

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** July 21, 2022

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of the General Counsel (Harper) *SMC*  
Office of Commission Clerk (Teitzman) *AJT*  
Division of Administrative and IT Services (Kissell) *LK*

**RE:** Docket No. 20220127-PU – Proposed repeal of Chapter 25-25, F.A.C., concerning purchasing procedures; proposed repeal of Rule 25-22.002, F.A.C., Agenda of Meetings; proposed repeal of Rules 25-22.100, 25-22.101, 25-22.1035, 25-22.104, 25-22.105, and 25-22.107, F.A.C., concerning management of records; and proposed repeal of Rule 25-22.033, F.A.C., Communications Between Commission Employees and Parties.

**AGENDA:** 08/02/22 – Rule Proposal – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** La Rosa

**RULE STATUS:** Proposal May Be Deferred

**SPECIAL INSTRUCTIONS:** None

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## Case Background

The Joint Administrative Procedures Committee (JAPC) staff recently reviewed, pursuant to Section 120.545, Florida Statutes (F.S.), the Commission's rules in Chapter 25-25, Florida Administrative Code (F.A.C.), Purchasing – General Purchasing Procedures, and Chapter 25-22, F.A.C., Rules Governing Practice and Procedure, and submitted letters to the Commission, questioning the authority, necessity, and form of certain rules in those chapters.

Rules 25-25.001 through 25-25.030, F.A.C., address the Commission's procurement and purchase procedures of goods and services.<sup>1</sup> The Commission has statutory authority to implement procedures for the purchase of goods and services pursuant to Section 350.0603, F.S., and Chapter 287, F.S.<sup>2</sup> In the 1980s and early 1990s, Rules 25-25.001 through 25-25.030, F.A.C.,<sup>3</sup> (Chapter 25-25 or purchasing rules) were adopted to implement the Commission-specific purchasing procedures.

On February 4, 2022, the Commission received a letter from JAPC staff, requesting that the Commission review and respond as to whether certain purchasing rules require amendment or repeal. At the time it received the JAPC letter, Commission staff was already in the process of reviewing the entire chapter of the Commission's purchasing rules and had concluded that the entirety of Chapter 25-25, F.A.C., should be repealed.

Rule 25-22.002, F.A.C., Agenda of Meetings, was adopted in 1981 and has not been amended since 1999. The rule provides that a majority vote of a quorum of the Commission is required to modify the presiding officer's decision to make a specific change in the agenda. On May 26, 2022, the Commission received a letter from JAPC<sup>4</sup> indicating that it is unclear what statute this rule implements and questioned the rulemaking authority for this rule. Because the rule is outdated and the content of this rule is already addressed by the Administrative Procedures Manual (APM) 2.11-6 "Changes Affecting Agenda Items," staff is recommending that this rule be repealed.

Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., address management of Commission records and orders as set forth by the Department of State archives rules. On June 28, 2022, the Commission received a letter from JAPC stating that the Commission may lack rulemaking authority for these rules and that the rules contain unnecessary and obsolete requirements. The

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<sup>1</sup> This recommendation does not address every provision required for state agency contracts contained in Chapters 110, 121, 215, 216, and 252, F.S. Rather, the focus of this rulemaking is the purchasing statutes that relate to Rules 25-25.001 through 25-25.030, F.A.C., only.

<sup>2</sup> Because the Commission is not an executive agency, not all of Chapter 287, Florida Statutes, is applicable to the Commission. However, the Commission follows the Chapter 287 purchasing procedures and corresponding DMS rules that address competitive bidding.

<sup>3</sup> These rules are 25-25.001, Purpose; 25-25.002, Intent; 25-25.003, Definitions; 25-25.004, Procurement Organization; 25-25.005, Delegation of Authority; 25-25.006, Formal Bids Required; 25-25.0061, Purchasing Threshold Amounts and Procedures for Automatic Annual Adjustments; 25-25.007, Legal Advertisements; 25-25.008, Contracts for Class Printing; 25-25.009, Source Selection, Bid Openings and Contract Awards; 25-25.010, Single Source Procurement; 25-25.011, Emergency Procurement, 25-25.012, Responsibility of Bidders and Offertory; 25-25.013, Multi-term Contracts; 25-25.014, Cancellation Clause; 25-25.015, Installment Sale and Purchase Contracts; 25-25.016, Exemptions from Competitive Bid Requirements; 25-25.017, Bid Borrowing; 25-25.018, Use of the Terms "or equivalent" and "no substitute"; 25-25.019, Purchases Not Requiring Formal Bids; 25-25.020, Determinations; 25-25.021, Protest of Commission Decision; 25-25.022, Acquisition of Printing, Duplicating and Reproduction Equipment; 25-25.023, Vendors and Suppliers; 25-25.024, Contractual Services; 25-25.025, Minority Business Companies; and 25-25.030, Leases for Real Property.

<sup>4</sup> The May 26, 2022 letter from JAPC also discusses the staff communication rule, Rule 25-22.033, F.A.C., which is addressed by this recommendation. With regard to the other Chapter 25-22, F.A.C., rules that JAPC commented on in its letter (Rules 25-22.001, 25-22.0021, 25-22.0022, 25-22.006, 25-22.029, 25-22.030, 25-22.032, 25-22.036, 25-22.0376, F.A.C), staff consulted with and responded to JAPC that no amendments to the rules were required, and, in some instances, technical amendments would be made to the rules. Technical amendments can be made to the rules without going through the rulemaking process in Section 120.54, F.S.

rules have not been amended since the 1990s, and Commission staff was already in the process of reviewing Rules 25-22.100 through 25-22.107, F.A.C. Staff concluded that these rules should be repealed.

Rule 25-22.033, F.A.C., addresses communications between commission employees and parties. The letter from JAPC indicated that Rule 25-22.033, F.A.C., lacks statutory authority, contains unnecessary and obsolete requirements, and does not appear to implement statutes for which the Commission has rulemaking authority. Staff is recommending that the rule be repealed.

This recommendation addresses whether Rules 25-25.001 through 25-25.030, F.A.C., Rule 25-22.002, F.A.C., Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., and Rule 25-22.033, F.A.C., should be repealed. The publication of a notice of rule development in the Florida Administrative Register is not required to initiate rulemaking for the proposed repeal of rules.<sup>5</sup> The Commission has jurisdiction pursuant to Section 120.54, F.S.

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<sup>5</sup> Section 120.54(2)(a), F.S.

## Discussion of Issues

**Issue 1:** Should the Commission propose the repeal all of the rules in Chapter 25-25, F.A.C.?

**Recommendation:** Yes. The Commission should repeal all of the rules in Chapter 25-25, F.A.C., as set forth in Attachment A. (Harper, Kissell)

**Staff Analysis:** The bulk of JAPC's comments concerning Chapter 25-25, F.A.C., pertain to references in the rules to old and repealed DMS rules, and JAPC questions whether the rules require updating.

The Commission has statutory authority to implement its purchasing procedures pursuant to Section 350.0603, F.S., which provides:

The Florida Public Service Commission may adopt rules and procedures for purchases of commodities and services, including procurement of vehicles, office space, and contractual services necessary for efficient operation. These procedures must recognize that fair and open competition is a basic tenet of public procurement and that both documentation of the acts taken and effective monitoring mechanisms are important to the process.

Although the Commission has authority to adopt its own purchasing rules and procedures pursuant to Section 350.0603, F.S., the Commission follows the procurement procedures in Sections 287.056, 287.057, 287.017, and 287.058, F.S., which together provide a framework for agency purchases and include thresholds that trigger competitive bidding and requests for proposals (RFPs). These statutes have corresponding Department of Management Services (DMS) Rules 60A-1.002 and 60A-1.045, F.A.C., which the Commission also follows. This statutory framework provides for the competitive bid or "RFP" process for purchases greater than \$35,000 total, as well as exceptions to the RFP process for "sole source," "alternative contract services," or "state term" contracts.

Historically, most of the Commission's purchases of goods and services have been below the \$35,000 threshold amount that triggers competitive bidding under Chapter 287, F.S. For these purchases, the Commission purchase order (P.O.) or "P-Card" procedure is consistent with the requirements of Chapter 287, F.S., and the DMS rules. The Commission does not utilize any of the Chapter 25-25, F.A.C., rules in order to make P.O. or P-card purchases.

Although outdated, Rules 25-25.001 through 25-25.030, F.A.C., in large part attempt to reiterate the DMS purchasing rules along with the Commission's APM procedures with one notable exception, Rule 25-25.016, F.A.C. Rule 25-25.016, F.A.C. provides an exception to competitive bidding for the Commission and states, in relevant part:

(2) When the Central Procurement Officer finds that *commodities equivalent to those offered on state contracts can be purchased at less than state contract prices, such commodities may be purchased, without advertising, through the informal bid procedure defined in subsection 25-25.003(10), F.A.C.* This procedure may be used regardless of commodity pricing but all such purchases

must have prior approval of the Agency Head, or his designee, and be clearly designated as exceptions to the state contracts awarded by the Department of Management Services.

(emphasis added). While the Commission has statutory authority pursuant to Section 350.0603, F.S., to implement this rule, the rule is no longer used for practical reasons because there are now more cost-effective purchasing mechanisms that do not require the use of the PSC's exception in Rule 25-25.016, F.A.C. The rule has therefore become obsolete.

Because the Commission's Chapter 25-25, F.A.C., purchasing rules are not being used and contain issues as noted by JAPC, staff believes that the purchasing rules are unnecessary and outdated and that the repeal of the chapter would result in a more streamlined procurement process. For the above-stated reasons, staff recommends that Rules 25-25.001 through 25-25.030 should be repealed.

### **Statement of Estimated Regulatory Costs (SERC)**

Before the adoption, amendment, or repeal of any rule, an agency is encouraged to prepare a statement of estimated regulatory costs (SERC) of the proposed rule, as provided in Section 120.541, F.S. Pursuant to Section 120.54(3)(b), F.S., a SERC is required when the proposed rules will have an adverse impact on small business or the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule. Staff determined that the repeal of Chapter 25-25, F.A.C., does not trigger the requirements for a SERC pursuant to Section 120.541, F.S., because Chapter 25-25, F.A.C., has no affect on small businesses or on regulatory costs. Staff also determined that a SERC is not necessary because the rules proposed for repeal do not exceed the regulatory cost threshold of Section 120.541(1)(b), F.S. Moreover, the repeal of Chapter 25-25 does not require legislative ratification pursuant to Section 120.541(3), F.S. For these reasons, a SERC has not been prepared for this rulemaking.

### **Minor Violation Rules Certification**

Pursuant to Section 120.695, F.S., the agency head must certify for each rule filed for adoption whether any part of the rule is designated as a rule the violation of which would be a minor violation. The Commission maintains a list of minor violation rules on its website. The Chapter 25-25 rules are currently listed as minor violation rules. Thus, staff recommends once the rules are repealed that the Commission remove the rules from the list of minor violation rules.

### **Conclusion**

Based on the foregoing, staff recommends that the Commission should propose the repeal of all of the rules in Chapter 25-25, F.A.C., as set forth in Attachment A.

**Issue 2:** Should the Commission propose the repeal of Rules 25-22.002, 25-22.100 through 25-22.107, and 25-22.033, F.A.C.?

**Recommendation:** Yes. The Commission should propose the repeal of Rules 25-22.002, 25-22.100 through 25-22.107, and 25-22.033, F.A.C., as set forth in Attachment A. (Harper, Teitzman)

**Staff Analysis:** JAPC's letter also addresses a number of rules in Chapter 25-22, F.A.C., which pertain to the Commission's practice and procedure.

### **Rule 25-22.002, Agenda of Meetings**

Rule 25-22.002, F.A.C., provides that a majority vote of a quorum of the Commission is required to modify the presiding officer's decision to make a specific change in the agenda. JAPC's letter indicated that it is unclear what statute this rule implements and that it may lack rulemaking authority. Staff agrees with JAPC that the rule lacks implementation authority. Moreover, staff believes that the content of this rule is already addressed by APM 2.11-6 "Changes Affecting Agenda Items," which is a more appropriate location for this content than in a rule. For these reasons, staff recommends that this rule should be repealed.

### **Rules Addressing the Clerk's Office's Recordkeeping of Orders**

In addition, JAPC's letter inquired about the necessity and authority for Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., which address recordkeeping performed by the Commission Clerk's office. For example, Rule 25-22.100, F.A.C., addresses the indexing, management, and availability of Commission orders. Rule 25-22.101, F.A.C., simply states that the purpose of the rule is to provide public access to and availability of all Commission orders, and Rule 25-22.1035, F.A.C., provides that the official reporter of the Commission is its website. Rule 25-22.104, F.A.C., provides the criteria for numbering of Commission orders, and Rule 25-22.105, F.A.C., states how the Commission's electronic database will be available from the Commission's website and how the Commission's orders can be publicly searched there. Rule 25-22.107, F.A.C., reiterates how the Commission will make its orders accessible and available to the public.

JAPC stated that since Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., were adopted, changes were made to Section 120.53, F.S. These changes shifted the overall coordination of agency final orders to the Department of State, so a rule can no longer cite to Section 120.53 F.S., as its law implemented. Currently, 120.53, F.S., provides general procedures for maintaining agency orders electronically, and Section 120.533, F.S., provides the Department of State's (DOS) general procedures for management of agency final orders. Also, Rule 28-101.001(h), F.A.C., State of Agency Organization and Operation (SOAO), was enacted in 1997 after the Commission Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., were adopted, and it provides how an agencies' SOAO should explain where and how orders can be accessed. As such, some of the substance of these rules is duplicative of what is currently covered by the general statutes regarding DOS' recordkeeping as well as by pages 13-15 of the Commission's SOAO.

Because Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C., largely reiterate DOS' rules, and some of the information in the rules is already addressed by the portions of the SOAO, staff believes that any information in the rules that remain pertinent to the Commission that is not yet in the SOAO can be placed there. Likewise, staff believes some of the information contained in the rules, such as how orders are indexed, is more appropriate for Section 2.1 of the Commission's APM. For these reasons, staff recommends that the Commission repeal Rules 25-22.100, .101, .1035, .104, .105, and .107, F.A.C.

### **Rule 25-22.033, Communications Between Commission Employees and Parties**

JAPC's letter also asked the Commission to review and advise as to the Commission's authority for Rule 25-22.033, F.A.C. As statutes change, rules must be updated, changed, or repealed to meet current law. If a rule was authorized by law 20 years ago but the law changes such that the rule is no longer authorized by current law, it must be repealed. Chapter 120, F.S., the Administrative Procedure Act, requires the Commission to regularly review its rules to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented.<sup>6</sup> As such, a rule must cite to a statute that it is interpreting or implementing and thus, if that citation is no longer applicable and there is no statute to interpret or implement, the rule is essentially defective. Currently, there is no statute to be implemented by Rule 25-22.033, F.A.C., and, therefore, there is no rulemaking authority for this rule.

Rule 25-22.033, F.A.C., was adopted by the Commission in 1993 and has not been amended since. Changes in the law have occurred since the rule was adopted that render the rule obsolete. In 1993, Section 120.53, F.S. gave agencies authority to adopt rules of procedure for administrative hearings under 120.57, F.S., which is why Rule 25-22.033, F.A.C., cited Sections 120.569 and 120.57, F.S., as laws implemented by the rule. However, in 1996 the Florida Legislature took away agencies' authority under Section 120.53, F.S., and transferred it to the Administration Commission.<sup>7</sup> The Administration Commission adopted the Uniform Rules of Procedure (Uniform Rules) to establish Chapter 120 procedures to be followed by all agencies and practitioners appearing before agencies.

Under current law, nothing in Chapter 120, F.S., grants agencies rulemaking authority to implement the provisions of Sections 120.569 or 120.57, F.S., unless the agency obtains an exception from the Administration Commission. Further, Rule 25-22.033, F.A.C., does not contain any specific language that implements Sections 120.569 or 120.57.

In addition to being no longer authorized by current law, Rule 25-22.033, F.A.C., no longer serves a purpose. The opening paragraph of the rule states that its intent is to "provide all parties to adjudicatory proceedings notification of and the opportunity to participate in certain communications."

Subsection (1) of Rule 25-22.033, F.A.C., provides the scope of the rule, which is to govern all communications between Commission staff and parties to docketed proceedings. In its attempt to accomplish this, Subsection (1) reiterates and paraphrases prohibitions in Section 350.042, F.S.,

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<sup>6</sup> Section 120.74(1)(d)2, F.S.

<sup>7</sup> Section 120.54(1)(e), F.S. (Supp. 1996).

an ex parte statute which applies only to Commissioners, not staff. Section 350.042, F.S., explicitly exempts Commission staff from the ex parte communication prohibition and procedures. The Commission on Ethics (COE) has interpreted Section 350.042, F.S., and recognized that under Section 350.042, F.S., Commission staff is not subject to ex parte prohibitions and instead, staff acts as gatekeeper to protect the Commissioners from receiving ex parte information. The COE opined that if staff obtains a communication that “relates to a docketed proceeding, it should be withheld from the commissioner.” The Commission follows this procedure and will continue to do so once this rule is repealed. If a Commissioner mistakenly receives an ex parte communication, as always, there is a procedure set forth by statute for notifying parties. COE 91-33, July 19, 1991.

Subsection (2) of Rule 25-22.033, F.A.C., requires that notice of any written communication between Commission employees and parties be transmitted to all other parties at the same time as the written communication, whether by U.S. Mail or other means. When Rule 25-22.033, F.A.C., was adopted in 1993, e-mail was not widely used for communications. However, currently most communications between parties are now by e-mail, which allows for efficient and simultaneous communications. Thus, Subsection (2) of Rule 25-22.033, F.A.C., is no longer practical or necessary.

Subsection (3) of Rule 25-22.033, F.A.C., requires prior notice to all parties for any staff communications with more than one party. Likewise, Subsection (4) of the Staff Communication Rule states:

Any party to a proceeding may prepare a written response to any communication between a Commission employee and another party. Notice of any such response shall be transmitted to all parties.

Staff believes that Subsections (3) and (4) of Rule 25-22.033, F.A.C., are impractical and unnecessary. The rule’s restrictions on communication are placed solely on Commission staff while parties to the docket may communicate with each other freely. This means that in order to have a question explained by a utility to more than one staff person at a time a noticed meeting must be set in advance. This is time consuming and delays staff’s ability to efficiently understand important aspects of the case.

Moreover, staff believes that Rule 25-22.033, F.A.C., is not needed to provide parties with notification and opportunity to meaningfully participate in an adjudicatory proceeding before the Commission because the Uniform Rules of Procedure, and Sections 120.569 and 120.57, F.S., provide protections for the parties. In addition, the Commission’s internal procedures assure that all parties to proceedings are aware of written communications concerning the merits of a docket. The Commission’s APM Section 2.10 C.3., Maintenance of Docket Files, states:

Files, letters, petitions, applications, pleadings, and other communications relating to matters which may result in formal Commission proceedings are to be officially filed with CLK for recording in CMS... .

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Significant documents received by staff from any party to a proceeding should be made available to all parties. Accordingly, within three working days from the receipt of such data, staff shall provide a copy of the data to CLK for placement in the official docket.

These internal procedures help ensure that all parties have access to significant communications received by staff. Thus, Subsections (4) of Rule 25-22.033, F.A.C., is impractical and unnecessary.

Subsection (5) reiterates or paraphrases prohibitions in ex parte communications found in Sections 120.66, F.S. Section 120.66, F.S., provides that in any proceedings under Sections 120.569 and 120.57, F.S., a member of the agency engaged in advocacy in connection with the matter under consideration is prohibited from making an ex parte communication to the presiding officer, which at the Public Service Commission is the Commission.<sup>8</sup> Section 120.66(1), F.S., also provides that nothing in that subsection applies to advisory staff members who do not testify on behalf of the agency in the proceedings or to any rulemaking proceedings. Subsection (5) also reiterates or paraphrases prohibitions in ex parte communications found in Section 350.042, F.S., a statute, which as noted above, does not apply to Commission staff.

Rule 25-22.033, F.A.C., contains unnecessary and obsolete requirements and does not implement statutes for which the Commission has rulemaking authority. Additionally, it impedes Commission staff's ability to efficiently develop an understanding of issues, which is needed to facilitate processing dockets before the Commission. Thus, staff recommends that this rule be repealed.

### **Statement of Estimated Regulatory Costs (SERC)**

Before the adoption, amendment, or repeal of any rule, an agency is encouraged to prepare a statement of estimated regulatory costs (SERC) of the proposed rule, as provided in Section 120.541, F.S. Pursuant to Section 120.54(3)(b), F.S., a SERC is required when proposed rule will have an adverse impact on small business or the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule. The repeal of Rules 25-22.002, 25-22.100 through .107, and 25-22.033, F.A.C., does not trigger the requirements for a SERC pursuant to Section 120.541, F.S., because these are internal, procedural rules that have no affect on small businesses or on regulatory costs. Staff determined that a SERC is not necessary as the rules proposed for repeal do not exceed the regulatory cost threshold of Section 120.541(1)(b), F.S. Moreover, the repeal of Rules 25-22.002, 25-22.100 through .107, and 25-22.033, F.A.C., does not require legislative ratification pursuant to Section 120.541(3), F.S. For these reasons, a SERC has not been prepared for this rulemaking.

### **Minor Violation Rules Certification**

Pursuant to Section 120.695, F.S., the agency head must certify for each rule filed for adoption whether any part of the rule is designated as a rule the violation of which would be a minor

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<sup>8</sup> The Commission meets the definition of "presiding officer" under Uniform Rule 28-106.102, F.A.C.

violation. Rule 25-22.002, F.A.C., Rules 25-22.100, 25-22.101, 25-22.1035, 25-22.104, 25-22.105, and 25-22.107, F.A.C., and 25-22.033, F.A.C., are currently listed as minor violation rules. Thus, staff recommends that the Commission remove the rules from the list of minor violation rules.

**Conclusion**

Based on the foregoing, staff recommends that the Commission should propose the repeal of Rules 25-22.002, 25-22.100 through 25-22.107, and 25-22.033, F.A.C., as set forth in Attachment A.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Harper)

**Staff Analysis:** If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

1       **25-25.001 Purpose.**

2       ~~The purpose of these rules is to promote efficiency, economy and the conservation of~~  
3 ~~energy in the purchase of commodities for the Commission; and to provide direction of~~  
4 ~~contractual services procurement policies.~~

5       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
6 *New 4-12-83, Formerly 25-25.01, Repealed\_\_\_\_\_.*

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1        **25-25.002 Intent.**

2        ~~As and when it appears to be to its advantage economically and administratively, the~~  
3        ~~Commission shall, as a matter of policy, make recurring purchases of those commodities~~  
4        ~~designated in the several contracts executed between the State of Florida Department of~~  
5        ~~Management Services and the designated contractors therein, according to the terms of the~~  
6        ~~applicable contracts in effect at the time of the purchases. All other purchases shall be made in~~  
7        ~~accordance with these rules unless an administrative exception to the rules has been fully~~  
8        ~~justified and approved by the Agency Head, as hereinafter provided.~~

9        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
10       *New 4-12-83, Formerly 25-25.02, Repealed\_\_\_\_\_.*

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1       **25-25.003 Definitions.**

2       ~~The following definitions shall apply in these rules:~~

3       ~~(1) “Commission” means the Florida Public Service Commission.~~

4       ~~(2) “Agency head,” for purposes of these rules, means the Executive Director of the~~  
5       ~~Commission or the Director’s designee, who shall be authorized to approve and execute~~  
6       ~~contracts for goods, equipment and services to be rendered to the Commission.~~

7       ~~(3) “A purchase” means the acquisition by contracting in any manner, whether by rent,~~  
8       ~~lease, lease/purchase or installment sales contract which may provide for the payment of~~  
9       ~~interest on unpaid portions of the purchase price, or outright purchase, from a source of supply~~  
10       ~~for either commodities or contractual services. Within the meaning of this definition, the~~  
11       ~~following are deemed not to be purchases of commodities or services:~~

12       ~~(a) Transfer, sale or exchange of personal property or services between governmental~~  
13       ~~agencies including contractual services as herein defined;~~

14       ~~(b) Commodities purchased for resale except Class B printing;~~

15       ~~(c) Utilities;~~

16       ~~(d) Public communications, i.e., telephone, telegraph;~~

17       ~~(e) Legal services including attorneys, paralegals, expert witnesses, court reporters, artistic~~  
18       ~~services, academic program reviews, lectures by individuals, auditing services, and~~  
19       ~~research/consulting services rendered by the National Association of Regulatory Utility~~  
20       ~~Commissioners;~~

21       ~~(f) Postage;~~

22       ~~(g) Transportation of persons; and~~

23       ~~(h) Employee moving expenses when arranged for according to state personnel rules and~~  
24       ~~procedures prescribed by the Commission.~~

25       ~~(4) “Commodity” means any of the various supplies, materials, goods, merchandise, Class~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~B-printing, equipment, real property, and other personal property, purchased, leased, or~~  
2 ~~otherwise contracted for by the Commission.~~

3 ~~(5) “Contractual services” means the rendering of a contractor’s time and effort without~~  
4 ~~the furnishing of commodities. Any contract providing for the acquisition of both services and~~  
5 ~~commodities is deemed to be a contract for the acquisition of commodities. Consultants’~~  
6 ~~reports for use within state government shall not be considered a commodity.~~

7 ~~(6) “Formal invitation to bid” means a solicitation for sealed bids specifically defining the~~  
8 ~~commodity or service sought, with the title, date and hour of the public bid opening~~  
9 ~~designated. It shall include printed instructions prescribing all conditions for bidding and~~  
10 ~~provide for a manual signature of an authorized representative and be distributed to all~~  
11 ~~prospective offerors at the same time.~~

12 ~~(7) “Formal bid” means a bid submitted in response to and in accordance with a formal~~  
13 ~~Invitation to Bid. It shall bear the manual signature of the vendor’s authorized representative.~~

14 ~~(8) “Formal request for proposal for contractual services” means a written request, with~~  
15 ~~the manual signature of an authorized representative and with the title, date and hour of the~~  
16 ~~public opening designated, for a sealed proposal for the service(s) sought. Such requests shall~~  
17 ~~contain the most definitive specifications possible, including applicable laws and rules,~~  
18 ~~statement of work, proposal instructions, work detail analysis and evaluation criteria.~~

19 ~~(9) “Formal proposal for contractual services” means a proposal submitted in response to~~  
20 ~~and in accordance with a formal request for proposal for contractual services. It shall bear the~~  
21 ~~manual signature of the offering contractor’s authorized representative.~~

22 ~~(10) “Informal bid” means either a written or oral quotation not requiring a public opening~~  
23 ~~at a specific time and date. Written evidence of oral quotations shall be maintained by the~~  
24 ~~Commission.~~

25 ~~(11) “Informal proposal for contractual services” means a written agreement proposed for~~  
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from  
existing law.

1 ~~services, the price of which does not exceed the threshold amount provided in subsection 25-~~  
2 ~~25.0061(1), F.A.C., for Category One and does not require a public opening at a specific time~~  
3 ~~and date.~~

4 ~~(12) "Printing" means commercial printing services and shall include any mechanical~~  
5 ~~process whereby ink is transferred to paper or other materials.~~

6 ~~(13) "Class B printing" means that portion of printing (other than Class A legislative~~  
7 ~~printing) which may be circulated to and/ or used by the general public or governmental~~  
8 ~~entities other than the State of Florida.~~

9 ~~(14) "Printed material" means any book, pamphlet, brochure, report, form, stationery,~~  
10 ~~label, tag, card or other product of printing which is purchased by the Commission.~~

11 ~~(15) "Competitive bids" means two or more valid responses to a bid invitation.~~

12 ~~(16) "Valid response" means a responsible offer in full compliance with the bid/proposal~~  
13 ~~specifications and conditions.~~

14 ~~(17) "Emergency purchase" means a purchase necessitated by a sudden unexpected turn of~~  
15 ~~events (e.g., acts of God, riots, fires, floods, accidents or any circumstances or causes beyond~~  
16 ~~the control of the Commission in the normal conduct of its business) where the delay incident~~  
17 ~~to competitive bidding would be detrimental to the interests of the Commission or the State.~~

18 ~~(18) "Single source purchase" means the purchase of a commodity or contractual service~~  
19 ~~that is available from only one source.~~

20 ~~(19) "Identical (tie) bids/proposals" means two or more bids/proposals which are equal~~  
21 ~~with respect to price, quality, and service.~~

22 ~~(20) "Mutuality of management" means two or more firms that are mutually owned or~~  
23 ~~managed submitting bids in response to bid invitations. Only the low bidder among such firms~~  
24 ~~may be considered in determining an award.~~

25 ~~(21) "Notice of decision" means the Commission's notice to vendors or other interested~~

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1 ~~persons of its decision or intended decision concerning a bid solicitation or a contract award.~~  
2 ~~Such notice shall contain the statement: "Failure to file a protest within the time prescribed in~~  
3 ~~Section 120.53(5), F.S., shall constitute a waiver of proceedings under Chapter 120, F.S."~~  
4 ~~Notices concerning bid/proposal solicitations shall be sent by United States mail or by hand~~  
5 ~~delivery. Notices of intended contract awards, including rejection of some or all of~~  
6 ~~bids/proposals received, may be given by posting the bid/proposal tabulations where the~~  
7 ~~bids/proposals were opened or by certified United States mail, return receipt requested,~~  
8 ~~whichever is specified in the bid solicitation or the request for proposal.~~

9       ~~(a) Issuance of a written notice of award or a purchase order shall establish a contract~~  
10 ~~between the Commission and the supplier on the terms, conditions and prices specified in the~~  
11 ~~Invitation to Bid and the supplier's bid response.~~

12       ~~(b) Execution of a contract representing final agreement for services shall establish a~~  
13 ~~contract between the Commission and the contractor for contractual services not acquired~~  
14 ~~under the provision of paragraph (a) above.~~

15       ~~(22) "Contract" means all types of bids, agreements or purchase orders, regardless of what~~  
16 ~~they may be called, executed by the Commission for the procurement or disposal of~~  
17 ~~commodities, services or construction.~~

18       ~~(23) "Contractual Services Administrator" means the Chief of the Bureau of Management~~  
19 ~~Studies of the Division of Economic Regulation.~~

20       ~~(24) "Contract amendment" means a written modification of an existing contract, for valid~~  
21 ~~consideration, mutually agreed to by all parties to the contract and signed by individuals~~  
22 ~~vested with the legal authority to bind the parties they represent.~~

23       ~~(25) "Contractor" means any person or firm having a contract with the Commission or~~  
24 ~~with the State of Florida Department of Management Services.~~

25       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
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existing law.

1 *New 4-12-83, Formerly 25-25.03, Amended 12-24-86, 8-15-90, Repealed* \_\_\_\_\_ ;  
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1        **25-25.004 Procurement Organization.**

2        ~~As the designated Agency Head for purposes of these rules, the Executive Director has the~~  
3 ~~authority to approve and execute contracts for commodities and services to be rendered to the~~  
4 ~~Commission. Such authority may be delegated by the Executive Director to an appropriate~~  
5 ~~staff member.~~

6        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603, 350.127(3)*  
7 *FS. History—New 4-12-83, Formerly 25-25.04, Repealed\_\_\_\_\_.*

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1        **25-25.005 Delegation of Authority.**

2        ~~The Division of Administrative and Information Technology Services shall serve as the~~  
3        ~~Central Procurement Officer for the Commission and is hereby delegated the following duties~~  
4        ~~and powers:~~

5            (1) ~~To canvass all sources of supply and negotiate for the purchase, lease, rental, or~~  
6        ~~acquisition by purchase order, contract or maintenance agreement of all commodities required~~  
7        ~~by the Commission or any of its divisions or offices under competitive bidding or by~~  
8        ~~contractual negotiations, in the manner hereinafter provided;~~

9            (2) ~~To plan and coordinate purchases in volume and to negotiate contracts and execute~~  
10       ~~purchase orders for recurring purchases of supplies and materials required by the Commission;~~

11           (3) ~~To make purchases by adopting and using the statewide contracts in effect between the~~  
12       ~~State of Florida Department of Management Services and the designated contractors therein~~  
13       ~~when determined feasible by and in the best interest of the Commission;~~

14           (4) ~~To prescribe the methods of securing bids or negotiating or awarding purchase orders~~  
15       ~~within the Commission's Division of Administrative and Information Technology Services,~~  
16       ~~Facilities Management and Purchasing Section;~~

17           (5) ~~In the event no bids are received, to negotiate on the best terms and conditions;~~

18           (6) ~~To establish standards, formulate specifications and determine the source of supply of~~  
19       ~~any commodity requisitioned by any division or office of the Commission except as otherwise~~  
20       ~~provided herein, and to set the maximum fair price that shall be paid for any commodity;~~

21       ~~provided, that this may be accomplished in coordination with the State Purchasing Office of~~  
22       ~~the Department of Management Services and by adoption of those standards, specifications,~~  
23       ~~and sources determined by the State Purchasing Office when determined feasible by and in the~~  
24       ~~best interest of the Commission;~~

25           (7) ~~To require that every division and office furnish information relative to its purchase~~

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1 ~~requirements and to prescribe methods of requisitioning commodities and services; and~~  
2 ~~(8) To formulate operating procedures necessary to carry out the purpose of this section~~  
3 ~~and to exercise supervision over the purchasing activity of the Division of Administrative and~~  
4 ~~Information Technology Services, Facilities Management and Purchasing Section of the~~  
5 ~~Commission.~~

6 *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
7 *New 4-12-83, Formerly 25-25.05, Amended 12-24-86 Repealed\_\_\_\_\_.*

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**25-25.006 Formal Bids Required.**

~~(1) No purchase of commodities or services in excess of the threshold amount provided in subsection 25-25.0061(1), F.A.C., for Category One shall be made without attempting to secure two or more formal bids unless otherwise provided for herein.~~

~~(2) Nothing in these rules shall be construed as limiting the number of bids solicited, it being the intent of the Commission to secure as many competitive bids as are consistent with good purchasing practices.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.06, Amended 12-24-86 Repealed\_\_\_\_\_.*

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1       **25-25.0061 Purchasing Threshold Amounts and Procedures for Automatic Annual**  
2       **Adjustments.**

3       ~~(1) The following purchasing threshold categories are hereby established:~~

4       ~~(a) Category One: \$11,000.~~

5       ~~(b) Category Two: \$22,000.~~

6       ~~(2) The purchasing threshold amounts shall be adjusted annually concurrent with the~~  
7       ~~Department of Management Services (DMS) State Purchasing Office's adjustment of its~~  
8       ~~threshold amounts calculated pursuant to DMS Rule 60A-1.012, F.A.C.~~

9       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
10      *New 12-24-86, Amended 6-19-95, Repealed\_\_\_\_\_.*

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**25-25.007 Legal Advertisements.**

~~All purchases in excess of the threshold amount provided in subsection 25-25.0061(1), F.A.C., for Category Two shall be advertised at least once in a newspaper of general circulation and/or in the Florida Administrative Register no less than ten calendar days prior to the bid opening. Nothing in this section shall be construed as limiting the frequency, lapse time, or number of newspapers in which the advertisement may appear; provided, however, that if the Agency Head should determine that the delay incident to such advertising procedure would be detrimental to the interest of the Commission and issues a certification accordingly, the advertising may be waived.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.07, Amended 12-24-86, Repealed\_\_\_\_\_.*

1        **25-25.008 Contracts for Class B Printing.**

2        ~~No general contract shall be let to cover Class B printing and each job so classified shall~~  
3 ~~be let separately to the lowest responsible bidder. Such contract shall apply only to the work~~  
4 ~~under consideration at the time of need. Contracts for printing shall be awarded only to~~  
5 ~~printing firms. No such contract shall be awarded to any broker, agent or independent~~  
6 ~~contractor to provide printing manufactured by other persons or firms.~~

7        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
8 *New 4-12-83, Formerly 25-25.08, Amended 12-24-86, Repealed\_\_\_\_\_.*

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1        **25-25.009 Source Selection, Bid Openings and Contract Awards.**

2        ~~(1) Public Notice. Adequate public notice of invitations to bid shall be given sufficiently in~~  
3 ~~advance of the bid openings to permit potential bidders to prepare and submit bids in a timely~~  
4 ~~manner but in no event shall notice be less than 10 days. Notice shall include as a minimum~~  
5 ~~the mailing or delivery of invitations to bid to two potential bidders on any bidder list, with~~  
6 ~~normal practice being to allow notice to as many potential bidders as may be consistent under~~  
7 ~~the circumstances with good purchasing practices. Notice may include publication in a~~  
8 ~~newspaper of general circulation for a reasonable period prior to a bid opening.~~

9        ~~(2) Bid Openings. Bids shall be opened in the public place and at the time designated in~~  
10 ~~the invitations to bid. The amount of each bid and the name of each bidder shall be recorded.~~  
11 ~~Such record and each bid thereon shall be open to public inspection. All formal bids submitted~~  
12 ~~shall prominently display on the outside of the sealed container the notation "Sealed Bid." In~~  
13 ~~the event any such bid is inadvertently opened in the course of mail handling and the contents~~  
14 ~~are known only to the opener, the bid shall be immediately resealed and the notation "opened~~  
15 ~~by mistake, contents not revealed," shall be placed prominently on the outside of the~~  
16 ~~container, in the opener's own handwriting, and be followed by the opener's signature, and~~  
17 ~~such bid shall not be disqualified solely on such grounds.~~

18        ~~(3) Bid Evaluation. Bids shall be evaluated solely on requirements set forth in the~~  
19 ~~Invitation to Bid, which may include criteria to determine acceptability such as inspection,~~  
20 ~~testing for quality and workmanship, delivery, and suitability for a particular purpose. Those~~  
21 ~~criteria that will affect the bid price and be considered in evaluation for award shall be~~  
22 ~~objectively measured, such as all or none, discounts, transportation costs, and total or life~~  
23 ~~cycle costs.~~

24        ~~(4) Withdrawal of Bids, Cancellation of Awards. Correction or withdrawal of bids which~~  
25 ~~are clearly erroneous before or after award or cancellation of awards or contracts, based on~~  
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existing law.

1 ~~such bid mistakes, may be considered if written notification of such error is received by the~~  
2 ~~Division of Administrative and Information Technology Services, Facilities Management and~~  
3 ~~Purchasing Section in a timely manner under the circumstances. Any alterations or corrections~~  
4 ~~appearing on bids when opened must have been initialed by the vendor's representative who~~  
5 ~~made the change.~~

6 ~~(5) Preference to Bidders within the State. Preference shall be given to bidders located~~  
7 ~~within the State of Florida when awarding contracts, whenever commodities bid can be~~  
8 ~~purchased at no greater expense than, and at a level of quality comparable to, those bid by a~~  
9 ~~bidder located outside of the State of Florida.~~

10 ~~(6) Receipt of no competitive bids in the First Call for Bids on Commodities Exceeding~~  
11 ~~the Threshold Amount Provided in subsection 25-25.0061(1), F.A.C., for Category One.~~  
12 ~~When no competitive bids are received for the purchase of a commodity or group of~~  
13 ~~commodities exceeding the Threshold Amount Provided in subsection 25-25.0061(1), F.A.C.,~~  
14 ~~for Category One in the first call for bids, the Division of Administrative and Information~~  
15 ~~Technology Services, Facilities Management and Purchasing Section shall review the bid and~~  
16 ~~the Invitation to Bid in order to determine the reasons, if any, why no competitive bids were~~  
17 ~~received. If it is determined that an emergency exists or that the items sought are available~~  
18 ~~only from a single source, the Agency Head shall make a certification in writing as to the~~  
19 ~~conditions and circumstances and thereby authorize the Division of Administrative and~~  
20 ~~Information Technology Services, Facilities Management and Purchasing Section to proceed~~  
21 ~~with the purchase. Otherwise, a second call for bids will be issued. If no competitive bids are~~  
22 ~~received in a second call for bids, the Division of Administrative and Information Technology~~  
23 ~~Services, Facilities Management and Purchasing Section shall review the bid and the~~  
24 ~~Invitation to Bid in order to determine the reasons, if any, why no competitive bids were~~  
25 ~~received and, with the authorization of the Agency Head, may proceed with the purchase or, if~~  
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existing law.

1 ~~the circumstances and conditions warrant, may issue another call for bids.~~

2 ~~(7) Award. The purchase order or other written notice of award shall be sent with~~  
3 ~~reasonable dispatch to the lowest responsible bidder whose bid meets the requirements and~~  
4 ~~criteria set forth in the Invitation to Bid. Normally, in the purchase of commodities or services,~~  
5 ~~the Commission's purchase order, and where applicable, the general and special conditions~~  
6 ~~contained in the invitation to bid or request for proposal and the bidder's bid response, shall~~  
7 ~~constitute the complete agreement between the Commission and the vendor/supplier and the~~  
8 ~~latter's agreement will not be used. Nothing herein shall preclude Commission use of a~~  
9 ~~separate contract document when the Commission deems a separate contract appropriate.~~

10 ~~(8) Multi-Step Sealed Bidding. When it is determined by the Central Procurement Officer~~  
11 ~~or Contractual Services Administrator to be impractical to initially prepare a purchase~~  
12 ~~description to support an award based on price, an invitation for proposals may be issued~~  
13 ~~requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to~~  
14 ~~those bidders whose offers have been qualified under the criteria set forth in the invitation for~~  
15 ~~proposals.~~

16 ~~(9) No Bid Response. In the event no bid is received in response to an Invitation to Bid,~~  
17 ~~the Central Procurement Officer shall review the bidding procedure. If it is determined that the~~  
18 ~~Invitation to Bid was issued reasonably and properly, the Division of Administrative and~~  
19 ~~Information Technology Services, Facilities Management and Purchasing Section may~~  
20 ~~proceed to purchase at the best terms and conditions available.~~

21 ~~(10) Purchases Not to be Divided. No purchase shall be divided or subdivided in order to~~  
22 ~~circumvent the competitive bid requirements of these rules.~~

23 ~~(11) Conditions to be Included in Call for Bids/Proposals. All formal bid invitations and~~  
24 ~~requests for proposals issued by the Commission shall include the Invitation to Bid/Bidder~~  
25 ~~Acknowledgement form or the "Request for Proposal/Acknowledgement" form as prescribed~~

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1 ~~and adopted by the Commission.~~  
2       ~~(12) Determination of the Best Bid. It shall be the sole responsibility of the Commission to~~  
3 ~~determine the lowest responsible and responsive bidder. In any case where the Agency Head~~  
4 ~~makes a determination to accept a bid other than the low bid meeting specifications, the~~  
5 ~~reasons for such determination shall be fully documented.~~

6       ~~(13) Right to Reject Bids; Cancellation of Invitation to Bid; Correction of Commodity~~  
7 ~~Bids. The Commission reserves the right to reject any or all bids or proposals, and to cancel~~  
8 ~~any Invitation to Bid, Request for Proposal, or other solicitation and such reservation shall be~~  
9 ~~indicated in all advertising and bid invitations. The reasons for rejecting bids and cancelling~~  
10 ~~solicitations shall be fully documented. The Commission reserves the right to waive minor~~  
11 ~~irregularities in an otherwise valid bid. A minor irregularity is defined as a variation from the~~  
12 ~~bid invitation terms and conditions which does not affect the price of the bid, give the bidder~~  
13 ~~an unfair advantage over other bidders, or adversely impact the interests of the Commission. A~~  
14 ~~bidder may not modify its bid after opening; however, calculation or typographical errors may~~  
15 ~~be corrected by the Commission.~~

16       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
17 *New 4-12-83, Formerly 25-25.09, Amended 12-24-86, 6-19-95, Repealed\_\_\_\_\_.*

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1        **25-25.010 Single Source Procurement.**

2        ~~A purchase order or contract may be awarded for commodities or services without~~  
3 ~~competitive bidding when the Agency Head determines and certifies in writing that there is~~  
4 ~~only one source for the commodities or services.~~

5        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
6 *New 4-12-83, Formerly 25-25.10, Repealed\_\_\_\_\_.*

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**25-25.011 Emergency Procurement.**

~~A purchase order or contract may be awarded for commodities or services without competitive bidding when the Agency Head determines and certifies in writing under oath, that an emergency exists which constitutes a threat to the public health, safety or welfare, or when the delay incident to competitive bidding may be detrimental to the interests of the Commission. Emergency procurement shall be accomplished with such competition as may be prudent under the circumstances.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.11, Repealed\_\_\_\_\_.*

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1        **25-25.012 Responsibility of Bidders and Offerors.**

2        ~~The failure of a bidder or offeror to supply any information required in connection with an~~  
3 ~~Invitation to Bid or a Request for Proposal may be cause for a determination of “No Valid~~  
4 ~~Response” and may lead to disqualification of the bid or proposal.~~

5        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
6 *New 4-12-83, Formerly 25-25.12, Repealed \_\_\_\_\_.*

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**25-25.013 Multi-term Contracts.**

~~A contract for commodities or services may be entered into for any period of time deemed to be in the best interest of the Commission provided the terms of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of award. Payment and performance obligation for succeeding fiscal periods shall be subject to the availability of funds and no such contract or agreement shall be entered into unless it contains the stipulation, “subject to availability of funds.” Should funds not be available in any succeeding fiscal period, such contract or agreement shall be cancelled on that ground at the beginning of such period and the contractor shall be paid only for commodities received or services used while the contract is in force.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.13, Repealed\_\_\_\_\_.*

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**25-25.014 Cancellation Clause.**

~~Any lease contract for commodities shall include a cancellation clause of 30, 60 or 90 days, as is determined to be in the best interest of the Commission. Any contract for services shall contain a provision for unilateral cancellation by the Commission for default in accordance with subsection 25-25.023(4), F.A.C., or for refusal by the contractor to allow public access to all materials made or received by the contractor in connection with the contract, subject to the provision of Chapter 119, F.S.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.14, Amended 12-24-86, Repealed\_\_\_\_\_.*

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**25-25.015 Installment Sale and Purchase Contracts.**

~~Installment sale and purchase contracts shall be accomplished on the form determined for the purpose by the Division of Administrative and Information Technology Services, which is hereby adopted, incorporated and published by reference for use by the Commission. The use of such contracts by the Commission shall be subject in each instance to preaudit review and prior approval by the State Comptroller.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.15, Repealed\_\_\_\_\_.*

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**25-25.016 Exemptions from Competitive Bid Requirements.**

~~(1) Purchases made according to state contracts, as provided in Rule 25-25.002, F.A.C., of these rules, or from the non-profit corporation established by Part II, Chapter 946, F.S., are exempt from the competitive bid requirements of these rules.~~

~~(2) When the Central Procurement Officer finds that commodities equivalent to those offered on state contracts can be purchased at less than state contract prices, such commodities may be purchased, without advertising, through the informal bid procedure defined in subsection 25-25.003(10), F.A.C. This procedure may be used regardless of commodity pricing but all such purchases must have prior approval of the Agency Head, or his designee, and be clearly designated as exceptions to the state contracts awarded by the Department of Management Services.~~

~~(3) Purchases made from the Federal General Services Administration contracts are exempt from the competitive bid requirements of these rules.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.16, Amended 12-24-86, 6-19-95, Repealed\_\_\_\_\_.*

1        **25-25.017 Bid Borrowing.**

2        ~~The practice of bid borrowing, or the use of another state agency's bid or proposal, is~~  
3 ~~prohibited.~~

4        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
5 *New 4-12-83, Formerly 25-25.17, Amended 12-24-86, Repealed\_\_\_\_\_.*

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**25-25.018 Use of the Terms “or equivalent” and “no substitute.”**

~~When an Invitation to Bid includes in the specifications an identifiable brand name or process for comparison purposes, the term “or equivalent” shall be used immediately following such identification. The term “no substitute” shall not be used for the sole purpose of limiting competition or giving preferential treatment to a particular manufacturer.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.18, Repealed\_\_\_\_\_.*

1        **25-25.019 Purchases Not Requiring Formal Bids.**

2        ~~Purchases that do not exceed the threshold amount provided in subsection 25-25.0061(1),~~  
3 ~~F.A.C., for Category One shall be made from two or more informal bids or proposals~~  
4 ~~whenever practical.~~

5        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
6 *New 4-12-83, Formerly 25-25.19, Amended 12-24-86, Repealed\_\_\_\_\_.*

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1       **25-25.020 Determinations.**

2       ~~The determinations required by these rules with regard to competitive sealed bidding,~~  
3 ~~withdrawals of bids, cancellations of awards, single source procurement, emergency~~  
4 ~~procurement, cancellation of Invitations to Bid or Requests for Proposals, responsibility of~~  
5 ~~bidders or offerors, and any other determination made by the Commission in the course of its~~  
6 ~~purchasing activity shall be final and conclusive unless found by way of an appropriate~~  
7 ~~proceeding to be erroneous, arbitrary or contrary to law.~~

8       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
9 *New 4-12-83, Formerly 25-25.20, Repealed\_\_\_\_\_.*

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1        **25-25.021 Protest of Commission Decision.**

2        ~~(1) Any person adversely affected by a Commission decision or intended decision shall~~  
3        ~~file a protest pursuant to Section 120.57(3), F.S.~~

4        ~~(2) The Chairman of the Commission shall designate a Commissioner on a case by case~~  
5        ~~basis to resolve protests filed pursuant to Section 120.57(3), F.S.~~

6        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
7        *New 4-12-83, Formerly 25-25.21, Repealed\_\_\_\_\_.*

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**25-25.022 Acquisition of Printing, Duplicating and Reproduction Equipment.**

~~(1) All printing, duplicating and reproduction equipment acquired by the Commission shall be the most cost competitive, effective equipment capable of meeting the Commission's needs. In making its determination of equipment to be acquired the Commission shall consider factors which include but are not limited to:~~

~~(a) Actual and anticipated monthly printing, duplicating, or reproduction volumes;~~

~~(b) Proximity and availability of other similar equipment; and~~

~~(c) Actual and anticipated costs utilizing commercial printers compared to actual cost utilizing existing equipment together with anticipated cost of any proposed equipment.~~

~~(2) All such equipment shall be used only for the efficient and economical production of printed material directly related to business of the state.~~

~~(3) The Commission shall maintain cost records on all such equipment.~~

*Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—  
New 4-12-83, Formerly 25-25.22, Repealed\_\_\_\_\_.*

1        **25-25.023 Vendors and Suppliers.**

2        ~~(1) Vendor Files. The Commission shall maintain a file for the purpose of bid solicitations~~  
3 ~~of those firms doing business with the state on a repetitive basis for the purchase of~~  
4 ~~commodities or contractual services in excess of the threshold amount provided in subsection~~  
5 ~~25-25.0061(1), F.A.C., for Category One per purchase. The file may consist in whole or in~~  
6 ~~part of such firms that are registered with the State Purchasing Office of the Department of~~  
7 ~~Management Services to do business with the State, and may be limited to such firms, in the~~  
8 ~~discretion of the Commission. A vendor who is not registered to do business with the State~~  
9 ~~and who desires to be included in the Commission's vendor file may file an informal~~  
10 ~~application with the Division of Administrative and Information Technology Services,~~  
11 ~~Facilities Management and Purchasing Section for the purpose. The application shall contain~~  
12 ~~the following minimum information:~~

13        ~~(a) Complete business name and address by which bids are to be solicited;~~

14        ~~(b) Name of any mutually owned or controlled firm;~~

15        ~~(c) Type of business, such as distributor, dealer (wholesale or retail), jobber, or~~  
16 ~~manufacturer;~~

17        ~~(d) Whether business is an individual, partnership, or corporation;~~

18        ~~(e) If business is a corporation, certification of compliance with Chapter 607, F.S.;~~

19        ~~(f) A description, including location, of the business facility from which commodities or~~  
20 ~~services are to be supplied;~~

21        ~~(g) Experience in sales to governmental agencies;~~

22        ~~(h) Number of employees, indicating separately the number of employees in Florida;~~

23        ~~(i) Annual sales volume;~~

24        ~~(j) Current financial statement; and~~

25        ~~(k) Full description of each commodity or service offered, including results of any~~

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1 reasonably current testing of commodities by a governmental or independent testing facility.  
2 ~~(2) Within 3 months of receipt of an application from a non-registered vendor applicant,~~  
3 ~~the Commission will conduct an investigation and notify the applicant that it is accepted or~~  
4 ~~rejected for inclusion in the vendor file. Reasons for rejection shall be clearly stated in the~~  
5 ~~notice and may include, but not be limited to undesirable business practices such as non-~~  
6 ~~performance and consistent failure to respond to bid invitations. The reasonably current~~  
7 ~~removal of a vendor from the mailing lists of the State Purchasing Office shall be a cause for~~  
8 ~~rejection. The investigation of an applicant shall not incur any expense to the Commission~~  
9 ~~other than normal salaries and employee expenses for authorized full time positions. Any~~  
10 ~~applicant whose application has been rejected may seek remedy as provided by Rule 25-~~  
11 ~~25.021, F.A.C., of these rules for persons aggrieved by the bid solicitation and contract award~~  
12 ~~process.~~

13 ~~(3) Removal from vendor files and mailing lists. The Commission may remove vendors~~  
14 ~~and suppliers from its vendor files or mailing lists on reasonable grounds. Reasonable ground~~  
15 ~~for such removal may include but shall not be limited to:~~

16 ~~(a) Consistent failure to respond to bid invitations (3 consecutive instances);~~  
17 ~~(b) Failure to perform according to contract provisions;~~  
18 ~~(c) Conviction in a court of law of any criminal offense in connection with the conduct of~~  
19 ~~business;~~

20 ~~(d) Clear and convincing evidence of a violation of any federal or state anti-trust law based~~  
21 ~~on the submission of bids or proposals, or the awarding of contracts; and~~

22 ~~(e) Removal from its mailing list by the State Purchasing Office. The Commission shall~~  
23 ~~remove from its vendor files and mailing lists any vendor or supplier whom evidence clearly~~  
24 ~~indicates has attempted to give any Commission employee a gratuity of any kind for the~~  
25 ~~purpose of influencing a recommendation or decision in connection with any part of the~~

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1 Commission's purchasing activity. The Commission shall promptly notify the State  
2 Purchasing Office of the removal of any person or firm from vendor files and mailing lists in  
3 order that notice of such action might be disseminated to other state agencies that may be  
4 affected by it.

5 (4) ~~Default. A contractor who fails to perform according to contract terms and conditions~~  
6 ~~shall be notified by certified mail, return receipt requested, of the nature of the failure to~~  
7 ~~perform and to correct the failure immediately. If the failure is not corrected within 10 days~~  
8 ~~after receipt of the notice, a notice shall be issued by certified mail, return receipt requested,~~  
9 ~~that the contractor is in default and that the Commission shall reprocure the commodities or~~  
10 ~~services subject to the contract. The defaulting contractor shall reimburse the Commission for~~  
11 ~~all reprocurement costs and for the monetary difference between the cost of substitute~~  
12 ~~commodities or services and the contract price for such commodities or services.~~  
13 ~~Reprocurement may be accomplished by attempting to contract with the second lowest bidder,~~  
14 ~~then the next lowest bidder, sequentially, until a bidder willing to perform at acceptable~~  
15 ~~pricing under the bid conditions is found. The Commission may elect to rebid or to purchase~~  
16 ~~on the open market, as may appear to be in its best interest. Default shall be a cause for~~  
17 ~~removing a contractor from the Commission's vendor files and mailing lists. All Commission~~  
18 ~~default actions shall be promptly reported to the State Purchasing Office for dissemination to~~  
19 ~~other state agencies. The provisions of these rules shall not limit or preclude the Commission's~~  
20 ~~remedies at law in cases of default.~~

21 *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
22 *New 4-12-83, Formerly 25-25.23, Amended 12-24-86, Repealed\_\_\_\_\_.*

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1       **25-25.024 Contractual Services.**

2       ~~(1) Competitive Bids on Purchases Exceeding the threshold amount provided in subsection~~  
3 ~~25-25.0061(1), F.A.C., for Category One—Unless an emergency exists or a service is~~  
4 ~~available only from a single source or if State or Federal law prescribes with whom the agency~~  
5 ~~must contract or if the rate of payment is so established, all purchases for contractual services,~~  
6 ~~or for a group of individual contractual services, in excess of the threshold amount provided in~~  
7 ~~subsection 25-25.0061(1), F.A.C., for Category One shall be made by formal competitive~~  
8 ~~invitation to bid to the maximum extent practicable. The invitation to bid shall include a~~  
9 ~~detailed description of the services sought, the date for submittal of bids, and all contractual~~  
10 ~~terms and conditions applicable for the procurement of contractual services, including the~~  
11 ~~criteria which shall include, but not be limited to, price, to be used in determining~~  
12 ~~acceptability of the bid. If the Commission contemplates renewal of the contract it shall be so~~  
13 ~~stated in the invitation to bid. No criteria may be used in determining acceptability of the bid~~  
14 ~~that was not set forth in the invitation to bid. The contract shall be awarded with reasonable~~  
15 ~~promptness by written notice to the responsive and responsible or qualified bidder who bids~~  
16 ~~the lowest price. This bid must be determined in writing to meet the requirements and criteria~~  
17 ~~set forth in the invitation to bid.~~

18       ~~(2) Public Notice—All bid and proposal solicitations in excess of the threshold amount~~  
19 ~~provided in subsection 25-25.0061(1), F.A.C., for Category Two shall be advertised at least~~  
20 ~~once in the Florida Administrative Weekly and may also be noticed in newspapers of general~~  
21 ~~circulation. The Commission shall give consideration to the complexity of the solicitation and~~  
22 ~~give adequate notice which in no event will be less than twenty-eight (28) calendar days prior~~  
23 ~~to the scheduled opening. Vendor lists of the appropriate class of vendors registered under~~  
24 ~~Rule 25-25.023, F.A.C., may be solicited. These are minimum requirements and do not limit~~  
25 ~~the Commission from additional notice. Public notice may be waived if the Agency Head~~

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1 ~~determines in writing that an unusual problem exists so that the delay incident to advertising~~  
2 ~~would be detrimental to the interest of the Commission.~~

3 ~~(3) Request for Proposals (RFP). If the Agency Head determines that the use of~~  
4 ~~competitive sealed bidding is not practicable, contractual services shall be procured by~~  
5 ~~competitive sealed proposals. A request for proposals which includes a statement of the~~  
6 ~~services sought and all contractual terms and conditions applicable to the procurement of~~  
7 ~~contractual services, including the criteria, which shall include, but not be limited to price, to~~  
8 ~~be used in determining acceptability of the proposal shall be issued. If the Commission~~  
9 ~~contemplates renewal of the contract it shall be so stated in the request for proposals. To~~  
10 ~~assure full understanding of and responsiveness to the solicitation requirements, discussions~~  
11 ~~may be conducted with qualified offerors. Said offerors shall be accorded fair and equal~~  
12 ~~treatment prior to the submittal date specified in the request for proposals with respect to any~~  
13 ~~opportunity for discussion. The award shall be made to the responsive and responsible offeror~~  
14 ~~whose proposal is determined in writing to be the most advantageous to the Commission,~~  
15 ~~taking into consideration price and the other criteria set forth in the request for proposals. The~~  
16 ~~contract file shall contain the basis on which the award is made.~~

17 ~~Request for proposals may provide for discussions to be conducted by the Commission~~  
18 ~~after proposals have been opened to allow clarification, provided adequate precautions are~~  
19 ~~taken to treat each offer fairly and ensure that information gleaned from competing proposals~~  
20 ~~are not disclosed among the offerors.~~

21 ~~(4) Receipt and Opening of Bids and Proposals. It is the bidder's/proposer's responsibility~~  
22 ~~to assure that its bid/proposal is delivered at the proper time and place of the bid opening.~~  
23 ~~Bids/proposals which for any reason are not so delivered will not be considered, however,~~  
24 ~~bids/proposals in the care, custody and control of the Commission at the time of the public~~  
25 ~~opening will be opened and evaluated for award. Offers by telephone or telegraph are not~~

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1 ~~acceptable.~~

2 ~~Bids/proposals, upon receipt, shall be maintained unopened in a secure location until the~~  
3 ~~opening time and date.~~

4 ~~Bid/proposal opening shall be public at the date, time and location specified in the~~  
5 ~~solicitation. The opening shall be conducted by an employee of the Commission and~~  
6 ~~witnessed by at least one other employee of the Commission.~~

7 ~~Bid/proposal tabulation sheets should be completed simultaneously with the public reading~~  
8 ~~of prices received. Upon completion of the tabulation, a copy shall be made accessible for~~  
9 ~~inspection by any interested party.~~

10 ~~Unless an award is to be made at the opening, all present shall be advised that the reading~~  
11 ~~of prices received does not imply or constitute an award.~~

12 ~~After bids/proposals have been opened, the documents are to remain under the supervision~~  
13 ~~of an employee of the Commission while being examined by any interested party.~~

14 ~~(5) Receipt of One Bid or Proposal—If only one response to an invitation to bid or request~~  
15 ~~for proposals is received, the Commission shall follow the procedures of subsection 25-~~  
16 ~~25.009(6), F.A.C., with the Contractual Services Administrator providing the review and~~  
17 ~~determination of the reason only one bid/proposal was received for contractual services.~~

18 ~~(6) No Bid—In the event no bids or proposals are received in response to a bid solicitation~~  
19 ~~or a RFP, the Commission may negotiate the best terms and conditions available.~~

20 ~~(7) Contract Terms—Following Notice of Award, a contract shall be executed between the~~  
21 ~~Agency Head and the vendor prior to the rendering of the contractual services except in the~~  
22 ~~case of an emergency purchase. In the event an expansion or change of work, as described in~~  
23 ~~an existing contract, becomes necessary in order for the Commission to obtain the results~~  
24 ~~required by it, such work shall not begin until a contract amendment has been executed~~  
25 ~~between the Agency Head and the contractor. At a minimum, the contract shall include:~~

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- 1       ~~(a) Scope of Services—If necessary, to be determined as provided in Commission~~  
2 ~~subsection 25-25.009(8), F.A.C.;~~
- 3       ~~(b) Description of Deliverables—A provision dividing the contract into units of~~  
4 ~~deliverables, which shall include, but need not be limited to, reports, findings and drafts, that~~  
5 ~~must be received and found acceptable, in writing, by the contract manager prior to payment;~~
- 6       ~~(c) Schedule of Events—A provision specifying the criteria for receipt of deliverables and~~  
7 ~~the interim and/or final dates by which such criteria must be met for completion of the~~  
8 ~~contract;~~
- 9       ~~(d) Funding-Out Clause—If a contract is to extend into a subsequent fiscal period, it shall~~  
10 ~~contain the stipulation, “subject to availability of funds” in accordance with Commission Rule~~  
11 ~~25-25.013, F.A.C.;~~
- 12       ~~(e) Travel Expense—A provision that billings for travel expenses be submitted in~~  
13 ~~accordance with Section 112.061, F.S., at rates established by the Commission in accordance~~  
14 ~~therewith;~~
- 15       ~~(f) Cancellation clause—A provision for unilateral cancellation of the contract by the~~  
16 ~~Commission in accordance with Commission Rule 25-25.014, F.A.C.;~~
- 17       ~~(g) Billing—A provision that billing and the payment of charges be conditioned upon the~~  
18 ~~satisfactory receipt of deliverables and that billing for all charges be in sufficient detail for~~  
19 ~~proper auditing; and~~
- 20       ~~(h) Renewal—Where applicable, a provision that the contract may be renewed on a yearly~~  
21 ~~basis, by fiscal year, as provided in the invitation to bid or request for proposal, contingent~~  
22 ~~upon satisfactory performance evaluations by the Commission and subject to the availability~~  
23 ~~of funds.~~
- 24       ~~(8) Contract File—The contract file shall include all pertinent information relating to the~~  
25 ~~contract during the preparatory stages, including documentation supporting the decision to~~
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1 ~~contract, a copy of the Invitation to Bid or request for proposals, documentation relating to the~~  
2 ~~bid process, opening of bids/proposals, and evaluation and tabulation of bids, and~~  
3 ~~determination and notice of award of contract.~~

4 ~~In addition, the file should include the bidders list used for the mailing of bids or~~  
5 ~~proposals, addendums to the bid, the bids of all bidders, literature and price lists submitted~~  
6 ~~with the bid, a copy of the legal advertisements for bids or proposals, a copy of the requisition,~~  
7 ~~a copy of the purchase order or contract and evaluation work sheets. The file should be~~  
8 ~~retained in accordance with the Commission's Records Retention Schedule.~~

9 ~~(9) Right of Rejection of Bids/Proposals—The Commission has the right to reject any or~~  
10 ~~all bids or proposals and such reservation shall be included in all solicitations and~~  
11 ~~advertisements.~~

12 ~~Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—~~  
13 ~~New 4-12-83, Formerly 25-24.24, Amended 12-24-86, Repealed\_\_\_\_\_.~~

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1        **25-25.025 Minority Business Companies.**

2        ~~(1) It is the policy of the Commission to encourage participation by minority business~~  
3 ~~companies as defined in Section 287.012, F.S., in Commission contracts.~~

4        ~~(2) If two identical bids/proposals to an invitation for bids or request for proposals are~~  
5 ~~received and one response is from a minority owned company, the Commission shall enter~~  
6 ~~into a contract with the minority owned company.~~

7        ~~(3) Except for the preferences outlined in subsections 25-25.009(5) and (2), F.A.C., of this~~  
8 ~~rule, the award of identical bids/ proposals shall be determined by lot.~~

9        *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
10 *New 4-12-83, Formerly 25-25.25, Repealed\_\_\_\_\_.*

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1       **25-25.030 Leases for Real Property.**  
2       ~~(1) The agency head may utilize the Florida Department of Management Services’~~  
3 ~~standard leasing forms and procedures developed for executive branch agencies. In the event~~  
4 ~~an emergency need exists or if suitable and comparable space can be leased at an annual cost~~  
5 ~~per square foot which is less than either: (a) the average annual cost per square foot of existing~~  
6 ~~leases (in the same county) for all other agencies which were competitively bid pursuant to~~  
7 ~~Chapter 60H 1, F.A.C., of the Department of Management Services’ rules, or (b) the current~~  
8 ~~rental rate charged by the Department of Management Services for state buildings which are a~~  
9 ~~part of the Florida Facilities Pool, or (c) 90% of the Department of Management Services’~~  
10 ~~most recently published maximum rental rate for the zone and category of services furnished,~~  
11 ~~the agency head may informally negotiate without advertising or soliciting competitive~~  
12 ~~bids/proposals.~~

13       ~~(2) If the term of a negotiated lease (including options to renew), extends beyond the~~  
14 ~~current terms for existing leases of other agencies which were competitively bid pursuant to~~  
15 ~~Chapter 60H 1, F.A.C., of the Department of Management Services’ rules, the rental rate for~~  
16 ~~subsequent years shall not increase at an annual rate which exceeds the average annual~~  
17 ~~increase per square foot for the latest three year period covered by leases of other agencies in~~  
18 ~~the same county which were competitively bid. All leases shall contain “right to terminate”~~  
19 ~~and “subject to availability of funds” clauses. Each lease shall be approved by the agency~~  
20 ~~head, and a copy shall be filed with the Department of Management Services.~~

21       *Rulemaking Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—*  
22 *New 8-15-90, Repealed\_\_\_\_\_.*

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1        **25-22.002 Agenda of Meetings.**

2        ~~A majority vote of a quorum of the Commission is required to modify the presiding~~  
3 ~~officer's decision to make a specific change in the agenda.~~

4        *Rulemaking Authority 350.127(2) FS. Law Implemented 120.525 FS. History—New 12-21-*  
5 *81, Formerly 25-22.02, Amended 4-18-94, 5-3-99, Repealed\_\_\_\_\_.*

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**25-22.100 Authority.**

~~These rules regarding the indexing, management, and availability of Commission orders are issued pursuant to Section 120.533, F.S., and Chapter 1S-6, F.A.C., and have been approved by the Department of State pursuant to Section 120.53(2)(c), F.S.~~

*Rulemaking Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History—New 9-24-92, Amended 12-27-94, Repealed\_\_\_\_\_.*

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**25-22.101 Purpose.**

~~The purpose of this part is to provide public access to and availability of all Commission orders.~~

*Rulemaking Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History—New 9-24-92, Amended 12-27-94, Repealed.*

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1        **25-22.1035 Official Reporter for Final Orders.**

2        ~~The official reporter of the Florida Public Service Commission shall be its website~~  
3        ~~www.floridapsc.com/ClerkOffice/Docket, effective January 1, 2010. The Florida Public~~  
4        ~~Service Commission Reporter (FPSCR) published by FALR will remain the designated~~  
5        ~~official reporter for final orders from January 1981 to December 31, 2009. The Florida Public~~  
6        ~~Service Commission Reporter is found at some county law libraries and is available by~~  
7        ~~subscription at the offices of FALR, Inc., P.O. Box 385, Gainesville, FL 32602. A copy of the~~  
8        ~~Florida Public Service Commission Reporter is also available for public inspection at the~~  
9        ~~Office of Commission Clerk.~~

10        *Rulemaking Authority 120.532, 120.533 FS. Law Implemented 120.53(2)(a), (d), (4) FS.*  
11        *History—New 12-27-94, Amended 2-2-10, Repealed\_\_\_\_\_.*

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1        **25-22.104 Numbering of Orders.**

2        ~~(1) All orders shall be sequentially numbered as rendered using a two-part number~~  
3 ~~separated by a dash with the first part before the dash indicating the year and the second part~~  
4 ~~indicating the numerical sequence of the order issued for that year beginning with the number~~  
5 ~~0001 each new calendar year. Amendatory orders will be assigned the same order number as~~  
6 ~~the order being amended, with the addition of the letter “A” immediately following the order~~  
7 ~~number. The assigned agency prefix which is “PSC” shall precede the two-part number.~~

8        ~~(2) The applicable order category shall be added as a suffix succeeding the agency~~  
9 ~~designation prefix and the two-part number. The order categories are as follows:~~

- 10 ~~DS    – Declaratory Statement~~
- 11 ~~FOI   – Final Order Informal Proceedings~~
- 12 ~~FOF   – Final Order Formal Proceedings~~
- 13 ~~S     – Stipulation~~
- 14 ~~AS    – Agreed Settlement~~
- 15 ~~CO    – Consummating Order~~
- 16 ~~PAA   – Proposed Agency Action Order~~
- 17 ~~TRF   – Tariff Order~~
- 18 ~~SC    – Show Cause Order~~
- 19 ~~PCO   – Procedural Order~~
- 20 ~~PHO   – Prehearing Order~~
- 21 ~~CFO   – Confidentiality Order~~
- 22 ~~NOR   – Notice of Rulemaking~~

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24        ~~(3) After the order category, the applicable industry designation shall be inserted. The~~  
25 ~~industry designations are as follows:~~

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- 1 ~~EI~~ – ~~Electric Utility—Investor Owned~~
- 2 ~~EM~~ – ~~Electric Utility—Municipality~~
- 3 ~~EC~~ – ~~Electric Utility—Rural Electric Cooperative~~
- 4 ~~EU~~ – ~~Electric Utility—All~~
- 5 ~~EG~~ – ~~Energy Conservation~~
- 6 ~~EQ~~ – ~~Qualifying Cogeneration Facility~~
- 7 ~~GU~~ – ~~Gas Industry~~
- 8 ~~GP~~ – ~~Gas Pipeline~~
- 9 ~~TA~~ – ~~Telephone Utility—Alternate Access Vendor~~
- 10 ~~TC~~ – ~~Telephone Utility—Coin (Pay) Telephone Company~~
- 11 ~~TI~~ – ~~Telephone Utility—Interexchange Company~~
- 12 ~~TL~~ – ~~Telephone Utility—Local Exchange Company~~
- 13 ~~TS~~ – ~~Telephone Utility—Shared Tenant Company~~
- 14 ~~TX~~ – ~~Telephone Utility—Competitive Local Exchange~~
- 15 ~~TP~~ – ~~Telephone (Communications) Industry Generally~~
- 16 ~~WU~~ – ~~Water Utility~~
- 17 ~~SU~~ – ~~Wastewater (Sewer) Utility~~
- 18 ~~WS~~ – ~~Water and Wastewater Utility~~
- 19 ~~PU~~ – ~~Public Utilities Generally—Applies to matters which pertain to two or more~~
- 20 ~~industries.~~
- 21 ~~OT~~ – ~~Other Matters—Administrative Matters not related to a particular industry.~~
- 22 *Rulemaking Authority 120.53(1) FS. Law Implemented 120.53(2)-(4) FS. History—New 9-24-*
- 23 *92, Amended 12-27-94, 12-26-01, Repealed\_\_\_\_\_.*
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**25-22.105 Electronic Database of Orders and Other Records.**

~~(1) The Commission’s electronic database shall be available from the Commission’s website located at [www.floridapsc.com/ClerkOffice/Docket](http://www.floridapsc.com/ClerkOffice/Docket). The database shall include the ability to electronically search dockets by docket number, docket title, and document number. The ability to search by related key words (specific words, terms, and phrases) and common and colloquial words shall be available from the “advanced search” feature on the main search page of the Commission’s website at <http://www.floridapsc.com/Home/Search>. Orders within this database may be searched using logical search terms that are in common usage, that are also contained within the text of the final orders, or by descriptive information about the order that may not be specifically contained in the order. From the Category drop-down selection on the “advanced search” feature for Orders, the search may optionally be further restricted. New subject headings will be added when necessary.~~

~~(2) Information shall be added to the Commission’s website within 24 hours of the issuance of the document by the Office of Commission Clerk.~~

*Rulemaking Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History—New 9-24-92, Amended 12-27-94, 2-2-10, Repealed\_\_\_\_\_.*

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**25-22.107 Plan for Making Orders Available to the Public.**

~~(1) The Commission shall make orders accessible and available to the public by sequentially numbering and maintaining all orders.~~

~~(2) The Office of Commission Clerk shall assist the public in obtaining information pertaining to Commission orders and may be contacted at (850)413-6770 or at Clerk@psc.state.fl.us. Questions may also be faxed to (850)717-0114.~~

~~(3) Copies of orders shall be maintained in the Office of Commission Clerk and electronically at the Commission's website, [www.floridapsc.com/ClerkOffice/Docket](http://www.floridapsc.com/ClerkOffice/Docket).~~

*Rulemaking Authority 120.53(2), (8) FS. Law Implemented 120.52(2) FS. History—New 9-24-92, Amended 12-27-94, 2-2-10, Repealed\_\_\_\_\_.*

1        **25-22.033 Communications Between Commission Employees and Parties.**

2        ~~The Commission recognizes that Commission employees must exchange information with~~  
3 ~~parties who have an interest in Commission proceedings. However, the Commission also~~  
4 ~~recognizes that all parties to adjudicatory proceedings need to be notified and given an~~  
5 ~~opportunity to participate in certain communications. The intent of this rule is not to prevent~~  
6 ~~or hinder in any way the exchange of information, but to provide all parties to adjudicatory~~  
7 ~~proceedings notification of and the opportunity to participate in certain communications.~~

8        ~~(1) This rule shall govern communications between Commission employees and parties to~~  
9 ~~docketed proceedings before the Commission. This rule shall not apply in proceedings under~~  
10 ~~Sections 120.54, 120.565, 367.0814, F.S., proposed agency action proceedings before the~~  
11 ~~Commission has voted to issue a proposed agency action order, non-rate case tariffs,~~  
12 ~~workshops or internal affairs meetings. Also exempted are docketed and undocketed audits,~~  
13 ~~telephone service evaluations, and electric and gas safety inspections. Nothing in this rule is~~  
14 ~~intended to modify or supersede the procedural requirements for formal discovery under the~~  
15 ~~Commission's rules and applicable provisions of the Florida Rules of Civil Procedure, or~~  
16 ~~affect communications regarding discovery requests, procedure, or other matters not~~  
17 ~~concerned with the merits of a case.~~

18        ~~(2) Written Communications—Notice of any written communication between Commission~~  
19 ~~employees and parties shall be transmitted to all other parties at the same time as the written~~  
20 ~~communication, whether by U.S. Mail or other means.~~

21        ~~(3) Scheduled Meetings and Conference Calls—All parties to the proceeding shall be~~  
22 ~~given reasonable notice of the time and place of any scheduled meeting or conference call~~  
23 ~~between Commission employees and parties. For purposes of this subsection, a conference~~  
24 ~~call is defined as a telephone call involving three or more persons.~~

25        ~~(4) Response to Communications—Any party to a proceeding may prepare a written~~

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1 ~~response to any communication between a Commission employee and another party. Notice of~~  
2 ~~any such response shall be transmitted to all parties.~~

3 ~~(5) Prohibited Communications—No Commission employee shall directly or indirectly~~  
4 ~~relay to a Commissioner any communication from a party or an interested person which would~~  
5 ~~otherwise be a prohibited ex parte communication under Section 350.042, F.S. Nothing in this~~  
6 ~~subsection shall preclude non-testifying advisory staff members from discussing the merits of~~  
7 ~~a pending case with a Commissioner, provided the communication is not otherwise prohibited~~  
8 ~~by law. However, a staff member who testifies in a case shall not discuss the merits of that~~  
9 ~~case with any Commissioner during the pendency of that case.~~

10 *Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57,*  
11 *350.042 FS. History—New 3-24-93, Repealed\_\_\_\_\_.*

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