

fraudulent concealment from the State of the true facts relating to the conduct of the vendor's business with the State. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817, F.S., and shall be grounds for precluding the vendor from doing future business with the State.

Specific Authority 287.042(12), 287.057(23) FS. Law Implemented 287.032, 287.042, 287.057 FS. History--New 7-1-03.

60A-1.032 MyFloridaMarketPlace Transaction Fee Exceptions.

(1) The following transactions are exempt from the Transaction Fee that would otherwise apply under Rule 60A-1.031, F.A.C. Exemption from paying the Transaction Fee does not in itself exempt the vendor or an agency from the registration requirements of Rule 60A-1.030, F.A.C.

(a) Procurements under Section 337.11, F.S.; provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(b) Procurements under Section 287.055, F.S.

(c) Procurements under Chapter 255, F.S.; provided, however, that the procuring agency may elect to conduct such procurements via MyFloridaMarketPlace and impose the Transaction Fee, in which case the agency shall ensure that such terms are conspicuously included in the solicitation documents.

(d) Transactions with an entity designated as non-profit under the Internal Revenue Code or by the Florida Secretary of State, unless such entity is awarded a contract following a competitive solicitation involving for-profit entities and the contract, if awarded to a for-profit entity, would be subject to the transaction fee.

(e) Transactions with another governmental agency, as defined in Section 163.3164, F.S., with a private university in Florida, with an agency of another state, or with another sovereign nation, unless such entity is awarded a contract following a competitive solicitation involving private entities and the contract, if awarded to a private entity, would be subject to the transaction fee.

(f) Transactions in which law or government regulation requires that the commodity or service be provided by a sole provider (e.g., regulated utilities, legislatively mandated transactions, etc.) and transactions in which the price paid and the payee are established by federal or private grant.

(g) Payments to unregistered vendors under subsection 60A-1.030(3), F.A.C.

(h) Payments to a vendor in exchange for providing health care services at or below Medicaid rates, even if the vendor is otherwise registered in MyFloridaMarketPlace.

(i) Disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, Section 215.97, F.S.; disbursements of federal awards to sub-recipients as defined in Circular A-133 of the U.S. Office of Management and Budget; payments of State dollars to satisfy federal Maintenance of Efforts requirements; and payments of State dollars for matching federal awards.

(2) With the Department's prior written approval an agency may exempt a particular transaction from the Transaction Fee. As a necessary condition to obtaining this approval, the requesting agency shall provide to the Department its agency head's (or designee's) written (or electronic) determination, with all supporting facts and circumstances, that:

(a) The transaction is critical to the agency's mission or necessary for the public health, safety, or welfare; and,

(b) Imposition of the fee would prevent the consummation of the transaction.

The requesting agency shall direct the request and supporting documentation to the Director of State Purchasing, who shall respond to the agency within fourteen days, either granting approval, denying approval, or requesting additional information. Requests outstanding for more than fourteen days shall be deemed approved. Once the Department has approved a transaction under this subsection, the agency need not seek approval of subsequent directly related transactions (e.g., individual payments under a multi-year contract or under a blanket purchase order).

(3) An agency may exempt a particular transaction from the Transaction Fee if:

(a) The governor suspends purchasing regulations due to an emergency; or

(b) The agency head declares an emergency under Section 287.057(5)(a), F.S., or other statutory basis.

In case of an agency-declared emergency under Section 287.057(a), F.S., the agency shall identify every transaction that it has exempted from the Transaction Fee in the documentation it submits to the Department.

Specific Authority 287.042(12), 287.057(23) FS. Law Implemented 287.032, 287.042, 287.057 FS. History--New 7-1-03.