion of tips because recently we have had significant questioning from auditors about the reasonableness of tips and the consistency of tips from one traveler to another. In researching tips, there is no good answer for reasonableness. And trying to define reasonableness in a manner where travelers understand and are not set up to be out of compliance was considered impractical. It is critical that university address these audit concerns in a manner that does not increase the burden or risk to our employees. Please remove tips from 01. and replace it with baggage transportation costs that are fee based. In addition, please add tips to how incidental per diems may be used.

- .03 Transportation

The presentation of the concepts in this section does not seem to achieve its intended objective. The objective should be to limit our costs to the **lessor** of the “cost equivalent of the most beneficial method of transportation available” **or** “actual cost” incurred (not cost of actual transportation as it is not the only way to incur costs, e.g., mileage). Please reword this section to resolve this issue.

- .03 Rental Vehicles

The concept of requiring pre-approval of rental cars is new. Our current travel processes do not include this requirement as criteria for pre-approval. Thus, this requirement increases the administrative costs and burden on our employees. We cannot determine the added benefit to our employees or the university. Please remove this requirement.

- Other Allowable and Non-Allowable Travel Expenses - .02 Non-Allowable travel expenses

- Although not new wording, we are concerned that we have never been in compliance with this rule. The wording reads “alcoholic beverages purchased by the traveler” and “entertainment expenses paid by the traveler”. The words “purchased” or “paid” by is the key characterization of the expense. Due to the nature of its business, the University holds official functions (as defined in fiscal rule 2-7) while in travel status. Many of these official functions are “purchased” or “paid” by the traveler and include “alcoholic beverages” and “entertainment expenses”. However, we do not prohibit reimbursement if they are deemed to be necessary business expenses of the university. The university does prohibit the reimbursement of it’s deemed “alcoholic beverages” and “entertainment expenses” outside of official functions or personal. This Part seems to be more accurate if items “A” and “B” were deleted and item “C” including the phrase “..., including alcohol and entertainment expenses”.

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- We do not understand the language that was inserted in front of the list. We assume the intent was to explain in fiscal rule why these costs are not allowable. However, the wording is confusing. We have always stated the listed expenses are not allowable because the Travel Payment Program provides for the benefit at no additional cost or the benefit is person in nature (not for business purposes).
- Certification
 - We recommend the term “business purpose” not “purpose”. It helps travelers understand what needs to be documented.
 - We do not believe that anyone should be willing to certify the last sentence of the certification statement. First, if this certification statement is attached to a prepayment, the fiscal rules do not require the traveler to incur actual expenses for meals to be entitled to reimbursement as a result of instituting per diems. Second, if it is attached to reimbursement, it would be completely inappropriate to authorize a potential deduction. We recommend that the fiscal rule reinstate separate certification statements: one for prepayments and one for reimbursements. If you would like, we can provide the language that is currently used by the University for prepayments/advances and the language formerly used for reimbursement when they were per diem based.
 - We do not understand the use of the word “endorse” in this sentence. Internal controls require that we have an individual other than the traveler “review and approve” the voucher as “documented by his manual or electronic signature”. The word “endorse” eliminates the importance of the “review and approval”.
- Exceptions to the Part - .08 Allowances for travel by leased or privately owned aircraft

Although not new wording, the University is statutorily exempted from participating in the State Risk Management program and has its own program. It seems that the approval required in Section B should acknowledge this statutory distinction. Please add wording to clarify this alternative for the institutions of higher education that have this statutory difference.

- Exceptions to the Part - .12 Receipts

Although not new wording, the University requires the ability for its CEO to delegate the responsibility for waiving receipts. The University’s CEO would be unduly burdened by this task. Our current business processes, in fact, include this delegation. Please eliminate this potential non-compliance issue as we could not afford the administrative burden of complying.

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We would be please to clarify any of our concerns with yourself or your staff. We will be in attendance at the upcoming fiscal rule hearing or feel free to contact me at 303-492-9712.

Sincerely,

A handwritten signature in black ink that reads "Mary Catherine Gaisbauer". The signature is written in a cursive style with a large initial "M".

Mary Catherine Gaisbauer
Associate Vice President and University Controller