

## Table of Contents: Chapter 6 – Approvals

Chapter 6 – Approvals .....	2
6.1 Approval Authority Policy .....	2
6.2 Approval Requirements .....	3
6.3 Authorized Approvers .....	5
6.3.1 State-Level Approvers .....	5
6.3.2 Organization-Level Approvers .....	5
6.3.3 Grant Security .....	6
6.4 Electronic Signatures/Approvals .....	7
6.5 Approval Thresholds .....	8
6.6 Special Approvals .....	9
Additional Requirements for Special Approvals .....	11
6.6.1 Information Technology Purchases .....	11
6.6.2 Insurance .....	11
6.6.3 Communications .....	11
6.6.4 Microfilm and Imaging .....	11
6.6.5 Capital Improvements .....	12
6.6.6 Vehicles Purchased for State Use .....	12
6.6.7 Special Counsel .....	12
6.6.8 Postage Equipment .....	13
6.6.9 Homeland Security Grant (Appropriation 40213) .....	13
6.7 Contractual Services with Individuals .....	13
6.8 Proposed Architectural, Structural, Electrical, and Mechanical .....	16
6.9 Advanced Planning and Real Property Acquisition Fund .....	16
6.10 Intergovernmental Voucher Approvals .....	17

## Chapter 6 – Approvals

The State's Approvals Policy delineates approvals necessary to process and record transactions in the State's financial management and accounting system. Approval requirements and thresholds have been established by the Division of Accounting (DOA) to promote accurate, efficient, and transparent transaction processing by all State Organizations.

### 6.1 Approval Authority Policy

This policy sets accountability and control standards for the determination and delegation of review and approval authority for business transacted on behalf of the State. This policy is intended to ensure transactions are reviewed for completeness and accuracy and they conform to the State's documentation and compliance standards.

Approval authority is delegated by the Secretary of Finance to DOA and to approving officials (department heads and other designees) at the State Organizations to transact the State's business.

The following guidelines and restrictions must be followed for all State transaction approvals:

- Only authorized approvers may transact the State's business.
- Only authorized Organization heads may delegate approval authority for the review and approval of transactions in the State's financial management and accounting system.
- Only employees designated by department heads are authorized to commit an Organization to a purchase and the associated funding distribution(s). Approvals by authorized personnel certify the transaction conforms to State rules, regulation, and policy.
- Only employees designated by department heads are authorized to approve the expenditure of funds to cover biweekly payroll expenses. Approvals by authorized personnel certify the transaction conforms to Federal and State rules, regulation, and policy. See **Chapter 14 – Payroll Compliance** for details.
- A record of those with approval authority for State Organizations must be on file (hardcopy or electronic) with the head of the appropriate State Organization and with DOA. The listing of those with approval authority should be updated by individual Organizations as needed and reviewed at least once a year.
- Approvers authorized to transact business in the State's financial management and accounting system acknowledge and agree they are accepting a public trust that includes the responsibility to:

- Properly safeguard State assets;
  - Recognize and record all transactions;
  - Expend resources only for authorized purposes; and
  - Comply with legislation, rules, and regulations in the performance of their duties.
- Approvers are expected to use good judgment and professional standards in the performance of their duties.
  - An individual may be authorized to input or submit transaction data into the State's financial management and accounting system, but this in and of itself does not constitute approval authority.

## **6.2 Approval Requirements**

All accounting transactions require standard approval(s) for processing, unless specifically stated otherwise in the Budget and Accounting Policy Manual. Standard approvals can include both Organization and State-level approvals, based on the dollar amount of a transaction. In addition to standard approvals, transactions may require special approvals. Special approvals are required for various commodity purchases, such as:

- Information Technology
- Insurance
- Communications
- Microfilm and Imaging
- Capital Improvements
- Vehicles Purchased for State Use
- Special Counsel
- Postage Equipment
- Homeland Security Grant (Appropriation 40213)

Special approval requirements are specific to the type of item or service being purchased or by the transaction type. Organization Business Managers are responsible for determining which type(s) of approvals are needed for each transaction (See [Section 6.5](#)).

Transaction approvals are processed and recorded electronically in the State's financial management and accounting system, except for a few instances where manual hardcopy (or facsimile) signatures are required. Manual transactions are recorded in the State's financial management and accounting system after all approvals have been obtained outside of the electronic system.

DOA has identified the appropriate transaction approval methods (electronic vs. manual), based on transaction type, as follows:

Budget and Accounting Transaction Processing Requirements				
Transaction Name	Trans. ABBR	Electronic/ Manual	Form(s) Required	Form Location
Capital Asset Addition	ADD	Electronic/ Manual	AM Change Request ( <a href="#">AM002</a> ) – for Manual Add / Modification Only	The State’s financial management and accounting system- Extranet
Capital Asset Transfer	TRF	Electronic	Asset Management Dept. Transfer / Cost Adjustment Request ( <a href="#">AM003</a> )	The State’s financial management and accounting system Extranet
Capital Asset Disposal	RET	Electronic	ERI or Surplus Excess Property Form	OMB’s GSS Surplus Services
Capital Asset Modification		Manual	AM Change Request Form ( <a href="#">AM002</a> )	The State’s financial management and accounting system Extranet
Capital Asset Adjustment	ADJ	Electronic	Asset Management Dept. Transfer / Cost Adjustment Request ( <a href="#">AM003</a> )	The State’s financial management and accounting system Extranet
Voucher/PO Voucher	PV	Electronic	No	
Journal Voucher	AP JV	Electronic	No	
Reversal Voucher	RV	Electronic	Voucher Reversal Request ( <a href="#">AP008</a> )	The State’s financial management and accounting system Extranet
Payment Cancellation	CX	Manual	Payment Cancellation Request ( <a href="#">AP004</a> )	The State’s financial management and accounting system Extranet
Payroll Check Cancellation	PX	Manual and Electronic processes	Reissued: No	PHRST
			Not Reissued: Reversal Form	
Intergovernmental Voucher	IV	Electronic	No	
Intergovernmental Voucher Transfer	IT	Electronic	No	
Budget Transfer	TR	Manual and Electronic processes	Budget Transfer ( <a href="#">KK003</a> )	The State’s financial management and accounting system Extranet (depending upon ledger group)
			No	
Budget Journal	JN	Manual and Electronic processes	Budget Journal ( <a href="#">KK001</a> )	The State’s financial management and accounting system Extranet (depending upon ledger group)
Journal Entry	JE	Electronic	No	
Cash Receipt	CR	Electronic	No	
Zero-Balance CR	ZBCR	Electronic	No	
Negative Cash Receipt	NCR	Electronic	No	
Refund on Prepay	RP	Electronic	No	
Billing Invoice	BI	Electronic	No	
Treasury Journal	TJ	Electronic	Treasury Journal	The State’s financial management and accounting system - Generated
Purchase Order	PO	Electronic	No	
Change Order	CO	Electronic	No	

Budget and Accounting Transaction Processing Requirements				
Transaction Name	Trans. ABBR	Electronic/ Manual	Form(s) Required	Form Location
Receiver	RV	Electronic	No	
Federal Aid Master	FM	Manual	Federal Aid Master	OMB
Single Point of Contact	SPOC	Electronic	SPOC Form	The State's financial management and accounting system - Generated
Federal Change	FC	Electronic	No	
Payroll Funding Adjustment	PFA	Electronic	No	

## 6.3 Authorized Approvers

Transaction approvals are entered into the State's financial management and accounting system at both the State and Organization levels.

### 6.3.1 State-Level Approvers

State-level and special approvers include:

- Division of Accounting (DOA)
- Department of Finance (DOF)
- Office of Management and Budget (OMB)
- Department of Technology and Information (DTI)
- Controller General Office (CGO)
- Office of the State Treasurer (OST)
- Department of Education (DOE)
- Department of State (DOS)
- Department of State and Homeland Security (DSHS)
- Office of the Governor (OGOV) and Attorney General (AG)

### 6.3.2 Organization-Level Approvers

Only Organization department heads are authorized to confer approval authority to Organization personnel. Four (4) approval profiles are at the Organization level: (\* designates required approval.)

- Manager 1
- Manager 2
- Internal Accountant\* (IA)
- Business Manager \* (BM)

Organizations may set their own internal approval requirements, but all transactions require, at a minimum, the approval of the Organization's Internal Accountant (IA) and Business Manager

(BM) for proper processing in the State's financial management and accounting system. Systematically the IA and BM are required approvers. Manager 1 and Manager 2 are optional approvers depending on the size and scope of the Organization. **Organizations are required to keep an updated list of authorized approvers on file with DOA at all times.** The State maintains three separate Signature Designee for Approving Transactions forms: one for State employees, one for contractors and one for Organization Head.

**NOTE:** The authorization of contractors to approve transactions must be justified by the Organization Head or a Cabinet Secretary. The form is also approved by the State's financial management and accounting system Manager and Director of DOA.

**NOTE:** The authorization of the Organization Head to approve transactions must be justified by the Organization. The form is also approved by the State's financial management and accounting system Manager and Director of DOA.

Business Managers are entrusted with the authority to commit an Organization to a purchase and to approve transactions at the Organization level. Business Managers are only allowed to approve transactions that originate in and are on behalf of their own Organizations.

Business Managers are required to process transactions according to the policies and protocols set by DOA. Business Managers are also expected to follow individual Organization practices, with the understanding that all federal and State legal and regulatory requirements must be met, and the authority of the State's policies and procedures supersedes the authority of Organization directives.

Business Managers need to correctly recognize and direct transactions for proper processing as part of the transaction review and approval process. In addition to determining transaction type and approval requirements, Business Managers need to check for correct amounts and account coding strings before giving their approval for the transaction.

Internal Accounting approvers are entrusted with the authority to approve transactions at the Organization level. Internal Accounting approvers are only allowed to approve transactions that originate in and are on behalf of their own Organizations. The Internal Accounting approver can initiate transactions which will self-approve when submitted into workflow, providing they have the required security.

### 6.3.3 Grant Security

Grant Security utilizes delivered functionality within the proposal component by business unit. When a draft proposal is submitted, the system sends a worklist item to the designated reviewers and/or approvers. The proposal can either be approved or returned for more information until the proposal is assigned a status of approved.

All Organizations are required to utilize the Grant Security. Organizations can submit a request to the State's financial management and accounting system to eliminate the Department Fiscal Contact, due to lack of staffing. The proposal component will track/record internal approvals and will be maintained by proposal/contract.

## 6.4 Electronic Signatures/Approvals

Delaware enacted its Uniform Electronic Transaction Act (UETA) (**6 Del. C. Chapter 12A**), in July 2000 to provide the framework for the creation and validation of electronic signatures.

**NOTE:** Not all transactions are required to be processed electronically. DOF has identified the appropriate approval method (electronic or manual) for each transaction. Organizations should refer to the Budget and Accounting Transaction Processing Requirement Table in [Section 6.2](#), for more information about electronic and manual processing requirements.

Electronic signatures are considered legal and valid approval signatures for transactions processed in the State's financial management and accounting system for all Governmental Organizations, provided that:

- The use of the State's financial management and accounting system by all State Organizations and DOF constitutes an agreement to conduct business using electronic transactions and signatures.
- The electronic signature must be attributable to a specific individual. An electronic record or signature is attributable to an individual if it was the act of the individual. The act of an individual may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the individual to which the electronic record or electronic signature was attributable.
- In conformity with UETA as adopted by the State, information is considered provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt (**6 Del C. §12A-108(a)**). If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient (**6 Del C. §12A-108(c)**).
- The Organization maintains on file with DOA a current listing of Business Managers which apply the final level of approval with electronic signatory/approval authority on behalf of the Organization.
- Each State Organization maintains and documents the system of internal control in place within the Organization to guard against fraud, waste, misappropriation or misuse of State, federal, and custodial funds and assets, including explicit guidelines regarding approval authority.

In all such cases where the electronic signature/approval requirements have been met, the electronic approval or signature attached to a transaction shall suffice to establish the electronic transaction as the transaction of record in the State's financial management and accounting system for the State Organization.

This policy validates the use of electronic signatures for the processing of transactions that accept electronic approvals in the State's financial management and accounting system and recognizes the legal authority of the electronic approval in lieu of a hardcopy signature.

An electronic approval granted, submitted, and recorded in the State's financial management and accounting system is legally binding and acceptable as a signature of record for the transaction. In cases where manual (hardcopy) signatures are used to authorize transactions, the hardcopy signature is the legally binding and acceptable record for the transaction. Transactions that are manually approved external to

The State's financial management and accounting system require a hardcopy of the transaction, with all designated signatures, to remain on file or be scanned into the system for document retention and audit purposes.

Additional security, restrictions, documentation, approvals, and retention requirements may be implemented at the Organization level, but not to the extent they countermand or undermine the electronic approval processes delineated in this Manual.

Organizations should refer to **Title 6 Del. C. Chapter 12A**, [Title 6, Chap. 12A](#), for further information about the scope and applicability of Delaware's UETA.

## **6.5 Approval Thresholds**

The approvals outlined in this section represent minimal approval requirements required by the State for transactions processing. Individual Organizations may require additional internal Organization approvals for transactions, prior to State-level processing. Business Managers are responsible for ensuring all transactions meet both Organization and State approval requirements for transactions processing.

OMB reserves the right to review and approve Purchase Orders (PO) and Vouchers on an as needed basis. (**29 Del. C. § 6529**)

For more information about State Special Approvals for commodity purchases, Organizations should refer to [Section 6.6](#).



Transaction Amount	Transaction Type	Workflow Path
≤\$10000	Standard Approvals only	Organization Internal Accountant + Business Manager
≤ \$10000	Special Approval(s) Required	Organization Internal Accountant + Business Manager + State Special Approver(s)
> \$10000	Standard Approvals only	Organization Internal Accountant + Business Manager + DOA
> \$10000	Special Approval(s) Required	Organization Internal Accountant + Business Manager + State Special Approver(s) + DOA

Transaction Approvals			
Transaction Amount	Transaction Type	Minimum Approvals Required	Comments
All	Change Orders	Organization Internal Accountant + Business Manager + DOA + all approvals required for	Only if the total PO value is greater than \$10,000.
All	Check Cancellations	Organization Internal Accountant + Business Manager + OST + DOA	
All	Open Order POs	Organization Internal Accountant + Business Manager + OMB + DOA	
All	Budget Journals	Organization Internal Accountant + Business Manager + OMB	
All	GF and ASF Transfers	Organization Internal Accountant + Business Manager + OMB + CGO	
All	NSF Transfers	Organization Internal Accountant + Business Manager	For Grants -- Transfers over \$10,000 or over 10% of a total grant value require approval from the Grantor

Purchases associated with Public Works contracts and/or Professional Services contracts must follow the State's contract bidding and award requirements, in addition to the above approvals. For more contract and bidding information, Organizations should refer to OMB's Government Support Services (GSS) website <https://mymarketplace.delaware.gov/>.

Unless stated otherwise in this Manual, the above approval requirements may only be waived with the expressed written permission of the Secretary of Finance. To request a waiver, Organizations should refer to Chapter 7 – Purchasing, Section 7.4.1. In cases of emergency, Organizations should contact the Secretary of Finance or his/her designee.

## 6.6 Special Approvals

Certain purchases of goods and services and various State contracts require State special approvals. The following table lists the purchase types subject to these additional approvals and the appropriate approving body.

Organizations should refer to the State’s financial management and accounting system Website for the current list of special ad-hoc approvers

<https://extranet.fsf.state.de.us/training/jobaids/ap/APO400/ad-hoc-approvals.pdf>.

<b>Special Approvals – Commodity Purchases and Contracts</b>		
<b>Item</b>	<b>Special Approver(s)</b>	<b>Comments</b>
Information Technology	Department of Technology and Information	For information technology-related goods and services (includes network and data cabling-related purchases) with a value over \$10,000, regardless of funding source, as well as all telephone and video system equipment and maintenance purchases and all security system purchases (those security system related items that need to meet the Statewide Building Access Security standard and/or will be using State computer networks) regardless of dollar amount or funding source. See Section 6.6.1
Insurance	State Insurance Coverage Office of the Department of Human Resources (DHR)( <b>18 Del. C. §6505</b> )	For ALL insurance POs or Direct Claims by agencies other than Statewide Benefits Office/Insurance Coverage Office of the Department of Human Resources.
Communications	Division of Communications of the Department of Safety and Homeland Security.	Covers purchases of two-way (voice and radio) equipment.
Microfilm and Imaging	Delaware Public Archives of the Department of State ( <b>29 Del. C. §515(a), (b)</b> )	
Capital Improvements	Department of Education	For all POs, Change Orders, and Direct Claims coded to Bond Accounts and School Minor Capital. Charter School Minor Capital transactions do not require approval of DOE.
Vehicles Purchased for State Use	Director of the Office of Management and Budget ( <b>29 Del. C. §6906(a)</b> )	Must purchase using contracts administered by the Fleet Management Administrator, or bid lists approved by the Director, OMB. Includes transfers from one department/school district to another.
Special Counsel	Attorney General and Governor	
Postage Equipment	Office of Management and Budget, Government Support Services	Postage machines and meters. Does not include postage stamp purchases.
Homeland Security Grant (Appropriation 40213)	Department of Safety and Homeland Security	For all POs or Direct Claims other than the Delaware Emergency Management Agency of the Department of Safety and Homeland Security.

## Additional Requirements for Special Approvals

### 6.6.1 Information Technology Purchases

No new technology project may be initiated unless covered by a formal project plan approved by the Department of Technology and Information (DTI) (**29 Del. C. §9006C**). DTI procurements include hardware, software, and communications equipment, including telephone systems.

POs and Direct Claim Vouchers relating to IT purchases are to be sent to DTI for review and approval if it meets the following criteria:

- IT-related goods, including network and data cabling-related purchases, and services with a value over \$10,000 regardless of funding source.
- Telephone and video system equipment, maintenance purchases, and security system purchases, including security system-related items needed to meet the Statewide Building Access Security standard and/or will be using State computer networks regardless of dollar amount or funding source.

Organizations should refer to DTI's web page for the most current exception list and any additional information regarding the business case process at <https://dti.delaware.gov/state-agencies-portal/dti-business-processes/>.

### 6.6.2 Insurance

The Insurance Coverage Office of DHR has the centralized responsibility for the operation of the State Insurance Coverage Program. **No other Organization is authorized to place or acquire any insurance.** This approval is required for all insurance-related POs and direct claim transactions for Organizations other than Statewide Benefits Office/Insurance Coverage Office of the Department of Human Resources.

### 6.6.3 Communications

All State government communications purchases must be in accordance with policies and procedures established by the Division of Communications of the Department of Safety and Homeland Security. Requests for purchases for all two-way equipment (voice and radio) must be made to the Division Manager, Division of State Communications.

### 6.6.4 Microfilm and Imaging

No microfilm or imaging project or program may be undertaken or maintained without the

prior written approval of the Delaware Public Archives of the Department of State, except as may be authorized directly through an Organization's General Fund appropriation.

Any such programs or projects in operation must adhere to standards established by the Delaware Public Archives, the Department of State, to allow for approval of expenditures (**29 Del. C. §515(a), (b)**). Any program or function of any Organization requiring microfilm or imaging services must purchase the services through the Central Microfilm Services Unit, including all programs or functions funded by federal funds, other special funds, or local government funds.

### **6.6.5 Capital Improvements**

POs change orders, and Direct Claim Vouchers coded to School Minor Capital or Bond Accounts require the approval of DOE Capital Projects Management. Charter school POs, change orders and Direct Claim Vouchers coded to School Minor Capital do not require the approval of DOE because these funds may be used for current operations, minor capital improvements, debt service payments or tuition payments (**14 Del. C. §509(g)**).

**NOTE:** Purchases of material or work paid from General Fund appropriations do not require approval from OMB, except as noted in this Manual.

### **6.6.6 Vehicles Purchased for State Use**

All passenger vehicles purchased for State use must be purchased through contracts administered by OMB's GSS. All purchases must be approved by the Director of OMB (**29 Del. C. §6906(a)**). No vehicle owned by the State may be transferred from one agency/school district to another without the prior approval of the Director of OMB (**29 Del. C. §6906(e)**).

### **6.6.7 Special Counsel**

No agency may employ any person to act as an attorney to such agency, except as otherwise set forth in Delaware Code. Agencies may employ special counsel with the prior approval of the Attorney General and the Governor, under the terms and conditions that the Attorney General and Governor may prescribe. Any special counsel appointed by the Attorney General and the Governor will have powers, duties, and responsibilities as designated by the Attorney General and **29 Del. C. §2504(3)**. Payment of the expenses associated with the employment of special counsel is to be paid by the State Treasurer from general funds, not otherwise appropriated, upon approval by the Attorney General and Governor.

**(29 Del. C. §2507)**

### **6.6.8 Postage Equipment**

POs change orders, and Direct Claim Vouchers for the purchase of postage machines and meters need the approval of OMB's GSS. The make and model number of the equipment must be included in the description block of the transaction. All purchases over \$10,000 also require the approval of DOA.

**NOTE:** Purchases of postage stamps do not require this special approval.

### **6.6.9 Homeland Security Grant (Appropriation 40213)**

PO change orders and Direct Claim Vouchers for all organizations other than the Delaware Emergency Management Agency (DEMA), need the approval of DEMA to ensure that expenditures meet all federal and state policies prior to requesting reimbursement from the federal government.

## **6.7 Contractual Services with Individuals**

There are legal distinctions and ramifications between retaining a consultant and hiring an employee. For example, the State incurs liabilities for withholding and/or the payment of State, federal, and local income taxes, OASDI and Medicare, Workers' Compensation, unemployment compensation, and pension for employees.

From time to time, the State hires consultants to perform various activities. Special care must be exercised to distinguish between a "consultant" and an "employee" prior to executing any contract for services with prospective consultants.

State Organizations are required to review and document the reason a person will be paid as a consultant as opposed to an employee. The Division of Accounting, Payroll Compliance Group monitors payments made to consultants and may request documentation to confirm proper classification. Generally, an employer/employee relationship exists when the employer has the right to control. Control of the workplace is met when the employer determines when the employee works, where he works, and how he works. Control does not need to be exercised for an employer/employee relationship to exist – the right to control is sufficient.

#### **A. Policy:**

Human Resources, Payroll, and Fiscal representatives must correctly classify workers who provide services to their Organization. The status of a worker as either an independent contractor or employee must be determined accurately to ensure the worker and the State meet tax obligations in a timely and accurate manner. The State withholds income taxes, withholds and pays OASDI and Medicare taxes, and pays unemployment taxes on wages paid to an employee. The State does not make tax payments on behalf of independent

contractors. Therefore, due diligence must be applied when hiring individuals to ensure workers are appropriately classified.

When the IRS determines a worker has been misclassified as a contractor, the employer is responsible for the employer and employee shares of OASDI and Medicare and may also

incur penalties in the form of fines and interest for each instance the worker was paid incorrectly.

## **B. IRS Regulations**

The IRS may submit an inquiry for a worker who receives both a W-2 and a 1099 from the same employer.

## **C. State of Delaware Policy**

The *State of Delaware* is **one** employer, paying employees at Merit Organizations, School Districts, and Higher Education facilities.

An employee who has separated from State service may not be hired as an independent contractor within two years of separation if the person gave an opinion, conducted an investigation or otherwise was directly and materially responsible for matters they will be conducting as a contractor in the course of their duties as a state employee. Exceptions may be requested through a waiver granted by the Delaware Public Integrity Commission (DEPIC). **(Del. C. §5805(d))**

## **D. Definitions:**

**Contractor** – an individual hired to do a specific task with little or no direction from the Organization. The **worker has the control** over how they will accomplish the job. Contract includes payment details.

**Employee** – an individual hired to do a specific task with direction from the employer on when and how the task is to be performed and when and how payment for services is made.

## **E. IRS Worker Classification Test:**

*Common Law Test* – focuses on the “right to control” which is grouped into three factors. No one factor stands alone; all must be considered:

- *Behavioral Control* – the right to direct and control the details and means by which the worker performs the work to be done; to the extent of instructions given regarding how, when and where to do the work; what tools and equipment to use; what assistants to hire to help with the work; where to purchase supplies and services; and any training provided about required procedures and methods.

- *Financial Control* – the right to direct and control the economic aspects of the worker’s job; whether business expenses are reimbursed; if there is a significant investment in the work; how the worker is paid; whether the worker incurs a profit or a loss; and whether services are offered to public.
- *Relationship of the Parties* – looks at factors such as: are there written agreements; are employee benefits offered; the length of the relationship; and the importance of the services to the regular operations of the Organization.

For additional information, Organizations should refer to *Publication 1779, Independent Contractor or Employee*; a publication of the Internal Revenue Service.

*Reasonable Basis Test* – this test takes court decisions, IRS rulings, past IRS audits, and longstanding industry practices into account.

#### **F. Procedure:**

Prior to awarding a bid or hiring a contractor, Organizations must complete the following steps:

1. Determine if the worker is currently employed by or has previously been employed by the State of Delaware. An Organization HR representative must search the PHRST system by Social Security Number to determine if an employee relationship exists/existed.
  - If the worker is a State employee, ask the following questions:
    - a. Is the employee relationship and the contractor relationship the same?
      - If yes, the worker must be hired as an employee.
      - If no, it may be appropriate to hire the worker as a contractor.
    - b. Does the independent contractor have a valid business license?
      - If yes, obtain a copy.
      - If no, Organizations should refer the contractor to the State of Delaware website to obtain a license.
  - If the worker terminated State employment within the past two years, contact the DEPIC for a ruling. **(Del. C. §5805(d))**
2. Apply the Common Law Test.
  - Review all three factors of control.
  - Consider the degree or extent of the right to direct and control.
  - Consider written agreements and the importance of the services to operations.
3. Document each of the factors used in making the determination.
4. Determine if the contracted work is substantially different from the work performed as an employee of the State.

#### **G. Additional Considerations:**

The following questions can help Organizations determine if an individual is an employee or a contractor:

1. Is the work performed a key aspect of the business?

2. Will the relationship continue?
3. Are expenses reimbursed?
4. How is the worker paid?
5. Who directs and controls the details of how the work is to be performed?
6. Who provides the tools/supplies?

#### H. Supporting Documents:

The Delaware Public Integrity Commission:

- 410 Federal Street, Suite 3, Dover, DE 19901, 302-739-2399
- <https://depic.delaware.gov/>
- Ethics Bulletin 007, Post Employment
- Ethics Brochure, Promoting Ethics in Delaware

American Payroll Association – *Payroll Source* (Sec. 1: The Employer-Employee Relationship)

IRS Pub 15-A, *Employer's Supplemental Tax Guide* ([www.irs.gov](http://www.irs.gov))

#### Title 29 Del. C. Chapter 58

IRS Publication 1779, Independent Contractor or Employee ([www.irs.gov](http://www.irs.gov))

PCG Worker Classification Bulletin

([https://accounting.delaware.gov/payroll\\_comp/comm/bulletins.shtml](https://accounting.delaware.gov/payroll_comp/comm/bulletins.shtml))

## 6.8 Proposed Architectural, Structural, Electrical, and Mechanical Plans, Specifications, and Cost Estimates

All State Organizations, Delaware State University, and Delaware Technical and Community College must submit all proposed contracts for architectural services and all architectural, structural, electrical, and mechanical plans, specifications, and cost estimates to OMB's Facilities Management.

The OMB Facilities Management section is responsible for reviewing and approving such proposed contracts, plans, specifications, and cost estimates prior to bid advertisement.

**No contracts for construction or reconstruction projects will be executed without the prior approval of OMB**, except highway construction and reconstruction contracts and school district minor capital improvements contracts. **(29 Del. C. §7419(a))**

## 6.9 Advanced Planning and Real Property Acquisition Fund

The Advanced Planning and Real Property Acquisition Fund (the Fund) may be expended for:

- The advanced planning of proposed facilities in the State, including but not limited to,



the cost of architectural sketches; general site plans; preliminary engineering; general design services; legal, accounting, and consulting services; or other such services as may be deemed appropriate (**29 Del. C. §6343(c)**).

- Earnest money of up to 10 percent for the acquisition of real property (including any options to purchase and any improvements thereon) by state agencies, reorganized school districts and vocational-technical school districts (**29 Del. C. §6343(d)**).

**NOTE:** The Fund may not be expended for highway right-of-way construction.

Before any sum is withdrawn from the Fund, the agency, reorganized school district or vocational-technical school district must submit a request to erect or renovate a State facility or a request to acquire real property to the Director of OMB. The Director of OMB will report to the Budget Commission whether the request is consistent with the capital program provided for by (**29 Del. C. §6342**) and the State's comprehensive plan and land use and development goals and policies. (**29 Del. C. §6344(a)**).

- If the request is to erect or renovate a State facility, the Director of OMB must determine that the proposed facility is consistent with the capital program and that the facility is likely to be authorized within three years (**29 Del. C. §6344(b)**).

If the request is to acquire real property, the Director of OMB must determine that the proposed real property acquisition is consistent with the capital program, or with OMB's long-range planning recommendations for the State (**29 Del. C. §6344(c)**).

Any funds provided by the Budget Commission that are not used by the agency, reorganized school district or vocational-technical school district within 36 months will be refunded to the Budget Commission and deposited in the Fund (**29 Del. C. §6345**).

Upon the funding of a capital project for which monies have been provided from the Fund, a refund will be made to the Fund by the State Treasurer from the appropriation made or other source of funds provided for the facility or real property (**29 Del. C. §6346(a)**).

## 6.10 Intergovernmental Voucher Approvals

The following policies are in effect regarding approvals for Intergovernmental Vouchers (IVs):

- IVs with an origin of Manual Intergovernmental Voucher (MIV) require one approval by both the buyer and seller Organization, by an individual with the Business Manager role.
- IVs with an origin of Automated Intergovernmental Voucher (AIV) are created with the seller's line approved. They require only one approval by the buyer Organization, by an individual with the Business Manager role.

Billing should be made on a monthly basis utilizing one form for each Organization from which goods or services are being provided. An exception will be made in the month of June when billing may be on a weekly basis. This will facilitate a timely year-end close-out.