

DISTRICT CONTRACT GUIDELINES

This is a reference document for Board Policy F-2

Types of Contracts

1. Construction;
2. Software;
3. Utilities;
4. Professional Services;
5. Goods and Services;
6. Real Estate;
7. Memberships;
8. Site Rentals;
9. Licensing;
10. Special Use;
11. Revenue Generating; and
12. Employee Group Negotiated Agreements.

District Contract Approval Process

1. There is a standard form that end users must sign, verifying that they have thoroughly read the contract/memorandum of understanding/agreement, and, to the best of their knowledge, it accurately reflects:
 - a. the exact services that the parties have agreed will be provided;
 - b. the amount of money to be paid for such services;
 - c. the length of time the parties intend to contract for;
 - d. the obligations that the district is willing to undertake pursuant to the contract; and
 - e. the expectations of each party.The contract cover sheet also request that, if circumstances require, the end user has discussed the long term implications of the contract with the SCC, and that all applicable procurement policies have been complied with.
2. The signed form and a copy of the contract are forwarded to the director of policy and legal services/district legal counsel for review. After reviewing the contract, either:
 - a. district legal counsel signs the form indicating that it has been approved and is ready for the business administrator's signature; or
 - b. district legal counsel returns the contract to the end user, discusses concerns with the agreement that need to be resolved prior to the contract being approved, and works with the end user and/or vendor to resolve those concerns.

3. Once the form has been signed by district legal counsel, it is forwarded to the business administrator for his or her signature.
 - a. Although not required by state law or board policy, the business administrator may have the board president countersign contracts that involve the expenditure of over \$50,000 in district funds and have been previously approved by the board.

Board Approval of Purchases

All purchases made by the district are reported to the board on the district's PO Board Reports and Payment Voucher Report. As these reports are typically part of the board's consent agenda, the board acts on them accordingly. Keep in mind that not all purchases have a corresponding contract, i.e. some purchases will be made using solely an invoice. For all purchases over \$50,000, no contracts are signed until the board has approved the purchase.

Board Notification of Certain Contracts

The board shall be notified of all contracts which would encumber the board, the district, or district property for a period of ten years. Such notification will take place before any such contract is signed. If possible, and when the underlying matter directly affects a school community, the board will be notified prior to the underlying matter being discussed with the applicable SCC, and then again after the SCC has voted on the matter. (If no vote is taken on the matter, documentation of the consensus reached or the SCC's feedback must be provided to the board.) The early notification serves to inform board members of issues that may be of import to their communities, while the later notification is to ensure the board has knowledge of the affected community's position on the matter.

State Code Provisions

1. Utah Code Ann. §53A-3-401. Boards of Education are Bodies Corporate – Seal
 - a. The board of education of a school district is a body corporate under the name of the "Board of Education of . . . School District" (inserting the proper name), and shall have an official seal comfortable to its name.
 - b. The seal is used by its business administrator in the authentication of all required matters.
 - c. A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.
2. Utah Code Ann. §53A-3-405, Approval of Purchases or Indebtedness – Board Approval of Identified Purchases.
 - a. An officer or employee of a school district may not make a purchase or incur indebtedness on behalf of the district without the approval and order of the board.

- b. The board shall adopt one of the following methods, or a combination of the two:
 - i. The board shall approve an appropriation for identified purchases in the district budget. Each purchase made under an identified purchase does not require additional board approval.
 - ii. The board shall approve individual purchases when made throughout the fiscal year.
- 3. Utah Code Ann. §53A-3-303, Duties of Business Administrator.
 - a. Subject to the direction of the district superintendent of schools, the district's business administrator shall:
 - i. Be custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources.
 - ii. Countersign with the president of the board all warrants and claims against the district as well as other legal documents approved by the board.

Utah Administrative Code Provisions

- 1. R277-113-4(G), LEA Responsibilities
 - a. LEAs and individual public schools shall comply with the following regarding school and nonschool sponsored activities:
 - i. may enter into contractual agreements to allow for fundraising and use of LEA facilities.
- 2. R277-113-5, Required LEA Fiscal Policies
 - a. Expenditure of Public Funds: The LEA expenditure policy shall address expenditures made by checks, electronic transfers, and credit/purchase cards that are made by the LEA and individual public schools through school sponsored activities and shall include:
 - i. compliance with Utah Code Ann. §63G-6a-1204, regarding length of multi-year contracts;
 - ii. compliance with Utah Code Ann. §63G-6a et seq., procurement state law and Board rule regarding construction and improvements, and compliance with Title IX; and
 - iii. procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy.

Board Handbook

- 1. The board president will:
 - a. Sign legal assurances, correspondence, and contract on behalf of the board as required by law, policy, or vote of the board.
- 2. Board's Relationship with the Business Administrator

- a. The board expects the business administrator to discharge his or her statutory duties and to keep accurate records of all district revenues and expenditures, . . . and all legal and fiscal obligations of the board.

Board Policies and Administrative Procedures

1. Board Policy B-1: Board of Education Legal Status, Responsibilities, and Ethics
 - a. The board may perform all of the following duties . . .
 - i. Employ by contract and set salary schedules for the superintendent and business administrator, and approve the contracts and salary schedules for principals, teachers, and other employees of the district.
2. Board Policy F-2: Purchasing
 - a. The board delegates to the director of purchasing the business administrator authority to carry out the procurement functions of the district and to ensure such functions are in accordance with established policies and procedures. The director of purchasing may delegate to, or withdraw delegated purchasing authority from, other employees, including directors, school principals, and purchasing agents.
 - b. The purpose of this policy is to enable the district to purchase goods and services, establish contracts, and carry out its functions in a manner that deals equitably with all vendors, and provides for the efficient management and proper expenditure of public funds.
3. Administrative Procedures F-2: Purchasing
 - a. All contracts must be approved by the business administrator.
 - b. Except for small purchases [under \$50,000], no purchase will be made, and no indebtedness will be incurred, by any district officer or employee without board approval.
 - c. When in the best interest of the district, the purchasing department shall utilize cooperative contracts with the state and other local public procurement units.
 - d. All leasing, rental, and maintenance agreements will be authorized and processed by the purchasing department, except for district facilities that are managed by the auxiliary services department.
 - e. All vending machine contracts must be approved by the board or designee, and be signed by the district business administrator.