

# Guidelines For Disbursement of Funds



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# Guidelines for Disbursement of Funds

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## Introduction

Disbursement training is required of all A&M System personnel who are involved with voucher preparation or approval. Each A&M System Member (Member) fiscal office must establish procedures by which all purchase and travel vouchers or other requests for vendor payments are initiated or approved only if certification is on file that both the preparer and the approver have received disbursement training and that such individuals understand the responsibility that accompanies their authority.

The System Office of Budgets and Accounting is responsible for the maintenance of the basic Guidelines for Disbursement of Funds. These Guidelines are to be used as the basis for development of individualized Member disbursement training. It is recommended that each Member fiscal office add more specific information and procedures relevant to its mission. The Guidelines are updated biennially. In the event that the federal or state government adopts legislation that conflicts with these guidelines, the legislation will take precedence.

The following sections of the Guidelines for Disbursement of Funds are provided as general guidance: Gifts and Awards, Honoraria or Speaking Fees, Independent Contractors, Moving Expenses, Payments to Non-U.S. Citizens, Lease of Apartment or House, and Spousal Travel. Additional information related to the specific topic can be found in the A&M System Tax Manual located at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> .

Definitions of terms used to describe the various sources of funds available for disbursement are included in the Glossary found in Appendix 1. The discussion that follows applies to both state and institutional funds. Those specific instances in which expenses can be made only from specific funding sources have been identified. In general, institutional funds are less restrictive than state funds.

Questions or comments relating to the Guidelines for Disbursement of Funds should be directed to the System Office of Budgets and Accounting at (979) 458-6100.



## **Purchasing Guidelines**

### **Overview**

System Regulation 25.99.02 at <http://www.tamus.edu/offices/policy/policies/pdf/25-99-02.pdf> defines the purchasing regulations in conjunction with the member's purchase rules and regulations. The Texas A&M University System (System) was granted additional purchasing authority by the 77th Legislature. The System Procurement Code (Code) was developed to guide the purchasing activities of the System. The Code is hereby adopted and replaces the GSC Procurement Manual. The Code is located at <http://tamus.edu/offices/policy/Code.htm> .

### **Delegated Purchases**

Each Member should establish delegated purchasing authority limits up to which departments can purchase goods or services. Delegated authority is intended to allow departments to purchase supplies and equipment that would meet their immediate needs.

In general, large purchases should be competitively bid. However, System Members can delegate authority to departments to purchase supplies and equipment to meet immediate needs. The maximum dollar limit is \$5,000; however, System Members may adopt dollar limits below that amount.

Note that large purchases may not be broken down into multiple smaller purchases in an attempt to circumvent purchasing limits. Also, cumulative departmental purchases that total above the maximum dollar limit within 30 days for goods and 1 year for services with the same vendor should be competitively bid.

### **Historically Underutilized Businesses (HUB Vendors)**

In 1994, the Texas Legislature affirmed the economic importance of minority-owned and small business in the state by creating the Historically Underutilized Business (HUB) program. A state agency must make a good faith effort to increase contract awards to HUB vendors for the purchase of goods or services that the agency expects to make during a fiscal year. A state agency that considers entering into a contract with an expected value of \$100,000 or more must determine whether there will be subcontracting opportunities under the contract. The agency must do this before the agency solicits bids, proposals, offers, or other applicable expressions of interest for the contract.

Three resources are available to assist in identifying HUB vendors. The master list of HUB vendors is located on the Texas Comptroller's website under HUB Directory located at <http://www.window.state.tx.us/procurement//cmb/hubonly.html> . For those A&M System Members who use FAMIS, screen 173 can be used to determine whether a vendor is a HUB. Please see System Regulation 25.06.01 for further information regarding the A&M System HUB Program.

### **Exempt Purchases**

The purchase of certain commodities and services may be exempt from competitive bidding or may be required by statute to be procured through specific purchasing methods. See the Procurement code for details <http://tamus.edu/offices/policy/Code.htm> .



### **Excess Obligations Prohibited**

The General Appropriations Act, approved each biennium by the Texas Legislature, contains the following provision:

**No department or agency specified in this Act shall incur an obligation in excess of the amounts appropriated to it for the respective objects or purposes named. As a specific exemption to this provision the Texas Building and Procurement Commission may determine that a proposed installment purchase arrangement is cost effective and certify this finding in response to an agency request. Such a finding may be made for obligations incurred for the purchase or lease of automated information system equipment only if such department or agency has filed with the Department of Information Resources (DIR) a long-range automated information system plan and such plan has been approved by DIR. In the event this provision is violated, the Comptroller shall deduct an amount or amounts equivalent to such over-obligation from the salary or other compensation due the responsible disbursing or requisitioning officer or employee, and apply the amount to the payment of the obligation. This provision is specified pursuant to Section 10, Article XVI, of the Constitution of Texas.**

Excess obligations apply to those purchases in which the purchase or service extends beyond a biennium. Any equipment, lease with option to buy, lease purchase, installment purchase, or any other type of purchase which incurs obligations beyond the current appropriations act is strictly prohibited by the Texas Constitution, unless the obligation is expressly contingent upon continued legislative appropriations. The following procedures and programs are constitutional:

- Any equipment lease, lease with option to buy, lease purchase, or installment purchase made through the Texas Public Finance Authority's (TPFA) master lease program; or
- An installment purchase in which the agency requests the TBPC to certify the purchase beyond the current biennium. The TBPC considers an installment purchase to be any purchase in which installment payments are made and there is an opportunity for the title to pass between the buyer and seller, including lease purchase. These purchases must contain a clause which enables the state to cancel the agreement at its option or upon failure of appropriations so that no unconstitutional obligations are incurred.

The following information must be included with the requisition for the TBPC to make the required certification:

- A statement containing the total dollar amount of anticipated interest charges over the life of the purchase to the extent it can be determined;
- A statement comparing the anticipated cost savings to be realized through the present acquisition of the equipment, with the outright purchase of the equipment at a later time, when adequate funds become available;

- A statement affirming that the agency expects to be able to make payments beyond the current biennium without having to rely on an increased level of general revenue appropriations; and
- A letter certifying that “In spite of the additional interest cost to the State, this purchase could not be accomplished as economically through any other available means. Therefore, the lease (or installment) purchase of this equipment is the most cost effective means of obtaining the needed equipment.” **Note: This letter needs to be signed by the director of purchasing or higher authority in the requesting agency.**

### **Vendor on Hold Status**

State law requires agencies and institutions to verify whether or not a vendor is on warrant hold with the State Comptroller’s office prior to purchasing or signing a contract for the purchase of goods or services. This verification can be made no earlier than seven days prior and no later than the date of entering into the transaction. If the vendor is on hold, the agency cannot sign the contract unless the vendor agrees to a contract clause under which any payments owed to the vendor will be applied to the debt/delinquent taxes owed to the state until paid in full. Similarly, a state agency cannot make spot purchases without first determining that the vendor is not “on hold.” (*A spot purchase is defined as a purchase made and picked up directly at the vendor’s establishment.*)

The state has created two web sites to assist state agencies in determining whether vendors are “on hold.” Franchise Tax Certificate of Account Status information for Texas corporations can be found at <http://ecpa.cpa.state.tx.us/coa/Index.html>. Taxpayer and Vendor Account Information can be found at <http://ecpa.cpa.state.tx.us/vendor/tpsearch1.html>. After entering the vendor’s 11 digit TIN (taxpayer identification number) and clicking the “Search” button, the message “Taxpayer is not on vendor hold” or “Taxpayer is on vendor hold” will be displayed. If the displayed message indicates that the vendor is not on hold, you can proceed with the bidding or purchasing process. If the message displayed indicates that the vendor is on hold and you still wish to contract with them, your contract must require payments to be applied toward eliminating the debt or delinquency. If the vendor wishes to clear up the “hold,” they should contact the State Comptroller’s office.

Agencies such as the Texas Building and Procurement Commission and the Department of Information Resources approve “term” contracts for estimated quantities under which state agencies may elect to purchase goods and services for a guaranteed price for a specific period of time. The State Comptroller will no longer require state agencies making purchases under “term” contracts to check a vendor’s debt and tax status with each order, if all of the following conditions exist:

1. The purchase is under a “term” contract;
2. The vendor for the “term” contract was not on warrant hold when the contract was approved; and
3. The “term” contract contains a clause stating that any payment owed under the contract will be applied toward eliminating any indebtedness to the state.

If all three conditions have not been met, the agency must verify a vendor's debt and tax status for each purchase order.

**Required Disbursement Training for FAMIS Users**

In those instances where the FAMIS Purchasing Module is used, A&M System Members must establish procedures to ensure that vendor payments are initiated and approved only by authorized individuals who have completed disbursement training.

## Purchase Vouchers

### General Discussion

State agency personnel are responsible for reviewing each purchase voucher/vendor payment request for accuracy and completeness. The following guidelines must be followed to ensure the prompt and accurate processing of vouchers/payment requests:

- Purchases and the resulting payments must be made in accordance with the Texas and United States Constitutions, applicable state and federal statutes and regulations, the State Comptroller's rules, A&M System policies and regulations, and A&M System Member rules, where applicable.
- A purchase voucher must contain accurate data and a complete and accurate description of the goods or services being purchased.
- Documentation must be maintained to support the legality of a payment or to accurately describe the goods or services being purchased. Vendor certification is acceptable in lieu of supporting documentation in certain circumstances. In the case of contracts, a copy of the contract with the proper approval signatures should be attached to the purchase voucher. Having a contract does not exempt the purchase from the appropriate purchasing guidelines. **Contact the fiscal office for specific requirements regarding contracts.**
- The signatures on a "paper" purchase voucher must be original. The preparer and approver signatures must be identical to the signatures on the signature card.
- In those instances where the FAMIS Purchasing Module is used, A&M System Members must establish procedures to ensure that vendor payments are initiated and approved only by authorized individuals who have completed disbursement training.
- When the authority for a purchase is not obvious or self-evident, a citation of the relevant statutory authority must be included on the purchase voucher. Whenever a statement is required, the agency must ensure that the statement is true and complete. Such statements are vital to supporting the legality of payments.
- The processing of a voucher in error does not obligate the fiscal office to process all similar, subsequent vouchers. Each voucher must stand on its own merit. Therefore, the department should not assume that the processing of a particular voucher indicates the fiscal office's decision to process all similar, subsequent vouchers.

### ***Items to be included on a purchase voucher/payment request:***

- Agency name;
- Agency number;
- Departmental reference number (where applicable);

- Agency voucher/reference number;
- Taxpayer identification number (vendor identification number);
- Name and address of the vendor or payee;
- Invoice date;
- Order date;
- Date invoice was received;
- Paying account number(s);
- Agency object code;
- Requisition or purchase order number (where applicable);
- Payee reference number (i.e., invoice number, etc.);
- Customer accounts receivable number;
- Delivery date of goods or services;
- Description of goods or services;
- Payment amount; and
- Agency approval.

### ***Invoices/Receipts***

Except for those instances where advance payment is specifically authorized by statute, payment must be made only after authorized personnel have certified that the goods or services for which payment is being made have been received. Original invoices/receipts are required to process a purchase voucher/payment request. Carbonless copies of original invoices retained by the vendor are also acceptable. If the original invoice/receipt is not available, a statement must be included on the purchase voucher/payment request stating that the original invoice is not available. However, it is the department's responsibility to confirm that this is not a duplicate payment by following through with the appropriate and necessary research to determine whether prior payment has been made to the vendor on this invoice. When a vendor claim is not supported by an adequate invoice, the vendor will be required to complete the vendor certification section of the purchase voucher/payment request.

### ***Required State Documentation***

The State Comptroller's Office requires that documentation be made available during a Post Payment Audit that shows that payment made on a purchase voucher does not exceed the agreed upon purchase price. Therefore, written documentation of prices, such as phone or written price quotes, copies of catalog items, or internal order forms must be maintained and readily available. Written documentation should include the order date, quantity and price of goods purchased.

Spot purchases do not require this additional documentation. However, "Spot Purchase" should be prominently displayed on the purchase voucher. For on-line vouchers, this notation should be made in the document notes or description. A spot purchase has been defined by the State Comptroller's Office as a purchase made and picked up directly at the vendor's establishment.



### ***State of Texas Prompt Payment Law***

State of Texas Prompt Payment Law requires a state agency to make payment to the vendor by the 30th calendar day after the **latest** of the following:

- The day the agency received the goods; or
- The day the vendor completed performing its services for the agency; or
- The day the agency received the invoice for the goods and services (date stamp).

If the due dates lands on a holiday, the due date should be backed up to the previous business day.

If a state agency does not mail or electronically transmit a payment to a vendor or the vendor's financial institution by the applicable due date, the agency is liable to the vendor for interest as follows:

1. Beginning on the day after the payment is due; interest accrues on the unpaid balance at the rate of 1.0% per month. The interest ceases to accrue on the date the state agency mails or electronically transmits the payment to the vendor or the vendor's financial institution.
2. The State Comptroller's Office and A&M System Member fiscal offices' automatically compute and pay interest owed to vendors for late payments that are covered by the prompt payment law. The prompt payment law applies to payments for most goods and services regardless of the source of funds used to make the payments. However, past due vendor payments made from institutional funds will not incur interest charges for any item where the calculated interest is equal to or less than \$5.00. If the department requests that prompt payment interest not be paid, facts to substantiate the request must be included and clearly identified in the supporting documents submitted with the purchase voucher. Interest cannot be refused if inadequate documentation is provided.
3. Payments that become overdue on or after September 1, 2004, will accrue interest at the rate in effect on September 1 of the fiscal year in which the payment originally becomes overdue. The rate in effect on September 1 is equal to the sum of one percent plus the prime rate as published in the Wall Street Journal on the first business day in July of the preceding fiscal year.

Exceptions to prompt payment rules exist where:

1. There is a bona fide documented dispute between a vendor and a subcontractor or between a subcontractor and its supplier, about the goods delivered or the services performed that causes the payment to be late.
2. The terms of a federal contract, grant, regulation or statute prevents the agency from making a timely payment with federal funds.

3. The invoice is not mailed to the person to whom it is addressed in strict accordance with any instructions on the purchase order relating to the payment.
4. The payment is to another state agency.



### ***Disputed Payments***

An agency must notify a vendor of an error on the invoice no later than 21 days after the state agency receives the invoice. It is critical that all details regarding a dispute with a vendor concerning an invoice or the goods/services received be fully documented. The documentation should include the nature of the dispute, the dates surrounding the dispute, dates and explicit details of any communications with the vendor concerning the dispute as well as the names of individuals involved in the communications, and when and in whose favor the dispute was resolved.

If a documented dispute is resolved in the vendor's favor, the vendor is entitled to receive interest on the unpaid balance of the invoice. This interest must be calculated from the original due date of the payment, as if no dispute ever existed.

If a documented dispute is resolved in the state agency's favor, the vendor must submit a corrected invoice. If they choose not to submit a corrected invoice and request that payment be made from the original with proper adjustments, then this must be documented. The unpaid balance begins to accrue interest 30 days after the corrected invoice date.

### ***Vendor Information***

To process a payment to a vendor, the vendor must be established with a vendor identification number in the accounting system. When using state funds, the vendor must also be established in the State's accounting system, Uniform Statewide Accounting System (USAS). To be in compliance with IRS regulations, Member fiscal offices should require all companies and individuals who are not employees or students to have a W-9 form on file with the fiscal office prior to payment. The System Administrative and General Offices (SAGO) has developed a Substitute W-9 that can be used to gather the relevant information. The form is located on the web at <http://www.tamus.edu/offices/budgets-acct/documents/SubstituteW9.pdf> . If your fiscal office has created a separate form, please contact them directly for a copy.

It is critical that a vendor submits a valid tax identification number. It is recommended that before a vendor is setup their number is validated on the IRS website.



### ***Vendor and Employee Payments***

All vendors and employees should be encouraged to use direct deposit. Once established, payments will be sent directly to their bank account by electronic transfer/ACH. Once payment is released, the reimbursement will be in the specified bank account within two business days.

If state funds are being used, it is in the vendor's best interest to setup direct deposit authorization from the Texas Comptroller's office. This form can be found at the following link <http://www.window.state.tx.us/taxinfo/taxforms/74-176.pdf> .

### ***Contract Workforce***

Beginning September 1, 1999, state agencies and institutions are required to track and report information on workforce contracts of \$10,000 or more paid from state appropriated funds. For reporting purposes, contract worker is defined to mean an independent contractor, a temporary worker supplied by a staffing company, a contract company worker, or a consultant. These requirements also apply to interagency and intra-System contracts.

According to the General Appropriations Act (GAA), an agency or institution may not expend funds appropriated by the GAA for payment of a contract workforce under a contract that is executed, amended, or renewed after August 31, 2001, until the agency or institution:

1. Develops comprehensive policies and procedures for its contract workforce;
2. Examines the legal and personnel issues related to the use of a contract workforce;
3. Conducts a cost benefit analysis of its current contract workforce before hiring additional contract workers or amending or renewing existing contracts; and
4. Documents why and how the use of contract workers fits into agency staffing strategies, including consideration of agency mission, goals and objectives, existing and future employee skills needed, compensation costs, productivity, nature of services to be provided, and workload.

When contemplating the use of contract workers, the department should contact the purchasing office for additional information on Member specific guidelines. Member guidelines will supplement Texas A&M University System Regulation 33.99.16 – Contract Workforce, located at <http://tamus.edu/offices/policy/policies/pdf/33-99-16.pdf> .



### ***Contract Approval***

All contracts, regardless of amount, negotiated by any A&M System Member must be reviewed by the A&M System Office of General Counsel before they may be fully executed. Purchases to be made through a contract that will exceed the delegated dollar limit must follow purchasing guidelines and will require a requisition or

Request for Proposal prior to any contracting activity. Guidelines on delegated authority can be found in System Regulation 25.07.01, located at <http://www.tamus.edu/offices/policy/policies/pdf/25-07-01.pdf>.

In addition, each A&M System Member has adopted specific contract delegation limits. Please contact your fiscal office for additional information.

### ***Contract Reporting Requirements***

Legislative Budget Board (LBB) contract reporting guidelines require that state agencies and institutions of higher education report contracts that exceed certain dollar limits to the LBB within 10 days of

execution (including an amendment, notification, renewal, or extension). In most instances, this reporting requirement applies to all funding sources. Contracts to be reported are categorized into five categories: major information systems (more than \$100,000), construction projects (more than \$14,000), professional services (more than \$14,000), consulting services (more than \$14,000), or other (more than \$50,000). The “other” category applies only to contracts funded in whole or in part with state appropriations. Contracts that fall into the “other” category do not include purchase orders, interagency contracts, medical or optometric services, or contracts paid only with non-appropriated funds. LBB interpretation requires agencies to report any major information system contracts that are valued between \$50,000 and \$99,999 and funded in whole or part with state funds as “other” contracts.



### **Advance Payments**

A state agency may not pay for goods or services before their delivery to the agency, **except:**

- A state agency may pay for goods or services before their delivery to the agency if there is legitimate public purpose for making the payment in advance.
- A state agency may use money appropriated for a particular fiscal year to pay for a utility service provided during that fiscal year and September of the next fiscal year.
- A state agency may pay rent for leased space a maximum of seven days before the payment due date. A copy of the lease or rental agreement should be filed in the fiscal office’s contract files.
- A state agency may pay for a periodical subscription a maximum of six weeks before the renewal date.
- A state agency may pay a rental fee for a meeting room, exhibit booth, or registration fee in advance if there is a legitimate public purpose for making the advance payment. Examples of legitimate reasons include significant cost-savings or reserving a space when enrollment is limited.
- A state agency may process a purchase voucher/payment request for the purchase of real property anytime during the seven days before the closing date if the check/state warrant will be delivered to the seller no earlier than the closing date.
- A state agency may pay an annual maintenance agreement, an internet connection, a post office box rental, insurance, or a surety or honesty bond in advance, regardless of whether it covers more than one fiscal year.
- A state agency may make an advance payment to a federal agency or another state agency for goods purchased from the agency if the advance payment will expedite the delivery of the goods.
- A state agency may pay tuition directly to an institution of higher education no earlier than the 42<sup>nd</sup> day before the class begins. However, a state agency may not reimburse a state employee for tuition before the class begins.

- An institution of higher education may pay for books and other published library materials before receiving them if reasonably necessary for the efficient operation of the institution's libraries.
- A state agency may make an advance payment if significant cost savings would result from making the payment in advance.
- A state agency may make an advance payment to a vendor who is selling specialized or proprietary goods or services to the agency if the vendor requires the payment be made in advance.

If your department must make an advance payment for a reason not listed above, contact the fiscal office for additional guidance on this issue. A state agency that makes an advance payment to a vendor is responsible for ensuring that the vendor provides the good or service, or for pursuing appropriate legal remedies to recover the payment if the vendor fails to provide the good or service.

The Texas Education Code specifically prohibits the use of Higher Education Funds (HEF) to pay for goods or services before their delivery.

### **Advertising**

All state purchase vouchers must have the original tear sheet of the advertisement attached. This policy is also recommended for institutional purchase vouchers/payment requests. Types of advertising include, but are not limited to, newspapers, magazines, books, internet and radio.



### **Aircraft Rental**

When a department submits a purchase voucher/payment request for the lease or rental of a non-System or non-Aircraft Pooling Board aircraft, the department must attach a copy of the Aircraft Operations-Texas Department of Transportation's approval. It is suggested that departments contact the System Aircraft department for any aircraft leasing needs. If a System aircraft is unavailable, the System Aircraft department will coordinate with Aircraft Operations-Texas Department of Transportation to obtain advance approval for use of non-State aircraft. The System Aircraft department will obtain the appropriate approvals and forward to the requestor. All purchase vouchers/payment requests for aircraft rental must state the trip's purpose and the agency's compliance with permissible uses of aircraft.

An authorized state agency may spend state funds to lease or operate an aircraft only if:

- The purpose of each flight of the aircraft is official state business;
- Each passenger on each flight of the aircraft is a state officer or employee, a person in the care or custody of a state officer or employee, or a person whose transportation furthers the official state business purpose of the flight;
- The destination of each flight of the aircraft is not served by a commercial airline, the time required to use a commercial airline interferes with other obligations, or the number of state

officers and employees on each flight of the aircraft makes using the aircraft more cost effective than using a commercial airline;

- The events attended by each passenger on each flight of the aircraft are not sponsored by a political party and are not for the promotion of a political party;
- No passenger on any flight of the aircraft receives a fee or honorarium unless each passenger receiving a fee or honorarium reimburses the state for the passenger's travel cost;
- The business of each passenger on each flight of the aircraft does not involve raising money for private or political purposes; and
- The business of each passenger on each flight of the aircraft does not involve the charging of a fee or an admission charge to see or hear a passenger.



### **Alcoholic Beverages**

State funds may not be used to purchase alcohol or alcoholic beverages for personal consumption or entertainment. Funds appropriated by the General Appropriations Act may not be used to pay the salary of an employee who uses alcoholic beverages while on active duty. Active duty is considered to encompass the regular 40-hour work week. The following excerpt is from an August 29, 1995 Memorandum from the System Office of General Counsel:

*It may be presumed that the underlying rationale behind the ban on consumption is that state employees will perform their official duties less effectively if they consume alcohol while doing so. If an employee of The Texas A&M University System is required by the System or one of its members to work at hours other than 8:00 a.m. to 5:00 p.m. as a regular part of their duties, the employee would only be affected by Article IX, Section 10 if he or she consumed alcohol while actively engaging in those activities that comprise the essential functions of their position. There does not appear to be any authority for the proposition that social and entertainment events are to be treated the same as teaching, research, service and administrative activities for this purpose.*

**With fiscal office approval**, alcoholic beverages may be purchased using:

- Gift funds or other institutional funds as permitted by state law. (State laws prohibit the use of **any** funds under the control of an intercollegiate athletic department for purchase of alcoholic beverages.)
- Contract and grant funds for legitimate scholarly research and/or testing that requires the use of alcoholic beverages, if the guidelines stipulated in the grant or contract are followed.
- Participant registration fees for a conference or similar event if the alcohol is to be served as part of the event.

All alcohol purchases must be in support of events and activities that further the mission of the institution or agency, as determined by the Chief Executive Officer, approved by the Chancellor, and

reported to the Board of Regents. Such events and activities, as well as locations, are confirmed annually by the Board of Regents.

Purchase vouchers/payment requests for purchase of alcoholic beverages must clearly show that alcohol was purchased.

### **Alumni Activities**

State funds may not be used for the support or maintenance of alumni organizations or activities.

### **Audits of State Agencies**

State funds may not be used to contract with a person or organization to audit the financial records or accounts of the agency. This prohibition does not apply to a contract with the state auditor. A state agency may use appropriated money to finance a supplemental audit of payments received from the federal government if the audit is required as a condition of receipt of the money and the federal grant, contract, allocation or aid contains funding for the audit. An institution of higher education may use institutional funds to pay for audits.



### **Auxiliary Enterprises**

State funds may not be used for the support of auxiliary enterprises. An institution of higher education may purchase goods and services from its auxiliary enterprises, including bookstores, only if the institution treats the enterprise as it would any independent vendor or provider of goods and services. In other words, an institution of higher education may purchase goods and services from an auxiliary enterprise only if the purchase is advantageous to the institution, determined without considering the purchase's effect on the enterprise.

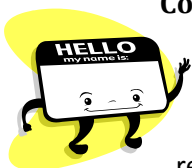
### **Charitable Organizations**

A state agency may not provide money, goods or services to a charitable organization unless:

- the agency has specific or implied statutory authority to provide it; and
- providing it would serve a public purpose; and
- the agency would receive adequate consideration for it; and
- the agency adopts adequate controls to ensure that the public purpose is achieved.

It is unlikely that a state agency would be able to show compliance with the preceding conditions.

### **Conference Registration Fees**



Advance payment of conference registration fees are made by issuing a purchase voucher/ payment request directly to the organization sponsoring the conference. Optional expenses such as meals and lodging cannot be paid for in advance. Payment for registration fees cannot be made more than six weeks in advance, except when

registration is required further in advance to reserve space or to obtain a substantially reduced rate. The name of the person, full name of the conference, dates of the conference and the reason for prepaying must be included on the purchase voucher.

Conference registration fees may also be paid directly by the employee and then reimbursed by the state agency. However, the employee will not be reimbursed prior to attending the conference. Advance payment is only allowed when the voucher is payable to the organization sponsoring the conference.

### **Employee Certification/Licensure**

Employees may be reimbursed for fees required to maintain professional certification or licensure. The authority for such payment is contained in Attorney General Opinion No. JM-1063 (1989), which states that a state agency may constitutionally pay professional fees or occupation taxes on behalf of its employees "if the responsible agency authority determines that the agency will receive adequate return on such expenses, that is, that such expenses would be directly and substantially related to the agency's governmental function." If a state agency elects to pay the fees on behalf of Certified Public Accountants (CPAs) in its employ, the \$200 professional fee normally paid by the individual becomes a \$55 fee to the state agency. A state employee engaged in outside practice would be personally responsible for the \$200 professional fee.

Reimbursements will be made only for fees needed to maintain a job-related certificate or license; incidental or non-job related certifications do not qualify. Costs such as examination or course fees to initially obtain a license or certificate, late payment penalties, discretionary membership fees, or other related professional costs will not be subject to reimbursement as a professional membership fee.

### **Employment of Retirees**

An institution of higher education may employ a person who has retired under the Teacher Retirement System (TRS) if the governing board determines that the employment is in the best interest of the institution, and the person has been retired for at least 30 days before the effective date of the employment. The same applies to a person retired under the optional retirement system, except that the rehire after retirement may occur without a break in service.

### ***Contract Negotiations Prior to Retirement (Only for Employees Utilizing TRS Retirement Program)***

Normal age retirees may not have a contract, agreement or promise of future employment at the time of retirement unless the employment meets one of the exceptions to loss/forfeiture of benefits:

- Normal age retirees may have a contract, agreement, or promise of future employment at the time of retirement for one-half time employment, full-time employment for up to six months, or employment as a bus driver.
- Normal age retirees may negotiate for employment as a classroom teacher in an acute shortage area or as a principal or assistant principal provided the contract includes a 12 consecutive month break in service after the date of retirement before the retiree begins work.

Early age retirees may not have a contract, agreement, or promise of future employment at the time of retirement. Negotiations to return to work may not occur until after the required 30 day break in service. Employees (utilizing the TRS retirement program) entering into contracts, agreements, or promises to return to work that do not meet these requirements, risk revocation of their retirement and the loss of all associated benefits of retirement.



### **Flowers, Floral Arrangements, and Plants**

A state agency may not use state funds to purchase flowers, floral arrangements, or decorative plants for a state officer or employee or for the friends or family of a state officer or employee. Similarly, state funds may not be used to purchase, lease, or maintain live or artificial indoor plants unless the agency is an institution of higher education **and** the plants are to be used for educational or research purposes. As a general rule, purchases from state funds should be limited to vegetation dirt, potting soil, fertilizer, and seeds needed for erosion prevention, research, or agriculture.

Please contact your fiscal office for further guidance on the use of state and institutional funds for these purchases.



### **Food Purchases**

The use of state funds for the purchase of food is very limited. State funds **cannot** be used for the purchase of food, coffee or related items for consumption by employees or departmental visitors. State funds can, however, be used to pay for food purchases related to research or teaching in a class or lab setting. The purpose must be clearly documented. Food purchases directly related to conferences, seminars, research or teaching, should be coded as Food Purchases (expense object code 4050).

Expenses for food and/or refreshments from institutional funds are authorized to the extent such expenses enable the state agency to carry out their educational function, serve to promote education in the State of Texas, and provide an important public service. All food purchases must follow A&M System Regulation 21.01.12 at <http://tamus.edu/offices/policy/policies/pdf/21-01-12.pdf>. Food purchases for business meals should be coded using expense code 6340. Allowable food purchases other than for business meals should be coded 6339. Purchase vouchers/payment requests for reimbursement of business lunches or entertainment must contain sufficient documentation to satisfy the Internal Revenue Service's "five W's": who, what, where, when and why. If the voucher is paid without sufficient documentation to satisfy the "five W's", then amounts paid are taxable and should be included in taxable compensation on the employee's W-2.

Expenses for food and/or refreshments must comply with one or more of the following direct purposes:

- The recognition or promotion of academic achievement, athletic achievement, scholarship and/or service to an A&M System Member or the State;
- The support of educational classroom labs including early childcare, nutrition and food service labs;

- The promotion of the communication of intellectual ideas among students, faculty, staff, administrators and/or representatives of the public;
- The support of student events and activities that are sponsored by an A&M System Member;
- The recruitment of students, faculty, and staff;
- The promotion of the exchange of ideas with community leaders regarding the role of an A&M System Member in the community;
- The assistance of the Regents, accrediting agencies, officials from other universities and/or public officials in inspecting and reviewing the facilities and programs of an A&M System Member;
- The support of a program of continuing education sponsored by an A&M System Member; or
- The conduct of staff conferences and receptions or other events designed to recognize and honor employees.

The following categories of funds may be used to purchase food and/or refreshments for the purposes listed above:

- Balances in accounts funded from student service fees, bookstore allocations, and concessions may be used to purchase food and/or refreshments to the extent to which such funds have been budgeted.
- Donated unrestricted funds and funds received as registration fees for continuing education conferences and short courses may be used to purchase food and/or refreshments where provisions have been included in the registration fee.
- Funds raised and/or earned by student organizations may be used to purchase food and/or refreshments.

- Other locally generated income not restricted to administrative, education and general, research, plant expansion, loan, endowment, and/or scholarship programs may be used to purchase food and/or refreshments.



### **Gifts and Awards**

Various taxable income issues exist related to gifts and awards. The following discussion is an overview. For specific information regarding gifts and awards, please consult the A&M System Tax Manual at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> or contact the fiscal office.

In an effort to promote System-wide consistency and compliance with applicable tax regulations, the following guidelines should be used in determining the taxability of gifts, awards, and other presentations to employees:

- Cash, fringe benefits provided through the use of a charge or credit card, and cash equivalents (e.g., gift certificates) are considered taxable income to the employee regardless of the value.
- Gifts, awards, and other non-cash presentations are generally considered taxable income to the employee unless considered *de minimis* (defined below) or an employee achievement award (explained below).
- *De minimis* fringe benefits are those that are both low in cost and given on an infrequent basis. For the A&M System's purposes, gifts, awards, and presentations costing \$100 or less will generally be considered *de minimis*. In addition, the frequency of presentations should be determined on an individual employee basis (no more than two times per year). Flowers, books, fruit baskets, plaques, certificates (not gift certificates), or similar items given for a special purpose such as family death or illness, recognition of special effort, or outstanding performance may be excepted from the \$100 ceiling, with adequate documentation supporting exclusion from income. Cost and frequency must still be considered and explained in documentation concerning these types of items. Departments should refer special circumstances or questions to their fiscal office for further determination, if necessary.
- Employee achievement awards of tangible personal property costing up to \$400 per employee during a calendar year are generally not taxable to the employee. The Internal Revenue Service definition of "employee achievement awards" includes only length of service or safety awards. Each must be awarded as part of a meaningful presentation and length of service awards given to an employee must be at least five years apart. Safety awards to managers, administrators, other professional employees, or clerical employees (essentially "white-collar" staff) are generally taxable, including those under a "qualified plan" as described below. Length of service and safety awards should not be disguised compensation.
- Retirement gifts may be excluded from income as length of service awards or as *de minimis* fringe benefits. To qualify as a length of service award, the retiree may not have received a length of service award during the previous five years. Retirement gifts proportionate to the retiree's length of service may be accepted from income as *de minimis*, without regard to the \$100 ceiling. Documentation of the relationship between the retiree's length of service and the value of the gift is essential.
- "Qualified plan" employee achievement awards are not taxable up to \$1,600 per employee during a calendar year. The A&M System Member's plan should be submitted to the System Office of Budgets and Accounting for review. Qualified plans must be non-cash to be excluded from income.

Expenses for gifts and awards described above apply to **institutional fund sources only**.

State funds may be used for employee awards under the following, more specific and stricter, restrictions:

- Service awards, safety awards and other similar awards for professional achievement or other outstanding service may be presented to employees or officers at periodic intervals under rules and regulations adopted by the agency. However, the award must not exceed \$50 per employee.
- For awards to volunteers, a state agency may expend funds to purchase engraved certificates, plaques, pins, and other awards of a similar nature that do not exceed \$50 in value per volunteer. The awards may be purchased only to recognize volunteers' special achievement and outstanding service and only if the agency has established a volunteer program that complies with Chapter 2109, Texas Government Code, or with other applicable general law.

In either circumstance, awards paid from state funds should be considered *de minimus* fringe benefits for tax purposes.

As with all tax issues, documentation is required to support the decision regarding the taxability/non-taxability of the gift or presentation. Contact the fiscal office for additional guidance on this issue and related tax implications.

### **Honoraria or Speaking Fees**



There are taxable income issues related to honoraria and speaking fees. For specific information regarding honoraria or speaking fees, please consult the A&M System Tax Manual at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> or contact the fiscal office.

State agencies occasionally want to pay persons for speaking engagements. These payments are often referred to as "honoraria." If an honorarium is, in a particular case, an honorary gift or a gratuitous payment instead of compensation for services rendered, then a state agency may not constitutionally pay an honorarium. If an honorarium is, in a particular case, a euphemism for a payment to a person for services rendered, a state agency may constitutionally pay an honorarium.

### **Independent Contractors**

Discussions concerning independent contractors can become quite complex. The following is an overview. For specific information regarding Independent Contractors, please consult the A&M System Tax Manual at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> or contact the fiscal office.

State agencies are exempt from paying Social Security, deducting income tax, reporting earnings to the Texas Workforce Commission, and providing employee benefits to bona fide independent contractors or outside consultants. However, if an individual is incorrectly classified as an independent contractor, the state agency may be in violation of one or more federal and state laws including the Federal Unemployment Tax Act, the Internal Revenue Code, the Texas Unemployment Compensation Act, and the Texas Workers' Compensation Insurance Law.

Penalties for violating these laws can include payment of back wages plus liquidated damages, payroll taxes, court costs and attorney's fees, declaratory injunctive relief as defined by a court, and other

monetary penalties. The U. S. Department of Labor has stressed the following six factors as the criteria to be used in determining whether an individual is an employee or independent contractor:

- The extent to which the services provided are an integral part of the contractor's business;
- The permanency of the employment relationship;
- The amount of the contractor's investment in facilities and equipment;
- The nature and degree of control and supervision by the employer;
- The contractor's opportunities for profit and loss; and
- The amount of initiative, judgment, or foresight in open market competition with others required for the success of the claimed independent enterprise.

If an individual is employed to perform unskilled labor, is paid an hourly rate, and is closely supervised, he/she probably would not meet the test of an independent contractor and, therefore, should be treated as an employee.

The Internal Revenue Service provides additional guidance on the matter. The Internal Revenue Code provides that employment taxes are imposed on wages received by employees. The Code defines the term "employee" for FICA purposes as any individual whose employment status meets the common law requirements for an employer-employee relationship. Generally, an employer-employee relationship exists if the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the results of the work but also the details and means by which the results are accomplished. It is unnecessary for the employer to actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so.

If an employer-employee relationship exists, the designation of the parties as anything other than that of employer and employee is immaterial. Thus, if that relationship exists, it is of no consequence that the employee is designated as a partner, co-venturer, agent, or independent contractor.

### **Interagency Agreements/Contracts**

State agencies are authorized by the Texas Interagency Cooperation Act to enter into written contracts with other agencies of the State for furnishing special or technical services. The contract may be for employee services, materials, and/or equipment and must specify the kind and amount of services or resources to be provided, the basis for computing reimbursable costs, and the maximum cost during the period of the agreement or contract. Proposals for interagency contracts should be approved by the applicable Chief Executive Officer of the A&M System Member, or authorized designee, prior to disbursement of funds related to the contract. Written contracts are required only when the total amount of the transaction is expected to exceed \$50,000. In situations where the amount of the transaction is \$50,000 or less, agencies may use an informal letter of agreement instead of a contract. Interagency Agreements/Contracts must follow the Prompt Payment Act. Contract workforce

regulations also apply. All contracts, regardless of amount, negotiated by any A&M System Member must be reviewed by the A&M System Office of General Counsel before they can be finally approved.

A state agency that receives services or resources under an interagency agreement or contract may advance funds to the state agency providing the services or resources if an advance is necessary to enable the providing agency to provide the services or resources. If an advance is made, the agencies shall ensure after the services or resources are provided that the providing agency has received only sufficient funds to reimburse its total costs.

Proposed forms and instructions for Interagency Cooperation Contracts and Intrasystem Cooperation Contracts can be found at <http://www.tamus.edu/offices/budgets-acct/contracts/general-cooperation-contracts.html>.

### **Memberships - Non-Professional Organizations**

A state agency may pay a membership fee to a non-professional organization if:

1. The agency has specific or implied statutory authority for the payment;
2. The payment would serve a public purpose; and
3. The agency would receive adequate consideration/benefit in exchange for the payment.

A state agency may pay a membership fee to a private entity so that the agency may purchase goods or services at a discount only if the agency shows that the cost of goods or services plus the membership fee is less than the cost of purchasing these same items elsewhere. The purchase voucher/payment request must state the public purpose that will be served by paying the membership fee and how the payment relates to the statutory duties of the agency.

In accordance with the General Appropriations Act, a state agency may not use appropriated money to pay membership dues to any organization that pays part or all of the salary of a registered lobbyist. Membership fees can be paid with state funds **only if** written documentation is provided from the State of Texas ethics web site, <http://www.ethics.state.tx.us/dfs/loblists.htm>, confirming that the organization is not listed under "Lobby List-Registered Lobbyist and Clients, sorted by Clients."

Depending on individual A&M System Member rules or procedures, expenses for certain employee social club memberships are allowable when paid from unrestricted gift or other institutional funds. The business purpose (or percentage of business use) of the membership should be documented. Payments are considered taxable income to the employee for the portion of the membership not used for business purposes. If personal use exceeds 50%, the entire membership becomes personal income to the employee(s). Contact the fiscal office for additional guidance on this issue.

### **Memberships - Professional Organizations**

The following guidelines regarding Professional Organization Memberships relate to the expenditure of state funds. Contact the fiscal office for additional guidance on this issue.

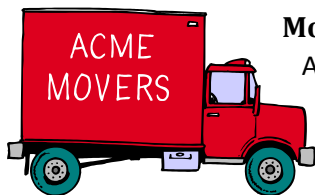
A state agency may pay a membership fee to a professional organization if:

- The agency has specific or implied statutory authority for the payment;
- The payment would serve a public purpose; and
- The agency would receive adequate consideration/benefit in exchange for the payment.

A state agency may not spend state funds to pay a membership fee or dues to a professional organization unless the head of the agency, or his/her designee, reviews and grants prior written approval for the expense. It is suggested that a list of organizations be prepared and submitted annually for approval.

Memberships in professional organizations should be in the name of the state agency and not in the name of an individual. The purchase voucher/payment request must state the public purpose that will be served by the expense and how the expense relates to the specific statutory duties of the department or agency.

The General Appropriations Act says that a state agency may not use appropriated money to pay membership dues to an organization that pays part or all of the salary of a registered lobbyist. Therefore, membership fees can be paid with state funds only if you provide written documentation that you have checked the State of Texas ethics web site, located at <http://www.ethics.state.tx.us/dfs/loblists.htm>, and confirm that the organization is not listed under "Lobby List-Registered Lobbyists and Clients, sorted by Clients."



### **Moving Expenses**

A state agency may use any source of funds to pay the reasonable, necessary, and resulting costs of moving the household goods and effects of a state employee. However, the costs are payable only if:

- The employee is being transferred from one designated headquarters to another;
- The agency determines that the transfer is in the best interests of the state; and
- The distance between the boundaries of the two designated headquarters is at least 25 miles.

State-owned equipment must be used to move the household goods and effects of the transferring employee. However, if state-owned equipment is unavailable, a state agency may pay for the services of a commercial transportation company or for self-service vehicles to facilitate the move. A state agency may directly pay a commercial transportation company or the owner of a self-service vehicle, instead of reimbursing a state employee, as long as purchasing procedures have been followed.

A state employee who transfers from one designated headquarters to another because the employee is transferring from one state agency to another qualifies for moving expense reimbursements from the state agency to which the employee is transferring. This only applies if the employee accepts employment at the new state agency before the employee ceases working for the old state agency. Only institutional funds may be used in the situation where a *new* employee's moving expenses are being paid in fulfillment of the employment contract.

The following discussion is informational only. Additional information regarding tax implications related to payment of moving expenses can be found in the A&M System Tax Manual located at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> or by contacting the fiscal office.

Amounts received by an employee as payment for, or reimbursement of, moving expenses which are attributable to employment, must be included in gross income as compensation for services, except where deductible as qualified moving expenses. Qualified moving expenses are:

- travel (including lodging but not meals) to the new residence, and
- transportation of household goods and personal effects, including rental of moving vehicles or payment to a moving company, boxes, tape, and packaging material.

If the employee uses his car to take himself, members of his household, or his personal effects to his new home, he can calculate expenses by deducting either:

- Actual expenses, such as gas and oil, for his car if he keeps an accurate record of each expense

or

- The Federal standard mileage rate of \$0.19 per mile

Qualified expenses must be made under an accountable reimbursement plan which requires that original receipts be obtained. IRS Rules generally consider a moving expense to be “qualified” when the distance from the old residence to the new principal place of work is at least 50 miles more than the distance from the old residence to the old principal place of work. Where an employee did not have a former place of work, the distance from the old residence to the new principal place of work must be at least 50 miles. In addition, the employee must generally be employed full-time by the same employer for at least 39 weeks during the 12-month period immediately following arrival at the location. Employees should contact their tax advisor for individual income tax advice.

Qualified moving expenses should be coded as State Employee Relocation - Qualified Expenses (expense object code 1925) and non-qualified moving expenses should be coded as State Employee Relocation - Non-Qualified Expenses (expense object code 1926).

### **Notary Fees**

Effective September 1, 2002, the State of Texas no longer requires employees designated as notaries to purchase notary bonds. The following quote outlines the state’s stance on notaries in relation to being bonded:

*The state will defend and reimburse a state employee for damages, attorney’s fees and court costs adjudged against them when the damages are based on an act or omission in course and scope of the person’s employment (Civil Practice and Remedies Code Section 104.001). So when notarizing documents outside the course and scope of your work duties, you will not have the protection for your actions unless you personally purchase the notary bond.*

All notary applications are to be submitted to the State Office of Risk Management with a check for \$11.00 made payable to the Secretary of State. Procedures and applications can be found on the web at [http://www.sorm.state.tx.us/Risk\\_Management/Bonds\\_and\\_Insurance/notary\\_forms.php](http://www.sorm.state.tx.us/Risk_Management/Bonds_and_Insurance/notary_forms.php) . If you have any questions or need additional information, please contact the System Office of Risk Management.



### **Payments to Non-U.S. Citizens**

“Payments to Non-U.S. Citizens” is a complex process. The following is an overview. For more detailed information, please refer to the A&M System Tax Manual, located at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> , or contact the fiscal office prior to the event.

All payments to non-employee foreign nationals for services performed or expenses being paid or reimbursed on behalf of that individual must include a copy of the foreign individual’s entry visa or evidence of temporary non-immigrant status. It would also be helpful to know whether the individual has met the “substantial presence test.” There are different types of visas and the federal government has determined what types of expenses may be paid for services provided. In some instances, scholarships may be subject to withholding. Texas A&M University - Financial Management Services - Accounts Payable has included a chart entitled “A Summary of Visa Options for Schools with International Students and Scholars” on its homepage at <http://union.okstate.edu/ISS/Documents/VisaOptionsSummary.pdf> that may be helpful in determining probable tax status, depending on visa type. For visa types that only allow payments for expenses, reimbursement may only be made with actual receipts. Payments to individuals who are non-resident aliens require either a Social Security Number or an Individual Taxpayer Identification Number (ITIN) **prior** to being paid. This includes payments being made on behalf of that individual (i.e. direct bills for hotels and airlines). If an individual is not eligible for a Social Security Number, he/she should apply for an ITIN.

To identify the countries included on the List of Tax Treaties, access the IRS website at <http://www.irs.gov/>. In the “Search IRS Site for” field type in *tax treaties*, then click on the first link “Income Tax Treaties.” This is a list of treaties. If the country is on the List of Tax Treaties, the United States has a tax treaty with that country and the individual will need to complete an Internal Revenue Service Form 8233 located at <http://www.irs.gov/pub/irs-pdf/f8233.pdf> .

If the country is not on the list, then the United States does not have a tax treaty with that country. In this instance, the individual will receive 70% of the amount due and a second purchase voucher, made payable to the Internal Revenue Service, will need to be prepared for the remaining 30% of the payment.

### **Penalties**

State funds may not be used to pay a penalty to any person or entity unless a valid federal law or regulation requires the payment. A late charge is not a penalty if the charge reasonably relates to the

costs incurred by a person or entity because a state agency was late in making a payment. In contrast, a late charge is a penalty if the charge does not reasonably relate to the costs incurred by a person or entity because a state agency was late in making a payment.

### **Private Consultants**

A consulting service is the practice of studying an existing or a proposed operation or project of an agency and advising the agency with regard to the operation or project. The term does not include services connected with the routine work necessary to the functioning of an agency's programs. The key words are "studying" and "advising," rather than "performing."

Private/outside consultants may be used if there is a substantial need and such services cannot be adequately performed by agency personnel or through contract with another state agency. Such contracts may be entered into by following normal contracting procedures. See System Regulation 25.99.03 (<http://www.tamus.edu/offices/policy/policies/pdf/25-99-03.pdf>) for exemptions, requirements, and procedures related to the contracting process.

Before entering into a consultant services contract which is reasonably foreseen to exceed \$25,000 during its term, the state agency must notify the Legislative Budget Board and the Governor's Budget and Planning Office of their intent, provide information that demonstrates that there is a substantial need for the consulting service and that the agency cannot adequately perform the services with its own personnel or obtain consulting services through a contract with another state agency.

At least 30 days prior to entering into a consulting services contract that is reasonably foreseen to exceed \$25,000, the state agency must file a document with the secretary of state for publication in the *Texas Register*. The document must:

- Invite consultants to provide offers of consulting services; and
- Identify the individual who should be contacted by a consultant that intends to make an offer; and
- Specify the closing date for the receipt of offers; and
- Describe the procedure by which the state agency will award the contract.

If the consulting services sought by a state agency relate to services previously provided by a consultant, the agency must disclose that fact in the invitation for offers. If the agency intends to award the contract for the consulting services to a consultant that previously provided the services, unless a better offer is received, the agency must disclose its intention in the invitation for offers.

Notice of a consulting services contract award must be published in the *Texas Register* no later than 20 days after entering into the contract. The notice should include a description of the activities that the consultant will conduct; the name and business address of the consultant; the total value and the beginning and ending dates of the contract; and the dates on which documents, films, recordings, or reports that the consultant is required to present to the agency are due.

A state agency must provide written notice to the Legislative Budget Board for all consulting services contracts (including amendments, modifications, renewals or extensions) that exceed \$14,000. Contact your fiscal office for additional information.

A state agency may not divide a consulting services contract into more than one contract to avoid the requirements outlined above.

An individual who offers to provide consulting services to a state agency and who has been employed by that agency or by another state agency at any time during the two years preceding the making of the offer must disclose in the offer the nature of the previous employment with the agency, the date the employment was terminated, and the annual rate of compensation for the employment at the time of its termination. If the state agency accepts the individual's offer, information regarding the individual's previous employment and its nature must be included in the Texas Register notice posted after the contract is awarded.

**The employment of any individual by an A&M System Member as a private consultant, in addition to his/her normal employment with the same Member, should be processed through the payroll system.** When the funding source for the contract will be state funds, an institution of higher education may not enter into a consulting services contract with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency.

The System Office of General Counsel (OGC) must review any contract for outside counsel. OGC will then submit the contract to the Attorney General's office for approval. When payment to an outside counsel is requested, the invoice must be forwarded to OGC, accompanied by the current Outside Counsel Agreement previously approved by the Attorney General's office for approval. Please contact the fiscal office for additional information.



### **Professional Services**

Professional services are services within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, real estate appraising, land surveying or professional engineering, professional nursing or those services performed by any licensed or registered architect, landscape architect, optometrist, physician, surgeon, registered nurse, certified public accountant, real estate appraiser, land surveyor or professional engineer in connection with his/her professional employment or practice.

The selection and engagement procedures for professional services are subject to the Professional Services Procurement Act (Chapter 2254, Subchapter A, Texas Government Code). Selection should be based on demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices, as long as professional fees are consistent with and not higher than the published recommended practices and fees of the various applicable professional associations and do not exceed the maximum provided by law. Any contract or agreement for professional services in violation of any provisions of the Professional Services Procurement Act is void and of no effect.

Professional service contracts are not subject to the same notification, publication, and reporting requirements as private consultant contracts. However, a state agency must provide written notice to the Legislative Budget Board of a professional services contract, other than a contract for physician or optometric services, if the amount of the contract (including amendment, modification, renewal, or extensions) exceeds \$14,000. Additional information regarding the procurement of professional services can be found in System Regulation 25.99.03, located at <http://www.tamus.edu/offices/policy/policies/pdf/25-99-03.pdf>.

If state funds will be used to make payments under the contract, a state agency may not enter into a professional services contract with a former or retired employee of an agency before the first anniversary of the last date on which the individual was employed by the agency. The agency, however, is not prohibited from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee's leaving the agency, provided that the former or retired employee does not perform services on projects for the corporation, firm, or other business entity that the employee worked on while employed by the agency.



### **Publications**

State funds may not be used for the publication, recording, production, or distribution of any item or matter unless the publication, recording or production is: (1) essential to accomplish or achieve a strategy or outcome target established by the General Appropriations Act; or (2) required by law. This includes lists, notices, pamphlets, video tapes, audio tapes, microfiche, films, or other electronically produced information or records.

State funds may not be expended to print a publication of any type that prominently displays the name or picture of a statewide elected official, any appointed officer of the state, or an employee. If a state agency wants to distribute a publication that includes a photograph of a state official or employee or displays the name of a state official or employee in large type or on a repetitive basis, then the agency must provide an advance copy of the publication to the State Comptroller for review.

Each state publication must clearly reflect the date that the publication is produced or initially distributed by a state agency in a conspicuous location at or near the beginning of the publication.

### **Recruitment of Students**

State funds may not be used for recruiting out-of-state students. This includes transportation costs for out-of-state prospective students or university employees. Institutional funds may be used for out-of-state recruiting costs.



### **Speakers**

Per the Texas Ethics Commission publication, *A Guide to Ethics Laws for State Officers and Employees*, you may not solicit, agree to accept, or accept an honorarium in consideration for services you would not have been asked to provide but for your official position. It is

permissible to accept food, transportation, and lodging in connection with a speech or other service performed in an official capacity. **Payments to individuals currently employed by the A&M System must be processed through payroll.** The Payroll contact person for the PIN where the individual is employed will provide details of what is required to process these payments. Payments to individuals who are currently not an active TAMUS employee but have been employed by the A&M System within the past year must be made through payroll.



### **State Employees Training**

The State Employees Training Act allows agencies to expend state funds to provide training and education for its administrators and employees. However, the program must relate to the current or prospective job duties of each administrator or employee who is trained under the program. See System Policy 33.05

(<http://www.tamus.edu/offices/policy/policies/pdf/33-05.pdf>) and System

Regulation 33.05.01 (<http://www.tamus.edu/offices/policy/policies/pdf/33-05-01.pdf>) for additional information.

Each state agency is required to adopt rules concerning the eligibility of its administrators and employees for training and education and the obligations assumed by them upon receiving the training and education. These rules must be approved by the Governor's Budget and Planning Office before any expenses can be made under the program.

Allowable expenses include salary, tuition and other fees, travel and living expenses, training stipends, training materials costs, and other necessary expenses of the instructor, student, or other participant. A copy of the governor's approval of the agency's training plan must be attached to the purchase voucher/payment request.

The State Employees Training Act was amended by the 76<sup>th</sup> Legislature by adding certain restrictions and liabilities should an employee fail to continue being an employee for a certain length of time after the

training period is complete. Prior to the start of three or more months of training in which an employee will not be performing his regular duties, the employee must agree in writing to work at least one month for each month of training received or pay the agency for all costs associated with the training. Training costs include any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensatory leave. The Board of Regents may, in a public meeting, waive these requirements if it is found to be in the best interest of the agency or is warranted because of an extreme personal hardship suffered by the employee. If an employee does not fulfill the written agreement and is not released from the obligation to provide services or make the payments, the employee is liable to the state agency for any associated training costs and for the agency's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees.

### **Subscriptions**

Subscriptions should be in the name of the applicable A&M System Member. In general, payment cannot be made more than six weeks before the start of the subscription period. If payment is required

earlier than six weeks, an explanation must be included on the purchase voucher/payment request. The beginning and ending date of the subscription must be stated on the purchase voucher.

### **Taxes - Federal and State**

The Texas A&M University System is exempt from most federal and Texas state taxes. We are also exempt from other states' sales tax if the goods are being shipped to us in Texas. Business meals that are direct billed to the state agency are tax-exempt. Exceptions are as follows:

- Reimbursement of sales tax to an individual who has purchased goods for an A&M System Member can only be made from certain institutional funds. Departments are encouraged to submit a Texas Sales and Use Tax Exemption Certification to the vendor at the time of purchase. The form can be found on the State Comptroller's website at <http://www.cpa.state.tx.us/taxinfo/taxforms/01-3392.pdf>. A copy of the form can be obtained from the Member's fiscal office. Please contact the fiscal office to determine which institutional funds may be used. (Refer to the Travel Voucher section of these Guidelines for additional information on sales tax on lodging.)
- State agencies are required to pay the federal tax and may be required to pay certain state tax on bulk fuel purchases. State agencies are exempt from paying federal tax on telephone bills and regular fuel purchases that are required to be purchased on the fleet card.

*Note: Texas agencies are required to collect sales tax when selling items to a final purchaser who is not tax exempt.*



### **Telecommunications**

A state agency may not buy, rent, or pay toll charges for a telephone for which the telephone number is not listed or available to the public from directory assistance. This prohibition does not apply if the unlisted telephone number is used to provide access to computers, telephone system control centers, long-distance networks, elevator control systems, and other tone-controlled devices for which restricted access to the telephone number is justified for security or other purposes.

### **Telecommunication Service Fees and Surcharges**

A state agency may not pay the following fees and surcharges:

- 9-1-1 emergency service fee imposed on local exchange access lines or equivalent local exchange access lines (also referred to as USA Regulatory Obligation & Fees, or Emergency Service Charge)
- 9-1-1 emergency service fee imposed on wireless telecommunications connections
- 9-1-1 equalization surcharge imposed on intrastate long-distance services (also referred to as Texas Equalization Surcharge by AT&T)
- Texas Universal Service Fund (TUSF) Charge

- 800 calls from payphones
- Poison Control Surcharge (also referred to as Telephone Tax by AT&T)
- Texas Infrastructure Fund (TIF) Assessment (also referred to as Texas State Special Fee or Special Tax)
- Federal Excise Tax (also referred to as Federal Tax)
- State Sales Tax
- County Sales Tax
- Local/City Sales Tax
- Metro Transit Authority (MTA) Tax
- Late charges (does not include wireless providers)
- Property Tax (also referred to as Federal Regulatory Fee by AT&T)
- Administrative Expense Fee (AT&T)

Additional information regarding telecommunications fees, taxes and surcharges can be found on the Department of Information Resources website at <http://www.dir.state.tx.us/store/tsd/oagtaxexempt.htm#fuf>.

### **Tips and Gratuities**

Based on Attorney General Opinions, reimbursements to employees for tips or gratuities paid voluntarily in connection with business meals can only be made from gift or other institutional funds. Payments of mandatory service charges imposed by a vendor may be paid from any institutional fund under the same requirements applicable to food purchases. Tips and gratuities cannot be paid or reimbursed from state funds.

### **Utility Services**



A utility may not bill or otherwise require a state agency to pay for services before the services are provided. This does not prohibit a utility from entering into an agreement with a state agency to establish a level or average monthly service billing plan. The agreement must require quarterly reconciliation of the leveled or equalized bills.

The rates that a utility charges a state agency may not include an amount representing a gross receipts assessment, regulatory assessment, or similar expense. The Public Utility Regulatory Act prohibits a telecommunications utility that provides service to a state agency from imposing a fee, a penalty, interest, or any other charge for delinquent payment of a bill for that service.

### **Travel Vouchers**

## **General Discussion**

A travel voucher is a voucher submitted by a current or prospective state employee for reimbursement of travel expenses relating to official state business after travel has occurred.

The following items need to be provided when preparing the travel voucher:

- Agency approval
- Agency object code
- Agency voucher number
- Certification by traveler
- Payee identification number
- Department to which trip expenses will be charged and departmental voucher number, where applicable
- Departure and arrival times
- Designated headquarters of person claiming reimbursement
- Destination
- Mode of travel
- Name and title of person claiming reimbursement
- Statement regarding purpose of the trip and how it benefited the agency.

Where applicable or required by the A&M System Member's fiscal office, the following information should also be included:

- Receipts for lodging costs
- Meal cost breakdown per day
- Receipts to support claims for reimbursement of public transportation (other than mass transit, parking, or taxis), public accommodations, registration fees, etc.
- Travel advance information
- Point to point mileage breakdown
- Approved travel request

A current or prospective state employee may approve a travel document only by signing the travel voucher. The signature is valid only if the signature is original. The signature is automatically revoked if

new information is added to the voucher after it is signed or information on the voucher is changed after the voucher is signed, unless the new or changed information is authorized by the traveler. It is strongly recommended that authorization also be obtained from the authorized departmental approver. The automatic revocation of a signature means that the travel document has not been approved.



### **Receipts/Reimbursements**

The lodging receipt must be original and complete. A receipt that has been altered by any person other than the commercial lodging establishment is unacceptable. A receipt to which additional information has been added is considered unaltered if the additional information does not conflict with or obscure the original information on the receipts. The name and address of the lodging establishment, the name of the employee or board member, the single room rate, and a daily itemization of the lodging charges must be included on the receipt. If the lodging receipt is unavailable, the supporting documentation must include the canceled check or credit card slip used to pay the establishment, the credit card billing statement on which the lodging charges appear, or a copy of the receipt, check, slip or billing. If the individual listed on a lodging receipt is different from the state employee named on the voucher, the lodging receipt is acceptable if supporting documentation includes proof that the employee paid the lodging expenses for which the employee is claiming reimbursement. The proof may be in the form of a credit card slip, a credit card billing, a canceled check, or a receipt from the individual whose name appears on the lodging receipt.

Receipts for meals are not required, unless otherwise require by your fiscal office. However, employees are encouraged to keep a record of meal expenses incurred since each employee will be reimbursed only for **actual expenses incurred**, up to the maximum rate allowed. Reimbursement will not be made for the purchase of alcohol or alcoholic beverages or for meal or taxi tips.

The original airline ticket receipt from the airline ticket booklet should be attached to the travel voucher. An itinerary alone is unacceptable. A receipt that has been altered by any person other than the airline is unacceptable. A receipt to which additional information has been added is considered unaltered if the additional information does not conflict with or obscure the original information on the receipt. If the ticket is in the form of an Electronic "Ticketless" Ticket, the passenger itinerary or receipt must be attached to the voucher. The name of the employee and airline, the ticket number, the class of transportation, the fare basis code, the travel dates, the amount of the airfare, and the origin and destination of each flight must be included on the receipt. If the passenger receipt is unavailable, then the supporting documentation must include the canceled check or credit card slip used to pay for the transportation, the credit card billing on which the transportation charges appear, or a copy of the receipt, check, slip or billing.

Receipts are not required for parking, unless otherwise required by your fiscal office. However, charges must be itemized on a daily basis and must include information about where the parking expense was incurred.

The original receipt must be attached when requesting reimbursement for a rental car. The receipt must separately itemize all charges, including the starting and ending dates of the rental, the name of

the renter and any other charges. If the receipt does not provide all the preceding items and the rental contract provides the missing items, then the contract may also be included in the supporting documentation. The contract must also be original, complete, and unaltered. State agencies are allowed to reimburse for Loss Damage Waivers (LDWs) but not for personal insurance. Most state contracts include unlimited free mileage within the state, free LDW and liability. If the receipt and the contract are both unavailable, then the supporting documentation must include a copy of the receipt or contract, the original or a copy of the canceled check or credit card slip used to pay for the rental car, or the original or a copy of the credit card billing on which the rental charges appear.

Receipts are not required for taxis, buses, or limousines, unless otherwise required by your fiscal office. However, trip-by-trip itemization is required, including date, destination and fare for each trip. If limousine is used, it must be documented that this was the most cost efficient means of transportation.

### **Limitations on Travel Expenses**

The General Appropriations Act limits the expense of state funds for employee out-of-state travel to no more than the amount spent by that agency during fiscal year 2000. The Legislative Budget Board may consider limit modification requests from agencies which demonstrate circumstances which would make such reductions in actual travel impractical or inefficient in accomplishing the agency's goals and strategies. Such circumstances may include new or expanded programs, statutorily mandated travel, or other pressing public purposes. Travel expenses incurred within the Washington, D.C. area by state agencies that are represented by their employees in the Washington, D.C. office of the Office of State-Federal Relations shall be considered in-state travel for the purpose of calculating the agency's compliance with out-of-state travel limitations.



### **State Travel Management Program**

The State of Texas has developed the State Travel Management Program in an effort to reduce the cost of travel expenses. All travel expenses paid from state funds are required to adhere to the Program guidelines, unless the specific exemptions mentioned below apply. The various fiscal offices within the A&M System have developed a Travel

Exception Form, or have incorporated an exception list on the travel voucher, which they require to be completed for all travel. The various aspects of the Program, including Air Travel, Contracted Hotel/Motel Establishments and Contracted Rental Car Companies, are discussed later.

### **Contract Travel Vendor Exceptions**

The following travel vendor contract exceptions are allowed:

- **Lower Cost to the State** - State agencies may use any travel services obtained at a price lower than the contract travel services price. State agencies are encouraged to obtain lower priced travel services through the use of fourteen day or other advanced reservations programs, promotional price reductions, or any method that provides a lower overall cost of travel.
- **Unavailability of Contract Travel Services** - The contract travel services are not available during the time or at the location necessary for the business purpose; or the contract travel service

does not provide for the service required; or because the contractor is unable to provide the contract services due to a force majeure event.

- **Special Needs** - The traveler's health, safety, physical condition or disability requires accommodations, including medical emergency or other necessary services, not available from contract travel service contractors.
- **Custodians of Persons** - The traveler has custody of a person pursuant to statute or court order and the traveler is required to provide a degree of security and safety that is not available from contract travel service contractors.
- **In Travel Status** - The traveler is in the course of travel and changes in scheduling render the use of contract travel services impractical or the appropriate travel services are not available. The traveler shall make reasonable efforts to secure rates equal to or lower than the contract travel service rates.
- **Group Program** - The traveler is using a group program wherein reservations were made through a required source to obtain a particular rate or service.
- **Emergency Response** - The traveler is responding to a public health or safety emergency situation.
- **Legally Required Attendance** - The traveler is required by a court, administrative tribunal or other entity to appear at a particular time and place without sufficient notice to obtain contract travel services.

### **Additional Information**

Additional travel-related information is available in "Textravel", a web resource developed by the State of Texas (<https://fmx.cpa.state.tx.us/fmx/travel/textravel/index.php>). State travel contracts are modified periodically throughout the year; therefore, you are encouraged to bookmark the web site and refer to it when making business travel arrangements.



### **Air Travel**

Airfare must be charged to either a JP Morgan Chase departmental Centrally Billed Account (CBA) or to an employee's State of Texas JP Morgan Chase Corporate Card.

The only exception allowed is in the instance where an employee receives a fare lower than the contracted airfare if a contracted airfare exists and an airline ticket charged to a personal credit card provides the traveler with more accident insurance coverage than the departmental CBA or the Corporate Card. Both the departmental CBA and the Corporate Card provide door-to-door, \$500,000 accident insurance for business trips.

When the state has a contract airfare between two cities, the contract airline must be given preference when making reservations to travel between those two cities. State contract airfare can only be charged to a departmental CBA or an employee's Corporate Card; it cannot be charged to a personal credit card. The exception for use of personal credit cards that offer higher insurance rates does not apply to contract airfare rates. Exceptions to the requirement to use contract airfare are as follows:

- Contract travel agency alternative
- Lower total cost to the state
- Efficient use of services
- Health and safety issues
- Corporate travel charge card alternative

In 1984, the Texas Ethics Commission issued an opinion about whether a public servant may use a travel discount or bonus for a private purpose if the discount or bonus is earned because of travel paid with public funds. The commission said that the personal use of a travel discount or bonus under these circumstances would not violate Section 39.01(a), Texas Penal Code, if the discount or bonus cannot be used for a public purpose. The determination of whether a discount or bonus can be used for a public purpose must be made by each public entity. Section 39.02, Texas Penal Code, effective September 1, 1994, addresses the issue further. Frequent flier miles and other awards or discounts given for frequent use of a commercial airline (or motor vehicle rental company) are not “things of value” belonging to state government because of the administrative difficulty and cost involved in recapturing the award for state government.

However, an employee may occasionally purchase a ticket from a commercial transportation company (for state business) and receive a free second ticket under a promotional program sponsored by the company. The employee may not use the free ticket for a private purpose until the A&M System Member determines whether the use is prohibited by law. The A&M System Member may choose to request an Ethics Commission or Attorney General opinion regarding the proposed use. Please contact the fiscal office for assistance.

### **Common Questions Regarding Contracted Airfares**

1. Who is required to use contracted fares?
  - All state employees working for state agencies.
2. Who is prohibited from use of contracted fares?
  - Persons providing professional, consulting, or contracted services may not use the contracted airfare if the State is paying any amount for the persons’ time or services. If the State is paying for their travel expenses then they are eligible to use the contract rates.
3. What are the benefits of using contracted fares?
  - No advance purchase requirement.

- No minimum/maximum length of stay requirement.
  - No fee or penalty for changing or canceling a reservation.
4. What is a contracted fare? ( <http://www.window.state.tx.us/procurement/prog/stmp/> )
- The State of Texas has entered into a contract with airlines to provide travel to or from specific destinations at a fixed rate. These fares are one-way, in alphabetical order only, and applicable in both directions. Domestic contract airline fares listed include the Federal Excise Ticket Tax, but do not include segment fees, passenger facility charges (PFCs are additional fees assessed by many airports and/or cities which airlines must collect for them), or any other mandatory fees assessed by the airlines, airports, and/or local governments. The taxes and fees will be itemized separately on the ticket/itinerary receipt. All of these fees are reimbursable.
5. How to get contracted fares?
- Make your reservations through a travel agency. Be sure to identify yourself as a State of Texas employee to receive the State contract rate.
6. How to know if you are getting the contracted fare?
- The codes “YCATX” or “\_CATX” will be on the ticket under FARE BASIS. The “YCATX” fare is last seat availability. The “\_CATX” fare basis code indicates a market that is capacity-controlled by the airline with a limited number of seats available at the contract rate. The far right hand column includes the fare code for those city-pairs that were awarded a “\_CATX” fare.
  - If all flight segments are not the same code, then “MULTI” will appear under FARE BASIS. When this occurs, the individual fare basis codes are located at the end of the itinerary line after the date. For example: “From: OLBB WN866 Y 03JANYCATX”. “MULTI” can mean that only part of the flight is on a contracted airfare. When this occurs, an exception must be completed for the part of the flight that is not a contracted airfare.
  - By using the contracted fares, the traveler can be assured that ticket costs are not more than the maximum allowable reimbursement. Effective January 1, 1994, the purchase or reimbursement of commercial air transportation may not exceed the contract airfare unless an exception applies.
7. How to pay for the contracted fare?
- Tickets may be purchased only with the State’s contracted JP Morgan Chase charge accounts – the department’s CBA or an individual’s Corporate Card. The individual

Corporate Card can only be used by the person to whom it is issued. Allowable expenses are for business travel only; personal expenses are prohibited. The traveler will be reimbursed on a travel voucher after the trip has been completed.

- The department's CBA covers the following persons:
  - a) State employees
  - b) Prospective employees
  - c) Students
  - d) Speakers (may not be eligible for contracted airfare)
  - e) Professional service providers (may not be eligible for contracted airfare)

### **Other Issues**

- Restrictions on the use of state funds for international travel apply. (See Foreign Travel section.)
- Payments for change or cancellation of travel plans are allowed on either state or institutional funds with a clear statement of business reason, illness or personal emergency.
- Prospective employees who make their own travel arrangements can only be reimbursed up to the contracted airfare rate and their personal card insurance coverage must exceed the coverage on the CBA. A statement must be added on the front of the voucher indicating that the prospective employee made their own travel arrangements. Prospective employees should be advised of these restrictions. Departments should use their CBA and make the travel arrangements for the prospective employee.
- Student travel expenses cannot be paid from state funds unless the student is considered an employee. The same guidelines used for state employees would be used. If the student is not considered an employee, student travel expenses can only be paid from institutional funds on an account that allows student travel. The purpose and dates of travel must be included on the front of the purchase voucher.
- When travel arrangements must be canceled, contact the travel agency and JP Morgan Chase immediately to begin the process to receive credit or a refund. If airfare was prepaid, apply credit to future payments and state on the front of the voucher the business reason for cancellation.

### **Cancellation Charges**

In general, a state agency may pay or reimburse a state employee for a cancellation charge if:

- the charge is incurred for a reason related to official state business; or

- the charge is incurred for a reason related to official state business that could not be conducted because of a natural disaster or other natural occurrence; or
- the charge is related to a transportation expense that was paid in advance to obtain lower rates and is incurred because the employee was unable to use the transportation because of an illness or a personal emergency.

Cancellation charges are not reimbursable if the employee should have, but failed to, cancel a travel reservation or plan in time to avoid the charge.



### **Combining State and Personal Business**

If a traveler combines personal travel with official state business travel, the traveler is only allowed reimbursement amounts specifically addressed by *Textravel*. Any meal, lodging or car rental expenses that were incurred on personal days cannot be reimbursed.

Overnight meal and lodging expenses incurred while traveling to and staying at a duty point the day before official state business begins at the duty point are reimbursable. Overnight meal and lodging expense incurred while traveling to and staying at a duty point more than one day before official state business begins at the duty point are not reimbursable unless the expenses are incurred to qualify for a discount airfare according to *Textravel*, or traveling to the duty point reasonably requires more than one day and the expenses are reimbursable under *Textravel*.

Overnight meal and lodging expenses incurred while staying at and traveling from a duty point the day after official state business ends at the duty point are reimbursable. Overnight meal and lodging expenses incurred while staying at and traveling from a duty point more than one day after official state business ends at the duty point are not reimbursable unless the expenses are incurred to qualify for a discount airfare according to *Textravel*, or traveling to the duty point reasonably requires more than one day and the expenses are reimbursable under *Textravel*.

If the requirements of *Textravel* do not apply, then generally a state employee who uses a rented motor vehicle for both personal business and official state business may be reimbursed only for the portion of the rental charges that is attributable to official state business. A state employee may not be reimbursed for the rental of a motor vehicle if the rental was necessary only because the employee combined personal business with state business.

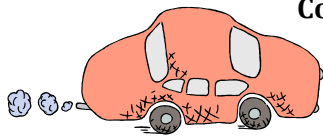


### **Contracted Hotel/Motel Establishments**

The State of Texas has contracted with numerous lodging establishments to provide state employees with discounted hotel rates. These can be found on the State Travel Management Program website at

<http://www.window.state.tx.us/procurement/prog/stmp/> . These hotel/motel establishments should be used whenever possible. The following exceptions to the use of contracted hotel/motel establishments are allowed:

- Contract travel agency alternative
- Lower total cost to the state
- Efficient use of services
- Health and safety issues
- Corporate travel charge card alternative



### **Contracted Rental Car Companies**

State of Texas employees must use Advantage Rent-a-Car, Avis, or Enterprise, except as noted:

- Contract travel agency alternative.
- Lower total cost to the state.
- Efficient use of services.
- Health and safety issues.

Upon making reservations at Advantage, Avis or Enterprise, be sure to give them your agency's state contract identification number: Advantage is xxx-TXC, Avis is F999xxx and Enterprise is TXxxx (where "xxx" is your state agency number). State Travel Management Program rental car rates and contract provisions can be found at <http://www.window.state.tx.us/procurement/prog/stmp/> .

### **Death of a State Employee**

A state agency may use state funds to pay or reimburse the expense of preparing and transporting the remains and personal property of an employee who dies while conducting official state business at a duty point outside the employee's designated headquarters to the employee's designated headquarters or another location designated by the executor or administrator of the employee's estate. If they are transported to a location other than the designated headquarters, then the amount of the agency's payment or reimbursement may not exceed the amount that would have been paid or reimbursed had they been transported to the headquarters.

The agency may use state funds to pay or reimburse the employee's estate for a lodging expense incurred by the employee at the duty point. A lodging expense incurred more than one day after the employee's death, however, is not payable or reimbursable. The amount of a payment or reimbursement may not exceed the amount that the agency would have been authorized to pay or reimburse if the employee had not died.

### **Excess Travel Expenses**

Some A&M System Members have funds available to pay excess travel expenses. Contact the fiscal office for additional guidance on this issue.

### **Foreign Travel**



Appropriated funds may not be used to pay or reimburse a state employee for travel expenses incurred while traveling to or from, or staying at, a duty point in a foreign country other than Canada and Mexico, unless the Chancellor has approved the travel before departure.

A Request for Foreign Travel (<http://www.tamus.edu/offices/budgets-acct/acct/travel/index.html>) must be completed and submitted to the Chancellor no later than 30 days prior to the scheduled travel. The Request for Foreign Travel should be routed through the appropriate supervisors (i.e., department head, dean, vice chancellor/president, and chief executive officer). A copy of the approved request must be attached to the related travel voucher.

A copy of the approved request must also be forwarded to the System Office of Budgets and Accounting for compilation and submission of the annual report to the Governor's Office of Budget and Planning and the Legislative Budget Board by October 1<sup>st</sup> of each year.

### **Funeral Attendance**

According to the *Textravel* "...a state agency may pay or reimburse the employee for a travel expense the employee incurs while attending the funeral of an individual who was a state employee, a board member, or a legislator if:

- The agency determines that the employee's attendance at the funeral is appropriate under the circumstances; and
- The expense is paid or reimbursed only to the extent it could have been paid or reimbursed had it been incurred while conducting official state business."

### **Hotel Tax**

Hotel tax is not included in the maximum lodging allowance. It is calculated as a percentage of the maximum lodging amount allowed. The expense object code for in-state hotel tax is 3025 and for out-of-state hotel tax it is 3125. All hotel taxes, including state tax, may be claimed for out-of-state travel but it must also be calculated as a percentage of the maximum lodging amount allowed.

All employees of the A&M System are considered to be employees of an educational organization. As such, they are exempt from paying the state portion of the hotel occupancy tax on in-state travel. Upon checking into the hotel, the traveler must submit a Hotel Occupancy Tax Exemption Certificate (<http://www.tamus.edu/offices/budgets-acct/documents/texas-hotel-occupancy-exemption.pdf>). If the traveler fails to do so, he/she will not be reimbursed for Texas hotel occupancy tax charged to their room. Reimbursements for Texas hotel occupancy tax charged on lodging will be made only in those instances where the traveler attempted to claim exemption (as an employee of an educational organization) but was denied by the lodging establishment. In this instance, we must report the hotel to the State Comptroller's Office.



### Allowable In-State Hotel Occupancy Tax Calculation

1. Calculate the tax percentage:

$$\text{Hotel Room tax} / \text{Hotel Room charge} = \text{tax percentage}$$

If the tax percentage is above 11%, then state and local taxes were combined. The only exception to this is cities that charge a sports revenue tax.

2. Deduct the state tax of 6% if the tax percentage is above 11% to determine the local tax percent.
3. Calculate: (Percent local tax) X (room amount you are claiming) = tax allowed per night

#### EXAMPLE:

Hotel room charge = \$85.00

Hotel room tax = \$15.00

Amount you are claiming = \$80.00

1.  $15.00/85.00 = 18\%$
2.  $18\% - 6\% = 12\%$  local tax rate
3.  $\$80.00 \times 12\% = \$9.60$  allowed per night

### Incidental Expenses



A state employee is entitled to be reimbursed for the following expenses if they are incurred for an official state business reason. This is only a partial list.

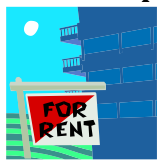
- Telephone calls
- Gasoline charges when rented or state-owned or leased motor vehicles are used
- Repair charges when a state-owned motor vehicle is used
- Copying charges
- Freight charges for state equipment or materials
- Foreign travel: airport boarding passes, departure taxes, or inoculations
- Postage
  
- Notary fees
- Charges to exchange U.S. currency for foreign currency and vice versa

- Mandatory charges by a commercial lodging establishment other than the room rate and additional person charges
- Books or documents purchased for and while attending a seminar or conference
- Mandatory service charges for loading and unloading state equipment
- Fax charges
- Service charges validly imposed by a travel agency

The following expenses are **not reimbursable**:

- Any expense that does not relate to official state business.
- Tips and gratuities.
- Excess baggage charges for personal belongings.
- Personal expenses, such as rental or purchase of a video tape for personal entertainment, an alcoholic beverage, dry cleaning, or laundry.
- Kennel expenses for a pet.

### **Lease of Apartment or House**



Various taxable income issues exist related to temporary lodging for one year or longer. For more specific information regarding temporary lodging of one year or more, please consult the A&M System Tax Manual at <http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html> or contact the fiscal office.

A state agency may use state funds to reimburse a state employee for the expense of leasing an apartment or house if:

- the employee leases the apartment or house from a commercial lodging establishment; and
- The employee is listed as a tenant on the lease; and
- the purpose of leasing the apartment or house instead of renting a room at another type of commercial lodging establishment is conservation of funds; and
- the agency reasonably anticipates at the time the lease is entered into that the employee or other state employees will be using the apartment or house while conducting official state business throughout the term of the lease; and
- the agency reasonably anticipates at the time the lease is entered into that the apartment or house will be used for at least one month and less than twelve months; and
- the agency would not be prohibited from reimbursing the employee for lodging expenses if the employee had instead rented a room from a different type of commercial lodging establishment.

A state agency that may reimburse a state employee for the expense of leasing an apartment or house also may reimburse the employee for an application fee paid by the employee while applying to lease the apartment or house.

When a state employee leases an apartment or house, the amount of the reimbursement is equal to the expense of leasing the apartment or house. The reimbursement may not exceed the “daily lodging rate” multiplied by the sum of: (a) the number of days the apartment or house was used while conducting official state business; and (b) the number of days the apartment or house was not used while conducting official state business. In this instance, “daily lodging rate” means the maximum lodging reimbursement rate for the duty point in which the apartment or house is located. If the apartment or house is located outside a duty point because a reasonable apartment or house cannot be obtained in the duty point, then the term means the maximum lodging reimbursement rate for the location in which the apartment or house is obtained.



### **Lost or Stolen Tickets**

A state agency may reimburse a state employee for a ticket or similar item that has been lost or stolen only if the agency determines that the loss or theft occurred despite the employee’s exercise of reasonable care to safeguard the ticket or item. If a state agency pays or reimburses for a ticket or similar item that is subsequently lost or stolen because of a state employee’s failure to exercise reasonable care to safeguard it, then the employee is liable to the agency for its value.



### **Meals and Lodging**

Each employee who travels on state business will be reimbursed on the basis of actual expenses for meals and lodging to a maximum amount; for in-state travel, the maximum daily amount allowed is established by the State Legislature. The current rate for lodging is \$85 a day and meals are reimbursed upon actual receipts, but should not be reimbursed more than \$36 a day. Most members’ employees are only reimbursed for meals when they stay overnight. The A&M System does not pay partial per diem. If a member chooses to pay a partial per diem, the member is required to add this reimbursement benefit to the employee’s taxable income per IRS rules.

Employees traveling out-of-state receive actual cost of meals and up to a maximum flat rate for lodging based on federal regulations. The current Out-of-State Meal and Lodging Rates schedule is available at [http://www.window.state.tx.us/fm/travel/out\\_of\\_state/rate\\_sched.html](http://www.window.state.tx.us/fm/travel/out_of_state/rate_sched.html). If the duty point and the county in which the duty point is located are not listed, then the median rate for that state applies when traveling to the duty point.

If the out-of-state rates are insufficient, there are two ways to increase the maximum allowance for lodging:

- Traveler may voluntarily decrease the meal allowance to increase the lodging rate. (The lodging rate cannot be decreased to increase the meal allowance rate.)

- Traveler may send a request to the fiscal office requesting a higher rate if reasonable lodging is unavailable or he can prove he will save money overall. The request can be made on a “Request to Increase Maximum Out of State Lodging Rate” form found at [https://fm.x.cpa.state.tx.us/fm/forms/lodging/Sample\\_Max\\_Lodging\\_Form.pdf](https://fm.x.cpa.state.tx.us/fm/forms/lodging/Sample_Max_Lodging_Form.pdf). It is recommended this form be submitted no later than the 10<sup>th</sup> working day before travel begins. (Completion of this form is no longer required. Member fiscal departments can determine whether they want to continue with this form)

The State has authorized reimbursement to the Chancellor, Presidents and Agency Directors for actual meal and lodging expenses up to two times the rate authorized for other state employees. Members of the Board of Regents are entitled to receive reimbursement for their meal and lodging expenses up to \$121 per day for in-state travel or actual expenses for out-of-state travel (not to exceed the maximum flat rate for meals and lodging based on Out-of-State Meal and Lodging Rates) when traveling on official business. A Board Member may not receive reimbursement from appropriated funds for expenses related to out-of-state travel before filing with the Texas Ethics Commission copies of all documents that will be submitted to the State Comptroller and Legislative Budget Board in support of the travel expense claim.



### **Mileage**

Mileage can be reimbursed anytime a personally owned vehicle is used for official State business. Mileage is currently reimbursed at \$0.55/mile (effective January 1, 2009), the State-allowed rate, and must be itemized on a point to point basis on the travel voucher. The State has provided an on-

line mileage guide to assist travelers. It can be found at <https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php>.

Payment of any mileage reimbursement above the federal mileage reimbursement rate will result in taxable income to the employee. Gasoline is not reimbursable if mileage is being claimed; however, gasoline may be reimbursed in lieu of mileage, but reimbursement may not exceed the amount that would have been reimbursed for mileage. In this case, you must show the mileage comparison on the voucher.

If another methodology is used to reimburse for mileage, the method must be documented on the travel voucher and cannot exceed the State reimbursement rate.

When two or more employees are traveling with the same itinerary on the same dates, they are required to coordinate their travel and ride together. Mileage can only be claimed for one car for every four people, unless sufficient documentation is provided to justify payment for more than one vehicle.

### **Mileage for Out-of-State Travel**

A state employee is entitled to be reimbursed for mileage when the employee uses a personally owned or leased motor vehicle to travel to and from a duty point outside Texas including a duty point in a foreign country. The mileage reimbursement must be equal to the actual miles traveled between the

employee's designated headquarters and the duty point multiplied by the mileage rate, subject to the limitations specified in this section.

In this section, "expenses necessary to complete the flight" means the sum of:

- the number of miles between the employee's place of employment and the airport multiplied by the mileage rate; and
- necessary and reasonable expenses that would have been incurred at the airport had the employee flown, including parking fees.

In those instances where the out-of-state duty point is served by commercial airlines, a mileage reimbursement for travel may not exceed the lesser of:

- the reimbursement that the employee would have received had the employee flown, which is equal to the average coach airfare (including taxes, security surcharges, and facilities fees) plus the expenses necessary to complete the flight; and
- the actual miles to and from the duty point multiplied by the mileage rate.

In those instances where the out-of-state duty point is not served by commercial airlines, a mileage reimbursement for travel may not exceed the sum of:

- the average coach airfare (including taxes, security surcharges, and facilities fees) to the locale served by a commercial airline that is closest to the duty point; and
- the number of miles between the locale and the duty point multiplied by the mileage rate; and
- the expenses necessary to complete the flight.

When at least two state employees travel together to and from a duty point outside Texas in a personally owned or leased motor vehicle, the mileage reimbursement to the owner or lessee of the motor vehicle is equal to the lesser of:

- the mileage rate multiplied by the number of miles between the place of employment of the owner or lessee and the employees' duty point; and
- the limit established by the two preceding discussions.



### **Parking**

In most instances, a state agency may reimburse a state employee for a parking expense incurred when the employee travels in a state-owned or leased motor vehicle, a personally

owned or leased motor vehicle, or a rented motor vehicle. A state agency may not reimburse a state employee for a parking expense incurred at a location if all the mileage incurred to reach the location is not reimbursable. A parking expense incurred by an individual while dropping off or picking up a state employee at the airport is reimbursable.

The supporting documentation for the reimbursement of a parking expense must list each day the expense was incurred and the amount of the expense incurred each day, as well as the locations where the expense was incurred. A receipt is not required.

### **Prospective Employees - Travel**

When a state agency requests a prospective state employee to travel to the agency's offices for an interview or evaluation, the agency may reimburse the prospective employee for travel expenses in the same manner as a state employee other than a key official. A prospective employee is not exempt from hotel State and local occupancy taxes. Those taxes may be reimbursed as an incidental expense. If the lodging establishment bills the agency directly, then the charge is exempt from state hotel State occupancy tax.

### **Recruitment of Students**

Appropriated funds may not be expended for travel expenses incurred outside the boundaries of the State of Texas for the purpose of direct recruitment of students.

### **Spousal Travel**

U. S. Treasury Regulation Section 1.132-5(t)(1) allows reimbursement for travel expenses of an employee's spouse traveling with the employee by qualifying the expense as a working condition fringe benefit if the following conditions are met:

- It can be adequately shown that the spouse's presence on the employee's business trip has a bona fide business purpose, and
- The employee properly substantiates the travel.

The presence of the spouse must be essential, not just beneficial. Business functions performed by the spouse should be documented. Requests for reimbursement of expenses or for direct departmental payment of travel expenses for such persons must be approved in writing in advance of the travel by the CEO of the A&M System Member and must be paid from institutional funds available for that purpose. Reimbursement for spousal travel will be taxable income if the spouse's attendance has not been proven to be beneficial.



### **Washington, D.C. Travel for Official Appropriation Business**

State agency personnel are required to inform the Office of State-Federal Relations (OSFR) at least 7 days in advance of any travel to Washington, D.C. to confer on legislative or appropriation issues with Congress/The Federal Government, Staff or Officials. This notification should include the timing of the trip, its purpose, and the

name of a contact person for additional information. Notification can be made on-line on the Office of State-Federal Relations website at <http://www.osfr.state.tx.us/travelform.asp> .

Upon electronic submission, a confirmation page will be generated, showing the information just submitted. This confirmation page should be printed and attached to the related travel voucher.

A copy should also be forwarded to the Vice Chancellor of Technology Commercialization for System-wide reporting purposes at the address below:

Guy Diedrich  
Vice Chancellor of Technology Commercialization  
The Texas A&M University System  
Office of Technology and Commercialization  
1700 Research Parkway, Suite 250  
College Station, Tx 77843

Campus Mailstop 3369  
or  
Fax (979) 845-1402

According to OSFR, travel through any of the three major airports (Ronald Reagan Washington National, Baltimore-Washington International or Washington Dulles International) is considered travel to the greater District of Columbia area and requires completion and submission of a notification form.

## **Appendix I: Glossary**

### **State Funds**

State funds include General Revenue and Higher Education Funds (HEF) appropriated to the institution or agency by the legislature and on deposit with the State until disbursement. Local Funds Held in the State Treasury are also considered to be "State Funds" for purposes of these guidelines. Local Funds Held in the State Treasury, also commonly referred to as "other educational and general funds," include net tuition; special course fees charged under Sections 54.051(e) and (l), Education Code; lab fees; student teaching fees; hospital and clinic fees; organized activity fees; and proceeds from the sale of educational and general activities or equipment. State funds also includes funds included in your Member's appropriated bill pattern, which have been deemed to be appropriated funds by the Legislature, but are allowed to be maintained in local banks. Your fiscal office will let you know what fund type you are using. All State Funds must follow State expenditure requirements.

### **Institutional Funds**

Institutional funds are all funds collected at the institution that are not "other educational and general funds." These funds are deposited into local depository banks and expenditure of these funds must follow A&M System Policies and Regulations, as well as A&M System Member Rules. There are various types of institutional funds:

**Concessions** - Revenues generated from vending machine and pay station telephone operations are called concession funds.

**Gift Funds - Unrestricted** - Unrestricted gift funds are eligible for expense for any legally allowable institutional purpose. They may be used for any institutional purpose in carrying out official duties and responsibilities, with the following exceptions:

- No funds may be used for influencing the outcome of any election or the passage or defeat of any legislative measure.
- No funds may be used directly or indirectly to hire employees or in any other way to fund or support candidates for the legislative, executive, or judicial branches of State or Federal government.
- No funds may be used to pay the salary for full-time employment of any state employee who is also the paid lobbyist of any individual, firm, association, or corporation.
- No funds may be used by a state agency to publicize or direct attention to any individual, official, or employee of any state agency.
- No funds may be used to purchase policies covering claims arising under the Texas Tort Claims Act.

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- No funds may be spent by a state agency to carry on functions for which funds have been appropriated to the Office of State-Federal Relations.
- No funds may be used to enter into a consultant contract with any individual who has been employed by the department or agency within the past 12 months.

**Gift Funds - Restricted** - Restricted gift funds are eligible for expense only as allowed by the donor's wishes.

**Grants and Contracts** - These funds must be spent in accordance with applicable statutes and provisions of the applicable grant or contract.

**Other** - These funds represent all other locally collected funds. These funds are eligible for expense for any legally allowable institutional purpose. This category includes Auxiliary Enterprise Funds, student fees, short course and registration fees, etc.

## **Appendix II: Expense Object Codes**

### **Major Categories**

#### **1100-1899 Personnel Services**

1100-1699 Salaries

1700-1899 Wages

#### **1900-1999 Employee Benefits**

#### **2000-2999 Reserved for TAMRF**

#### **3000-3999 Travel**

3000-3099 Travel - In-State

3100-3199 Travel - Out-of-State

3200-3599 Travel - Other

#### **4000-4899 Supplies and Materials**

#### **4900-4959 Regulatory and Compliance**

#### **5000-6999 Other Direct Expenses**

5000-5039 Utilities

5040-5099 Reserved for TAMRF

5100-5199 Telecommunications

5200-5259 Fees

5260-5299 Reserved for TAMRF

5300-5349 Judgments and Court Costs

5350-5369 Consulting Services

5370-5399 Reserved for TAMRF

5400-5499 Professional Services

5500-5555 Maintenance and Repairs

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5556-5599	Reserved for TAMRF
5600-5699	Other Services
5700-5799	Non-Capitalized Furnishings and Equipment
5800-5899	Rentals and Leasing
5900-5929	Scholarships
5930-5999	Reserved for TAMRF
6000-6049	Grants
6050-6099	Reserved for TAMRF
6100-6149	Debt Retirement
6150-6199	Reserved for TAMRF
6200-6450	Other
6451-6499	Self Insurance Program
6500-6899	Reserved for TAMRF
6900-6999	Items Purchased for Resale

### **7000-7999 Reserved for TAMRF**

### **8000-8999 Capital Outlay**

8000-8099	Land
8100-8199	Buildings
8200-8299	Improvements Other than Buildings
8300-8349	Leasehold Improvements
8350-8399	Lease Purchases
8400-8479	Equipment
8480-8499	Reserved for TAMRF
8500-8599	Library and Reference Books

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8600-8699 Livestock and Poultry

8700-8799 Construction in Progress

**9000-9599 Unassigned**

**9600-9679 Indirect Cost Expense**

**9680-9699 Reserved for TAMRF**

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*Please refer to FAMIS Screen 806 for a current listing of expense object codes used by your A&M System Member. Screen 306 provides a list of exempt expense object codes.*

*A searchable database containing definitions for usage of all current expense object codes can be found at <http://www.tamus.edu/apps/objcodes/>.*

### **Appendix III: References**

The following items/publications were consulted during the preparation of this manual and should be considered for further reference:

- State of Texas Purchase Policies and Procedures Guide  
<https://fmx.cpa.state.tx.us/fm/pubs/purchase/index.php>
- Textravel  
<https://fmx.cpa.state.tx.us/fmx/travel/txtravel/index.php>
- General Appropriations Act, 80<sup>th</sup> Legislature, Regular Session, House Bill No. 1  
[http://www.lbb.state.tx.us/Bill\\_80/7\\_Conference/80-7\\_Conference\\_0507.pdf](http://www.lbb.state.tx.us/Bill_80/7_Conference/80-7_Conference_0507.pdf)
- Out-of-State Meal/Lodging Rates  
[https://fmx.cpa.state.tx.us/fm/travel/out\\_of\\_state/index.php](https://fmx.cpa.state.tx.us/fm/travel/out_of_state/index.php)
- The Texas A&M University System Policies and Regulations  
<http://tamus.edu/offices/policy/index.html> :
  - 21.01.03 Disbursement of Funds
  - 21.01.05 Service Departments
  - 21.01.12 Purchase of Food and Refreshments
  - 25.06.01 System HUB Program
  - 25.07.01 Contract Administration Procedures and Delegations
  - 25.99.02 Component Purchasing Authority
  - 25.99.03 Contracting for Private Consultants and Professional Services
  - 25.99.05 Interagency and Intrasystem Transactions
- Texas A&M University System Tax Manual  
<http://www.tamus.edu/offices/budgets-acct/tax/taxmanual/index.html>
- Texas Penal Code <http://tlo2.tlc.state.tx.us/statutes/petoc.html> :
  - Section 39.01(a)
  - Section 39.02

## Appendices

- Attorney General Opinion JM-1063 <http://www.oag.state.tx.us/opinopen/opindex.shtml>
- Texas Education Code <http://tlo2.tlc.state.tx.us/statutes/edtoc.html> :
  - Section 51.009
  - Section 54.051(e)
  - Section 54.051(l)
- Texas Government Code <http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm> :
  - Chapter 656    Chapter 771
  - Chapter 2109    Chapter 2113
  - Chapter 2155    Chapter 2157
  - Chapter 2158    Chapter 2205
  - Chapter 2251    Chapter 2252
  - Chapter 2254, Subchapter A
- Internal Revenue Service Forms and Publications  
<http://www.irs.gov/formspubs/>
- U. S. Treasury Regulations
  - Section 1.132-5(t)(1)