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Public Service Commission

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December 10, 2004

Ms. Liz Cloud  
Bureau of Administrative Code  
R. A. Gray Building  
500 S. Bronough Street  
Tallahassee, FL 32399-0250

Re: Technical Change to Rule 25-25.021

Dear Ms. Cloud:

Enclosed is a copy of Commission Rule 25-25.021, F.A.C., replacing the reference to section 120.53(5), Florida Statutes, which is obsolete, with a reference to section 120.57(3). The provisions of section 120.53(5) were moved to section 120.57(3) in 1996.

Please call me if you have any questions. Thank you for your assistance.

Sincerely yours,

Christiana T. Moore  
Associate General Counsel

- CMP \_\_\_\_\_
- COM \_\_\_\_\_ cc: John Rosner, Joint Administrative Procedures Committee
- CTR \_\_\_\_\_ Rick Moses, Division of Competitive Markets and Enforcement
- ECR \_\_\_\_\_ Hong Wang, Commission Clerk & Administrative Services
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
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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.

*Specific 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.*

**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 Purchasing, 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.

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

**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.

*Specific 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.*

**25-25.017 Bid Borrowing.**

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

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

**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.

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

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

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

*Specific Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—New 4-12-83, Formerly 25-25.19, Amended 12-24-86.*

**25-25.020 Determinations.**

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

*Specific Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—New 4-12-83, Formerly 25-25.20.*

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

(1) Any person adversely affected by a Commission decision or intended decision shall file a protest pursuant to Section 120.53(5), F.S. 120.57(3)

(2) The Chairman of the Commission shall designate a Commissioner on a case by case basis to resolve protests filed pursuant to Section 120.53(5), F.S. 120.57(3)

*Specific Authority 350.0603, 350.127(2) FS. Law Implemented 350.0603 FS. History—New 4-12-83, Formerly 25-25.21.*