Financial Compliance HOT Spots!

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UPDATES TO THE TEXAS ADMINISTRATIVE CODE (TAC)

EXTERNAL AUDITORS

• 19 TAC 109 Subchapter B .23
• Back story
• Proposed rule…….
(d) The district or other educational entity must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.

(1) The independent auditor must:

• (A) be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy;

• (B) be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under the Texas Education Code, §44.008; and

• (C) adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the US Government Accountability Office, as amended.
(2) The **CPA firm** must:

- (A) be a member of the AICPA Governmental Audit Quality Center (GAQC);
- (B) adhere to GAQC’s membership requirements; and
- (C) collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:
  - (i) Texas public school district environment; or
  - (ii) public sector; or
  - (iii) nonprofit sector.
(e) If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the standards required as stated in subsection (d) of this section, the division may require the district or other educational entity to change its audit firm.
UPDATES TO THE TEXAS ADMINISTRATIVE CODE (TAC)

EXTERNAL AUDITORS

DOES NOT INCLUDE
MANDATORY AUDITOR
ROTATION!!!!
DEPOSITORY

CONTRACTS
The district must use these forms below that are included within these rules.

“Bid Form for Depository Services”

“Proposal Form for Depository Services”

The district must keep the selected bid or proposal form in the district and make it available to the Texas Education Agency upon request.

19 TAC 109 Subchapter D .51 and .52
Information submitted to TEA as required by TAC 109.52

- “Texas School Depository Surety Bond Form“

These forms will be submitted to us **electronically only.** Please do not mail!!

This applies to both ISDs and charter schools
HOW TO SUBMIT DEPOSITORY INFORMATION

There will be a selection in the AUDIT system:
HOW TO SUBMIT DEPOSITORY INFORMATION

Depository Contract for Independent School Districts and Charter Schools
PDF Documents Import Utility

Step 1: Enter the County-District number and select the Fiscal Year for the file(s)
Step 2: Type in the full path to the file you wish to upload or click on Browse...
Step 3: Click on Upload Now
Step 4: Wait for a minute while the file is uploaded, the results will be displayed in your browser when the process is complete

IMPORTANT NOTES
- Verify that the file is in the proper PDF format before uploading the file.
- All uploaded PDF files must be reviewed and approved by Texas Education Agency (TEA) personnel for public viewing before it will be visible on the TEA public website.

District [ ]
Year 2014

ISOs
Depository Documents – Independent School Districts
PDF to upload: [ ] No file chosen
Note: [ ] Choose a Note

Depository Documents PDF File naming convention:
999999 = the school district’s county-district number
DC = depository contract
DCE = depository contract extension
VDDA = vendor direct deposit authorization form
SB = surety bond
X = the last digit of the effective year of the contract or contract extension (for example, contracts and contract extensions are effective for 2 years. For 2015-2017, please use the number 7)

Please submit the following documents that are applicable:
Depositary contract for funds of Independent School Districts: 999999DCX
(Example: 00099994DC7)
Vendor direct deposit form (only if there is a change in bank information): 999999VDDAX
(Example: 00099994VDDA7)
The Texas Surety Bond Form (if applicable): 999999SXX
(Example: 99999995S67)

If the district is not required to submit a new contract and is eligible to submit a contract extension form (with no changes to the existing contract), please use the following:
Contract extension form: 999999DCEX
(Example: 00099994DCE7)
HOW TO SUBMIT DEPOSITORY INFORMATION

Charter Schools

Depository Documents

PDF to upload: Choose File | No file chosen

Note: --Choose a Note--

Depository Documents PDF File naming convention:

999999 = the charter school county-district number
DC = depository contract (only for new contracts)
DS = depository statement
VDDA = vendor direct deposit authorization form (only if there is a change in bank information)
X = the effective year of the contract or statement (ex: for a contract or statement effective for the year 2015-2016, please use 6)

Please submit the following documents that are applicable:

Depository contract for charter schools: 999999DCX
(Example: 000000006)

Vendor direct deposit form (only if there is a change in bank information): 999999VDDAX
(Example: 999999vdda6)

The depository statement of no change to depository information: 999999DSX
(Example: 999999ds6)

IMPORTANT NOTE:
Maximum allowable PDF size is 50mb.

Upload Now  Help
The Depository Contract forms will be submitted as PDFs through the TEASE Audit application.

The users who will be submitting the depository contract information will have to apply for one of the roles listed below:

PLEASE NOTE: THE ROLES HAVE NOT BEEN FINALIZED

- Charter AFR User – Submits annual financial report
- Charter AFR and Depository Contract User – Submits annual financial report and depository contract
- ISD User – Submits annual financial report
- ISD AFR and Depository Contract User – Submits annual financial report and depository contract
- Depository Contract User - Submit only depository contract

There will be two sections, one for ISDs and one for charter schools.

The ISD and Charter school users will only be able to submit a file. They will not be able to view submitted Depository Contract files.

Only the TEA user with the Depository Contract role will be able to view the submitted Depository Contract files.
2014 Financial Compliance Findings

- Failure to disclose conflict of interest issues
- Failure to safeguard and maintain financial records
- Failure to establish and implement strong internal controls
- Failure to establish Segregation of Duties
- Failure to comply with change order laws
- Failure to competitively procure public works contracts using an approved procurement delivery methods and procedures
- Failure to competitively procure materials or services over $50,000
- Failure to file expense reports with support documentation after travel trips
CONFLICT OF INTEREST VIOLATIONS
CONFLICT OF INTEREST VIOLATIONS

No Reporting Disclosure Mechanisms Established

- Conflict of Interest Affidavits must be available for government officials.
- Conflict of Interest Statements must be available for government officers.
- Conflict of Interest Questionnaires must be available for vendors and other persons.

LOCAL GOVERNMENT CODE, Chapters 171 and 176
A person has a substantial interest in a business entity if:

- The person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

- Funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

- A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

- A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity.

LGC, Chapter 171
CONFLICT OF INTEREST VIOLATIONS

STATEMENTS FAIL TO MEET CONFLICT OF INTEREST REQUIREMENTS

• Must disclose their other **employments** or **other business relationships** described by Section 176.003(a), including the **nature** and **extent of the relationship**; and

• **Gifts accepted** by the local government officer **and** any **family member** of the officer from a person described by Section 176.002(a) **during the 12-month period** described by Section 176.003(a)(2)(B) if the **aggregate value** of the gifts, excluding gifts described by Section 176.003(a-1), accepted by the officer or a family member from that person exceed $250;

• An **acknowledgment** from the local government officer that:
  • the disclosure applies to each family member of the officer; and
  • the statement covers the **12-month period** described by Section 176.003(a); and
  • the **signature** of the local government officer acknowledging that the **statement is made under oath under penalty of perjury**.

LGC, Chapter 176
Vendors or other persons filing the questionnaire must disclose:

(1) **describe each employment or business relationship** the person has with each local government officer or official of the school.

(2) **identify each employment or business relationship** (1) with respect to which the local government officer or official receives, or is likely to receive, **taxable income from the person filing the questionnaire**;

(3) **identify each employment or business relationship** (1) with respect to which the **person filing the questionnaire receives**, or is likely to receive, **taxable income**, that: is received from, or at the direction of, a local government officer, or official of the local governmental entity; and

(4) **describe each employment or business relationship** with a corporation or other business entity with respect to which a local government officer or official of the local governmental entity:
   (A) **serves as an officer or director**, or
   (B) **holds an ownership interest of 10 percent** or more.
CONFLICT OF INTEREST VIOLATIONS

FAILURE TO FILE FORMS IN A TIMELY MANNER

✓ **Affidavits must be filed before** the public official votes or decides on any matter involving the business entity or the real property that the public official has a substantial interest in.

✓ **Statements must be filed** by the government officer **no later than 5 pm on the seventh business day after the date the officer becomes aware of the facts that require disclosure.**

✓ **Questionnaires must be filed not later than the seventh** business day after the later of:
  
  • **The date** that the vendor or person begins discussions or negotiations to enter into a contract; or
  
  • **Submits an application, request for proposal, bids, correspondence and other writings** to a potential contract with the school; or
  
  • **The date** the person becomes aware of an employment or business relationship with the local government officer, or family member of the officer; or
  
  • **The date** the person has given one or more gifts that meet disclosure requirements.

LOCAL GOVERNMENT CODE, Chapters 171 and 176
CONFLICT OF INTEREST VIOLATIONS

FAILURE TO DISCLOSE TO THE PUBLIC PROPERLY

✓ **Conflict of Interest Forms** must be **filed** with the school’s Record Management Officer, **and published** on the school’s website.

✓ **Affidavits and Statements** must be **notarized**.

✓ A **list** of the school’s Local Government Officials and Local Government Officers must be **maintained and filed** with the school’s Record Management Officer; and must be **made available** to the public; and any person who is required to file a questionnaire.

LGC, Chapter 176
Document Retention and Record Management Violations

Failure to safeguard and maintain school financial records

- Each item below must be board approved and
- Filed with and certified by the Texas State Library and Archives Commission (TSLAC).

- Record Retention Manager (RMO) Name and Title; and
- Record Retention Schedules; and
- Record Retention Policies and Procedures

(Note: The Record Retention Manager of the school cannot be the same person as the Superintendent.)

LGC, Chapter 203
INTERNAL
CONTROL
VIOLATIONS
INTERNAL CONTROL VIOLATIONS

FAILURE TO SEGREGATE EMPLOYEE DUTIES

Segregate employees duties with responsibilities in the operational areas of Finance, Accounts Payable, Purchasing, and Accounts Receivable.

Examples of Segregation of Duties Findings:

- The purchasing clerk approves purchases in the procurement system and can approve ACH payments in the school’s online banking system.
- The accounts payable clerk approves invoices for payment in the procurement system and reconciles the general ledger in the accounting system.
- The accounts receivable clerk validates materials received and creates purchases orders in the accounting system.
- The CFO reconciles the school’s bank statements and creates and authorizes the wire transfers.

TEA Financial Accountability System Resource Guide (FASRG), Modules 1, 3.
INTERNAL CONTROL VIOLATIONS

MONITORING AND OVERSIGHT CONTROLS

- Ensure all clerks that prepare financial information do not also approve the financial work they prepared.
- Reconcile all bank statements and credit card statements in a timely basis.
- Reconcile the general ledger on a monthly basis.
- Provide the board of trustees with critical financial reports, such as budget to actual reports and the monthly check registers reports.
- Require source documents for supporting documentation, such as receipts, invoices, account statements when reimbursing employees or vendors for expenses incurred.
- Ensure only ONE board approved vendor list and bank wire transfer signatory list exist.

TEA Financial Accountability System Resource Guide (FASRG), Modules 1, 3.
INTERNAL CONTROL VIOLATIONS

MONITORING AND OVERSIGHT CONTROLS

- Update electronic signatory list and physical signatory cards located at the bank on a scheduled, periodic and routine basis.
- Conduct controlled asset inventory inspections on a scheduled, periodic and routine basis.
- Update lists of approvers and preparers within the purchasing and accounting systems on a scheduled, periodic and routine basis.

TEA Financial Accountability System Resource Guide (FASRG), Modules 1, 3.
Create payment authorization limits on all bank accounts - This internal control requires a person to seek further reviews and authorizations prior to the banks releasing funds that exceed established payment limit thresholds set by the district.

Institute Dual custody on all bank accounts – This internal control requires that for high-risk transactions — such as intra-account money movement transfers, check payments, and wire transfers— one person creates the transaction and another person must review and approve the transaction before the payment is issued.

Institute Automatic banking notifications on all bank accounts – This internal control helps ensure district bank accounts are closely monitored. The bank sends text or email alert messages to multiple district employees during the processing of a transaction. An example of this internal control is a message such as, “An unauthorized ACH transaction has been detected”.

TEA Financial Accountability System Resource Guide (FASRG), Modules 1, 3.
Institute Reverse Pay on all bank accounts – This internal control allows the district to review all checks presented to the bank for payment to determine if they should be paid or returned. This control assists the district’s efforts to detect if a check is stolen and presented to the bank by any person at a banking location.

Institute Positive Pay on all bank accounts - This internal control helps the district verify all checks issued from the district by verifying the check serial numbers, dollar amounts, and payee names that match the bank’s issued check files.

Ensure financial standard operating policy and procedure manuals are board approved and published on the school’s website.

TEA Financial Accountability System Resource Guide (FASRG), Modules 1, 3.
VIOLATIONS INVOLVING PUBLIC WORKS CONTRACTS
PUBLIC WORKS CONTRACT VIOLATIONS

FAILURE TO PROPERLY PROCURE CONSTRUCTION CONTRACTS

✓ Failure to use a lawful contracting and delivery procedure method for the procurement of construction contracts. Here are the approved contracting methods below:

1. Competitive Bidding Method
2. Competitive Sealed Proposal Method
3. Construction Manager-Agent Method
4. Construction Manager-at-Risk Method
5. Building Using Design-Build Method
6. Design-Build Procedures for Civil Work Projects
7. Job Order Contract Method

✓ Failure to comply with public notice requirements.
✓ Failure to evaluate, score, and rank offers according to published criteria.
✓ Failure to retain all documentation of score sheets, proposals, bids received, and awards.
✓ Failure to follow procedures outlined within the procurement methodology.

Gov’t Code, Chapter 2269
PUBLIC WORKS CONTRACT VIOLATIONS

FAILURE TO COMPLY WITH CHANGE ORDER LAWS

• Once a construction contract has been executed, any change in plans or specifications that is needed may be authorized by the district through a change order.

• A construction contract valued at the original cost of $1 million dollars or more, may not be increased in value by more than 25 percent by one or more change orders.

• PRIOR to September 2011, all construction contracts may not be increased by more than 25 percent over its original amount. If the changes needed will increase the contract over 25% of the original contract price, the contract must be rebid per FASRG, Module 3.

Texas Education Code (TEC), Chapter 44.0411
PURCHASING AND PROCUREMENT VIOLATIONS
PROCUREMENT VIOLATIONS

FAILURE TO COMPETITIVELY PROCUREMENT SERVICES OR MATERIALS

- Failure to competitively procure services or materials that exceed the statutory limit of $50,000 dollars in a 12-month period, within each procurement category.

Texas Education Code (TEC), Chapter 44.031(a)
TRAVEL EXPENSE VIOLATIONS
• District’s must ensure that all employees file travel expense reports in a timely manner, and may require source documents (ie. hotel receipts, car rental receipts, gas receipts) to ensure employees are only reimbursed for allowable travel expenses incurred.
QUESTIONS?
THANK YOU!

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