

STATE CONTROLLER POLICY

GRANT CONTRACTS - FEDERAL SUBRECIPIENT

1) **Applicable Law.** CRS §24-30-202 (2) requires the following:

- a. that an appropriation exists for the intended purpose,
- b. the prices or rates are fair and reasonable, and
- c. that the expenditure does not exceed the remaining unencumbered balance in the appropriation.

2) **Definitions.** As used herein, the terms listed below are defined as follows:

- a. **Advice of award.** A formal notification from the federal government stating that a grant application has been accepted and will be funded.
- b. **Grant.** An agreement where one party (grantor) provides funds to another party (grantee), either public or private, and the grantee and/or the group it serves directly benefits from using the funds while the grantor does not receive a direct benefit. Typically, the only deliverable required by the grantee is a report, however, compliance with the grant requirements are normally mandatory. Grants include *purchased service* contracts as defined in CRS §24-50-102 (3).
- c. **Notice of Award or Funding Letter.** A formal notification from the Federal government stating the final dollar amount of the grant, the performance period, and other pertinent information.

3) **Approval**

a. **Only An Advice Of Award Has Been Received.** If only an advice of award has been received from the federal government by the State, and the State has not disbursed grant funds and the requirements of CRS §24-30-202 (2) have been met, the State Controller or delegate may approve and sign grants for continuing or new programs under the following conditions:

- i. **Continuing Programs.** The grant is a continuation of a previous grant and the program must be continued to meet the needs of the targeted beneficiaries. The State Controller or delegate may approve such grant agreements (the terms “agreement” and “contract” are synonymous) when federal funding is received for instances where federal spending authority is delayed and not known until after the State or the federal fiscal years start.
- ii. **New Programs.** Agencies or institutions of higher education (IHEs) may submit grants for new programs that are not continuations of previous programs for approval and signature after verifying that federal funding has been requested, subject to availability of federal funding, if:
 1. the prices and rates have been established by law and only the funding amount is unknown;
 2. the State has the legal authority to receive and expend federal funds for the purpose outlined in the new grant;
 3. the State is essentially only allowing performance of a critical federal program at minimal risk to the State;
 4. only the subrecipient and the federal government are at risk if the program is not funded; and

STATE CONTROLLER POLICY

5. the contract contains language notifying the subrecipient of the risk that the federal program may not be funded.

iii. Retroactive Funding. For either continuing or new programs, the State Controller or delegate may approve grant awards that allow pre-award costs or performance by the subrecipient if the contract contains language stating that the funding is retroactive and the requirements in this section were met.

b. Notice Of Award Or Funding Letter Has Been Received. If a notice of award or funding letter has been received and the State has not disbursed grant funds and the requirements of CRS §24-30-202 (2) have been met, the State Controller or delegate may approve and sign federal subrecipient grants under one of the following conditions:

i. Timely Grants. The Agency or IHE and the subrecipient have already agreed to the scope of services, and the Agency and the subrecipient execute a contract in a timely manner after the notice of award is received; or

ii. Retroactive Funding. The State Controller or delegate may approve grant awards where a notice of award or funding letter has been received, if the notice of award allows pre-award costs or performance by the subrecipient, and the contract contains language that indicates the contract funding is retroactive; or

iii. Late Grants. The grant is submitted for State Controller or delegate approval after the award or funding letter was received by the Agency or IHE from the federal agency. Recurring instances of late contact require the Agency or IHE's contract administration to adopt new internal controls in order to prevent such recurrences. The State Controller or delegate may approve such grants if:

1. The grant was forwarded to the subrecipient in a timely manner prior to the award date;

2. A reasonable effort was made by the Agency or IHE to get the grant signed prior to the award date; and

3. The State Controller delegate documents the contract file regarding efforts the Agency or IHE made to process the grant in a timely manner.

c. Statutory Violations. A violation of CRS §24-30-202 occurs if a disbursement of funds has occurred prior to the State Controller or delegate's approval of a grant. In these instances, the Agency or IHE's chief fiscal officer shall comply with the State Controller's policy entitled "*Statutory Violations*".

David J. McDermott, CPA
State Controller