

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

FAP 111-01-00 “DEFINITIONS”: Added definitions FAP to consolidate definitions formerly interspersed throughout various FAPS. Updated definitions to eliminate conflicts with terms already defined by statute or regulation and to allow definitions to auto-update with updated statutory or regulatory definitions. NOTE: While definitions have generally been moved to the consolidated Definitions FAP, where definition(s) at issue were applicable to only single FAP and moving to consolidated Definitions FAP may have caused confusion, definitions remain linked to specific FAP.

FAP 110-03-00 “PROHIBITED CONTRACT CLAUSES”: A new FAP that addresses chronic issues the state has had with vendors who (a) have boilerplate terms that contradict mandatory state requirements and (b) are reluctant to adjust their boilerplate terms, even if not opposed to the state in principle. FAP will greatly ease difficulties regarding negotiations of terms and conditions that contradict state procurement requirements. FAP also contains suggested methods of resolving conflicts between vendor terms and conditions and state law.

FAP 110-10-00 “GENERAL CONDITIONS AND INSTRUCTIONS FOR SOLICITATIONS AND CONTRACTS”: Technical, grammatical, and formatting updates (i.e. updates to comply with FAP-defined terms). Updates to emphasize increased use of electronic procurement over paper-based processes. Additionally, FAP enumerates mandatory elements of a submitted offer.

FAP 110-12-00 “PRINCIPLES OF ACQUISITION AND PROCUREMENT”: New FAP created to clarify confidentiality and ethics requirements applicable to individuals assigned to an active procurement. “Confidential bid or proposal information” included in FAP, rather than definitions FAP, to make it easy to share FAP with applicable individuals and make it extremely clear what information it applies to. FAP also clarifies the treatment of notes during procurement process, which was at issue during recent litigation.

FAP 111-06-00 “KENTUCKY PROCUREMENT INSTITUTE”: New FAP to fulfill KRS 45A.065 and clarify the role and duties of the Kentucky Procurement Institute (KPI) to offer training and education regarding state procurement.

FAP 111-07-00 “STRATEGIC PROCUREMENT REQUESTS – SPR1”: New FAP to clarify when a Strategic Purchase Request (SPR1) is necessary, either to gain authorization for an exception to competitive purchase requirements, or to fulfill other procurement oversight requirements (i.e. COT oversight over technology purchases). The FAP additionally describes the SPR1 submission, review, and approval process.

FAP 111-11-00 “MODIFICATION OF CONTRACTS”: Primarily technical updates to existing FAP. Additionally clarifies non-material administrative modifications that do not affect the contractor, as well as limitations on a contractors ability to assign contract rights.

FAP 111-12-00 “PRINTING AND PHOTOCOPYING PROCUREMENT”: Relatively minor changes, primarily technical. Adds cross reference SPR1 require from FAP 111-07-00 and ability to refer photocopying assignments to correctional industries, consistent with their 200 KAR 5:410 bidding preference.

FAP 111-13-00 “COPIER AND PRINTER PROCUREMENT AND DISPOSAL”: Minor update to emphasize the importance of any existing managed print agreement, as well as clarification that exempt equipment must be competitively awarded.

FAP 111-15-00 “COMPUTER HARDWARE, SOFTWARE AND RELATED SERVICES PROCUREMENT”: Minor clarification of SPR1 thresholds for IT requests and increased emphasis on requirement to comply with COT enterprise policies.

FAP 111-20-00 “VEHICLE PURCHASES”: Clarification of process to purchase vehicles, both inside and outside a master agreement. Adds brief disclosure requirement to identify reason for replacement vehicle purchase. Disclosure and justification required when a replacement vehicle is an upgrade on existing vehicle. Vehicle purchase required to identify fuel type desired. Clarifies distinction between passenger and non-passenger vehicles. Clarifies process for approval of assignment of vehicle to specific individual.

FAP 111-24-00 “CONCESSION CONTRACTS”: Clarifies that concession contracts involving vending services must get Education and Workforce approval (to comply with federal blind vendor requirements). Adds reference to KRS statute containing additional concession contract requirements. Details administrative processes associated with revenue generating concession contracts.

FAP 111-26-00 “TAX EXEMPTION FOR PURCHASES”: Minor technical updates to governing authority reference, grammar, and administrative processing details.

FAP 111-27-00 “BONDING REQUIREMENTS FOR VENDORS”: Required adjustment to bond requirement threshold due to Senate Bill 91 (with emergency clause language). Clarifies that insurance companies authorized to do business can be found on Dept. of Insurance website. Minor technical and grammar updates.

FAP 111-35-00 “COMPETITIVE SEALED BIDDING”: Primarily grammar and technical updates. Adds requirement that RFP disclose where and when bids will be read. Adds bid preference legal citation. Adds emphasis to e-procurement being the default for the Commonwealth and clarification that paper copies are only permitted to the extent permitted by an RFB. Clarifies need to a written determination and finding regarding an award, along with documentation of any bid preferences at issue.

FAP 111-38-00 “REQUISITIONS BY AGENCIES”: Clarifies errors that may cause Finance to reject a requisition request, emphasizes requirements for end of year purchases. Details approval requirements for vehicle and printing procurements. Also contains minor technical and grammar updates.

FAP 111-41-00 “DELIVERY AND RECEIVING”: Primarily technical and grammar updates. Clarifies potential role of Surplus Properties regarding rejected goods.

FAP 111-42-00 “AGENCY COMPLAINTS OF A VENDOR”: Details process for potential contract termination is contractor complaint response is unsatisfactory and clarifies agency role when complaint escalates to termination. Remaining changes are technical and grammar updates.

FAP 111-43-00 “PERSONAL SERVICE CONTRACTS”: Adds KPI certification requirement for issuer of a personal service contract (PSC) solicitation. Details content of PSC solicitation, how solicitation shall be issued, and confidentiality requirements while award is pending. Explains application of bidding preferences to scoring. Emphasizes requirement to comply with Government Contract Review Committee policies. Also implements technical and grammar updates.

FAP 111-44-00 “MEMORANDUM OF AGREEMENT”: Clarifies circumstances where an MOA may cross a budget biennium. Details Finance and GCRC approval requirement process and process for requesting exemption from MOA classification status.

FAP 111-45-00 “PAYMENT DOCUMENTS”: Enumerates agreement types justifying payment and payment types not requiring a contract document. Clarifies use of small purchase authority and procurement card for payments. Emphasizes duty of agency to pay late payment penalties when they are determined to exist. Emphasizes timely payment requirements codified pursuant to 25 RS HB 622.

FAP 111-46-00 “RESOLUTION OF PAYMENT ISSUES”: Added new FAP to detail processes for providing notice to vendors regarding submitted invoice deficiencies, application of late payment penalties, and vendor submission of payment disputes to the Secretary.

FAP 111-51-00 “CONTRACT ADMINISTRATION”: Explains the role of the Division of Contract Administration (DCM) in managing state contracts and Contract Management Guide as a resource for managing contracts. Clarifies work relationship between contract managers, Purchasing Officers, and DCM. Updates and polishes grammar and technical language.

FAP 111-52-00 “LONG TERM LEASE OR RENTAL OF EQUIPMENT AND SERVICES”: Removes agency authority to make lease or rental agreements without OPS approval. Increased emphasis on e-procurement system. Technical language and grammar improvements.

FAP 111-53-00 “PRE-OWNED AND RECONDITIONED EQUIPMENT AND PRODUCTS”: New FAP to enumerate standards and process for purchase of pre-owned and reconditioned products.

FAP 111-54-00 “TRADE-IN PURCHASES”: Clarifies trade-in approval process and information that must be included on a trade-in request submitted to OPS. Enumerates documents that may be used to create trade-in contract.

FAP 111-55-00 “SMALL PURCHASE PROCEDURE FOR GOODS AND NON-PROFESSIONAL SERVICES”: Sets default small purchase authority at \$1,000. Adds KPI certification requirement for agency staff performing small purchases. Adds table to explain small purchase quote requirements. Emphasizes prohibition against splitting purchases to subvert small purchase authority limits. Incorporates legal requirement from KY Acts to seek service at least one service-disabled veteran business quote, as well as identifying where list of businesses can be found. Sets requirements for award documentation. Clarifies procedures for marketplace purchases and scope of non-professional services. Limits contract renewals to one year and explains criteria for price increase during contract. Allows OPS to refer contract audits to OPA.

FAP 111-57-00 “COMPETITIVE NEGOTIATIONS”: Clarifies prerequisites for use of competitive negotiation and provides examples of frequent uses of competitive negotiation mechanism. Adds agency-designated contract manager requirement. Details duties and requirements of evaluation committees and their members. Updates to technical language and grammar.

FAP 111-59-00 “DEBARMENT AND SUSPENSION”: Adds provisions allowing for summary action to be taken regarding fictitious vendors, individuals or groups who falsely represent themselves as a legitimate vendor or business or misrepresenting the nature of their business relationship with the Commonwealth. Revisions allow for denial of access to EProcurement system if vendor determined to be fictitious.

FAP 111-65-00 “SPONSORSHIP”: New FAP that Clarifies process for submission, review, and approval of sponsorship opportunities to ensure they are consistent with Commonwealth Procurement Law.

FAP 220-05-00 “BIDDER INSTRUCTIONS FOR COMPETITIVELY SEALED BID CONSTRUCTION SOLICITATIONS”: Updates to technical language.

FAP 220-09-00 “FORCE ACCOUNT PROJECTS”: Clarifies that projects may exceed \$500,000 with approval of Finance.

FAP 220-10-00 “SMALL PURCHASE PROCEDURE FOR CONSTRUCTION SERVICES”: Minor updates to technical language.

FAP 220-14-00 “SOLICITATIONS FOR ARCHITECT/ENGINEER SERVICES AND PROCEDURE FOR PREQUALIFICATION”: Updates to technical language.

FAP 220-17-00 “COMPETITIVE NEGOTIATIONS: CONSTRUCTION-RELATED”: Updates to technical language.

FAP 220-18-00 “PROJECT ACCOUNTS CLOSING PROCESS”: Updates to technical language. Two definitions moved to definitions FAP. Two definitions left within this FAP as they have definitions specific to this FAP that could cause confusion if applied to other FAPs. Removed reference to Quarterly report addendum process as non-required by other legal authority.

FAP 220-15-00 “ACQUISITION OF REAL PROPERTY”: Updates to technical language.

FAP 220-16-00 “DISPOSITION OF REAL PROPERTY”: Updates to technical language.

FAP 220-19-00 “SURPLUS STATE-OWNED PERSONAL PROPERTY”: Updates to technical language. Clarifies eligibility of Veteran Owned Small Businesses (VOSBs) to receive surplus property. Revises auction fee language to allow for adjustments needed to account for fee differences in underlying auctioneer RFP contracts.

FAP 220-21-00 “SURPLUS FEDERAL PROPERTY: ACQUISITION AND DISTRIBUTION”: Updates to technical language.

FAP 111-08-00 “COMPETITIVE BIDDING EXCEPTIONS: SPECIFIED BY LAW OR REGULATION”: Adds or updates legal authority citations. Clarifies online periodicals and intergovernmental purchases exceptions. Adds “Relates to” citations in re relevant legal authority.

FAP 111-09-00 “COMPETITIVE BIDDING EXCEPTIONS: STANDING DETERMINATION OF NOT PRACTICABLE OR FEASIBLE”: Clarifies fresh food and perishable items exemption. Clarifies documentation requirement for repairs and parts. Cross references and clarifies authority for services of visiting speakers vs. individual trainers. Adds mediation services. Clarifies use of SPR1 process for other goods and services.

FAP 111-10-00 “COMPETITIVE BIDDING EXCEPTIONS: SOLE SOURCE”: Technical updates. Clarifies use of SPR1 process to obtain prior approval. Removes equipment lease or rental due to statutory repeal.

FAP 111-39-00 “EMERGENCY PURCHASES”: Technical updates. Clarifies use of SPR1 process to obtain prior approval. Adds cross-references to relevant legal authority. Clarifies decision makers with authority to make emergency determinations, permitted exemptions, and statutory authority at issue.

FAP 111-25-00 “CLOSING FISCAL YEAR PURCHASES”: Technical updates. Adds “Relates to” citations in re relevant legal authority.

FAP 111-58-00 “PROCUREMENT CARD PROGRAM”: Technical updates. Updated definitions. Clarified card holder and administrator roles. Detailed use of procurement cards in the context of a Master Agreement or marketplace. Detail agency responsibilities.

FAP 111-60-00 “DELIVERY ORDERS”: New FAP to clarify technical actions required to process delivery orders.

FAP 120-07-00 “FISCAL YEAR CLOSING”: Technical updates.

FAP 120-08-06 “GRANTS TO NOT-FOR-PROFIT ENTITIES”: Clarifies how federal funds may be utilized in the context of grants.

FAP 120-08-07 “ASSIGNMENT OF BENEFITS”: Technical updates.

FAP 120-13-00 “DECENTRALIZATION OF THE PRE-AUDIT FUNCTION”: Technical updates.

FAP 120-14-00 “UNHONORED CHECK PROCESSING”: Clarifies and reorganizes reporting and processing of unhonored checks.

FAP 120-19-00 “INTERNAL REVENUE SERVICE FORM 1099 REPORTING”: Technical updates.

FAP 120-20-01 “PERSONAL PROPERTY AND VEHICLE INVENTORIES”: Technical updates.

FAP 120-23-00 “USE OF PUBLIC FUNDS”: Technical updates. Adds public meetings, training/educational, and agency-hosted mediation/arbitration exceptions to prohibition against providing beverages to employees. Clarifies that funds may be spent for decorations intended primarily for public display. Removes prohibitions against use of funds on appliances, paper products, utensils, or dishes.

FAP 120-24-00 “CASH HANDLING”: Technical updates.