

**TRANSFER OF FUNDS**

The Governing Board recognizes its responsibility to monitor the district's fiscal practices to ensure accountability regarding the expenditure of public funds and compliance with legal requirements.

*(cf. 0460 - Local Control and Accountability Plan)*

*(cf. 3100 - Budget)*

*(cf. 3400 - Management of District Assets/Accounts)*

*(cf. 3460 - Financial Reports and Accountability)*

The total amount budgeted by the district for each major classification of expenditures, as listed in the California Department of Education's budget forms, shall be the maximum amount which the district may expend for that classification for the school year. (Education Code 42600)

However, when it is in the best interest of the district, the Board may:

1. At any time, adopt a written resolution providing for transfers from the designated fund balance or the unappropriated fund balance to any expenditure classification or between classifications. The resolution shall be filed with the County Superintendent of Schools and the County Auditor. (Education Code 42600)

*(cf. 9323.2 - Actions by the Board)*

2. Direct the temporary transfer of monies held in any district fund or account to another fund or account as necessary for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. No more than 75 percent of the maximum amount held in any fund or account during the current fiscal year may be transferred. Amounts transferred shall be repaid in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. (Education Code 42603)

For the 2020-21 and 2021-22 fiscal years only, if the state defers any payments owed to districts, the Board may direct the temporary transfer of up to 85 percent of the maximum amount held in any fund or account during the current fiscal year for the payment of obligations. Such borrowing shall occur only when the fund or account receiving the money will earn sufficient income during the current fiscal year to repay the amount transferred. Prior to exercising this authority, the Board shall hold a public hearing and adopt a resolution authorizing such transfer. (Education Code 42603.1)

3. At the close of a school year, request that the County Superintendent make transfers between the designated fund balance or the unappropriated fund balance and any

**TRANSFER OF FUNDS** (continued)

- expenditure classification(s), or balance any expenditure classifications of the district budget as necessary for the payment of obligations incurred during that school year. (Education Code 42601)
4. If any special reserve funds that are maintained for capital outlay or other purposes pursuant to Education Code 42842 are not actually encumbered for ongoing expenses, transfer those monies into the general fund for the general operating purposes of the district. If any monies remain in the special reserve fund at the conclusion of a project, the Board may submit a written request to the County Superintendent, Auditor, and Treasurer to discontinue the special reserve fund and transfer those monies to the district's general fund. (Education Code 42841-42843)
  5. Transfer monies between other funds or accounts when authorized by law.

*Legal Reference:*EDUCATION CODE*78 Definition, governing board**5200 Districts governed by boards of education**16095 Transfer of district funds to district state school building fund**41010 California School Accounting Manual**41301 Section A state school fund allocation schedule**42125 Designated and unappropriated fund balances**42238-42251 Apportionments to districts, especially:**42238.01-42238.07 Local control funding formula**42600 District budget limitation on expenditure**42601 Transfers between funds to permit payment of obligations at close of year**42603 Temporary Transfer of monies held in any fund or account to another fund; repayment**42603.1 Temporary transfer of monies held in any fund or account to another fund; state deferrals; fiscal years 2020-21 and 2021-22**42840-42843 Special reserve fund**52616.4 Expenditures from adult education fund**Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONSCalifornia School Accounting ManualWEB SITESCSBA: <http://www.csba.org>California Department of Education: <http://www.cde.ca.gov>Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

## **FEDERAL GRANT FUNDS**

The Governing Board recognizes the district's responsibility to maintain fiscal integrity and transparency in the use of all funds awarded through federal grants. The district shall comply with all requirements detailed in any grant agreement with an awarding agency and with the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards specified in 2 CFR 200.0-200.521 and any stricter state laws and district policy.

Any goods or services purchased with federal funds shall be reasonable in cost and necessary for the proper and efficient performance or administration of the program.

The Superintendent or designee shall ensure that the district's financial management systems and procedures provide for the following: (2 CFR 200.302)

1. Identification in district accounts of each federal award received and expended and the federal program under which it was received

*(cf. 3100 - Budget)*

2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements of 2 CFR 200.328 and 200.329

*(cf. 3460 - Financial Reports and Accountability)*

3. Records and supporting documentation that adequately identify the source and application of funds for federally funded activities, including information pertaining to federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest

*(cf. 1340 - Access to District Records)*

*(cf. 3580 - District Records)*

4. Effective control over and accountability for all funds, property, and other assets and assurance that all assets are used solely for authorized purposes
5. Comparison of actual expenditures with budgeted amounts for each federal award
6. Written procedures to implement provisions governing payments as specified in 2 CFR 200.305

7. Written procedures for determining the allowability of costs in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the federal grant award

*(cf. 3400 - Management of District Assets/Accounts)*

BP 3230(b)

## **FEDERAL GRANT FUNDS (continued)**

The Superintendent or designee shall develop and implement appropriate internal control processes to reasonably assure that transactions are properly executed, recorded, and accounted for so that the district can prepare reliable financial statements and federal reports, maintain accountability over assets, and demonstrate compliance with federal laws, regulations, and conditions of the federal award. (2 CFR 200.61, 200.62, 200.303)

Equipment purchased with federal funds shall be properly inventoried and adequately maintained to safeguard against loss, damage, or theft of the property.

*(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)*

*(cf. 3440 - Inventories)*

*(cf. 3512 - Equipment)*

All staff involved in the administration or implementation of programs and activities supported by federal funds shall receive information and training on the allowable use of federal funds, purchasing procedures, and reporting processes commensurate with their duties.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The district shall submit financial and performance reports to the awarding agency in accordance with the schedule and indicators required for that federal grant by law and the awarding agency. As required, such reports may include a comparison of actual accomplishments to the objectives of the federal award, the relationship between financial data and performance accomplishments, the reasons that established goals were not met if applicable, cost information to demonstrate cost-effective practices, analysis and explanation of any cost overruns or high unit costs, and other relevant information. The final performance report shall be submitted no later than 120 calendar days after the ending date of the grant. (2 CFR 200.301, 200.328, 200.329)

*(cf. 0500 - Accountability)*

*(cf. 6190 - Evaluation of the Instructional Program)*

*Legal Reference: (see next page)*

## **FEDERAL GRANT FUNDS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

42122-42129 Budget requirements

64001 School plan for student achievement, consolidated application programs

#### CODE OF FEDERAL REGULATIONS, TITLE 2

180.220 Amount of contract subject to suspension and debarment rules

200.0-200.521 Federal uniform grant guidance, especially:

200.1-200.99 Definitions

200.100-200.113 General provisions

200.317-200.326 Procurement standards

200.327-200.329 Monitoring and reporting

200.333-200.337 Record retention

200.400-200.475 Cost principles

200.500-200.521 Audit requirements

#### CODE OF FEDERAL REGULATIONS, TITLE 34

76.730-76.731 Records related to federal grant programs

#### CODE OF FEDERAL REGULATIONS, TITLE 48

2.101 Federal acquisition regulation; definitions

### *Management Resources:*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Department of Education Audit Guide

California School Accounting Manual

#### EDUCATION AUDIT APPEALS PANEL PUBLICATIONS

Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Questions and Answers Regarding 2 CFR Part 200

#### WEB SITES

California Department of Education: <http://www.cde.ca.gov>

Education Audit Appeals Panel: <http://www.eaap.ca.gov>

Office of Management and Budget, Uniform Guidance: <https://www.whitehouse.gov/omb>

State Controller's Office: <http://www.sco.ca.gov>

System for Award Management (SAM): <http://www.sam.gov/SAM>

U.S. Department of Education: <http://www.ed.gov>

U.S. Government Accountability Office: <http://www.gao.gov>

Policy  
adopted:  
**Business and Noninstructional Operations**

CSBA MANUAL MAINTENANCE SERVICE  
March 2021  
AR 3230(a)

## **FEDERAL GRANT FUNDS**

To ensure the lawful expenditure of any federal formula or discretionary grant funds awarded to the district, the Superintendent or designee shall comply with the requirements of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"), as contained in 2 CFR 200.0-200.521 and Appendices I-XII.

### **Allowable Costs**

Prior to obligating or spending any federal grant funds, the Superintendent or designee shall determine whether a proposed purchase is an allowable expenditure in accordance with 2 CFR 200.400-200.475 and the terms and conditions of the award. The Superintendent or designee shall also determine whether the expense is a direct or indirect cost as defined in 2 CFR 200.413 and 200.414 and, if the purchase will benefit other programs not included in the grant award, the appropriate share to be allocated to the federal grant.

*(cf. 3350 - Travel Expenses)*

The Superintendent or designee shall review and approve all transactions involving federal grant funds and shall ensure the proper coding of expenditures consistent with the California School Accounting Manual.

*(cf. 3300 - Expenditures and Purchases)*

*(cf. 3314 - Payment for Goods and Services)*

### **Period of Performance**

All obligations of federal funds shall occur on or between the beginning and ending dates of the grant project and shall be paid no later than 120 calendar days after the end of the funding period, unless specifically authorized by the grant award to be carried over beyond the initial term of the grant. (2 CFR 200.77, 200.308, 200.309, 200.344)

### **Procurement**

When procuring goods and services with a federal grant, the Superintendent or designee shall comply with the standards contained in 2 CFR 200.317-200.327 and Appendix II of Part 200,

and with any applicable state bidding or procurement law or district policy that is more restrictive.

As appropriate to encourage greater economy and efficiency, the Superintendent or designee shall avoid acquisition of unnecessary or duplicative items, give consideration to consolidating or breaking out procurements, analyze lease versus purchase alternatives, consider entering into an interagency agreement for procurement of common or shared goods and services, and/or use federal excess or surplus property. (2 CFR 200.318)

AR 3230(b)

### **FEDERAL GRANT FUNDS (continued)**

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

1. Any purchase of supplies or services that does not exceed the "micro-purchase" threshold established by the district in accordance with 48 CFR 2.101 may be awarded without soliciting competitive quotes, provided that the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)
2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code 20111, the Superintendent or designee shall utilize "small-purchase" procedures that include obtaining price or rate quotes from an adequate number of qualified sources. (2 CFR 200.320)
3. Contracts for goods or services over the bid limits required by Public Contract Code 20111 shall be awarded pursuant to California law and AR 3311 - Bids, unless exempt from bidding under the law.

*(cf. 3311 - Bids)*

4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)

*(cf. 3312 - Contracts)*

5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available exclusively from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly

authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of a number of sources. (2 CFR 200.320)

6. Time and materials type contracts may be used only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. *Time and materials type contract* means a contract for which the cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (2 CFR 200.318)

AR 3230(c)

### **FEDERAL GRANT FUNDS (continued)**

For any purchase of \$25,000 or more, the Superintendent or designee shall verify that any vendor which is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.214)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand which must be met by offers. In addition, every solicitation shall identify all requirements which the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

The Superintendent or designee shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

The Superintendent or designee shall ensure that all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (2 CFR 200.327)

### **Capital Expenditures**



The Superintendent or designee shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.313, 200.439)

### **Conflict of Interest**

Governing Board members, district employees, and other district representatives shall not participate in the selection, award, or administration of a contract supported by federal funds if they have a real or apparent conflict of interest, such as when they or a member of their

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### **FEDERAL GRANT FUNDS (continued)**

immediate family, their partner, or an organization which employs or is about to employ any of them has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BB 9270 - Conflict of Interest.

*(cf. 9270 - Conflict of Interest)*

Persons involved in the selection, award, or administration of a contract supported by federal funds shall be subject to discipline for any violation of conflict of interest standards. (2 CFR 200.318)

*(cf. 4118 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System))*

### **Cash Management**

The Superintendent or designee shall ensure the district's compliance with 2 CFR 200.305 pertaining to payments and cash management, including compliance with applicable methods and procedures that minimize the time elapsing between the transfer of funds to the district and the district's disbursement of funds. (2 CFR 200.305)

When authorized by law, the district may receive advance payments of federal grant funds, limited to the minimum amounts needed and timed in accordance with the actual immediate cash requirements of the district for carrying out the purpose of the program or project. Except

under specified conditions, the district shall maintain the advance payments in an interest-bearing account. The district shall remit interest earned on the advanced payment to the awarding agency on an annual basis, but may retain interest amounts specified in 2 CFR 200.305 for administrative expenses. (2 CFR 200.305)

When required by the awarding agency, the district shall instead submit a request for reimbursement of actual expenses incurred. The district may also request reimbursement as an alternative to receiving advance payments. (2 CFR 200.305)

The Superintendent or designee shall maintain source documentation supporting the expenditure of federal funds, such as invoices, time sheets, payroll stubs, or other appropriate documentation.

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## **FEDERAL GRANT FUNDS (continued)**

### **Personnel**

All district employees who are paid in full or in part with federal funds shall document the amount of time they spend on grant activities. Such records shall be incorporated into the official records of the district and shall be subject to a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated in accordance with 2 CFR 200.430. (2 CFR 200.430)

Salaries and wages of employees whose salary is paid with state or local funds but are used to meet a cost-sharing or matching requirement of the federal grant shall be documented in the same manner as salaries and wages claimed for reimbursement under a federal grant. (2 CFR 200.430)

### **Records**

Except as otherwise provided in 2 CFR 200.334, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. (2 CFR 200.334)

*(cf. 1340 - Access to District Records)*

*(cf. 3580 - District Records)*

### **Audits**

Whenever the district expends \$750,000 or more in federal grant funds during a fiscal year, it shall arrange for either a single audit or a program-specific audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501)

The Superintendent or designee shall ensure that the audit meets the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

AR 3230(f)

#### **FEDERAL GRANT FUNDS (continued)**

In the event that the audit identifies any deficiency, the Superintendent or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate that the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511)

Regulation  
approved:  
**Business and Noninstructional Operations**

CSBA MANUAL MAINTENANCE SERVICE  
March 2021  
AR 3311.2(a)

## **LEASE-LEASEBACK CONTRACTS**

The district may lease currently owned district property to any person, firm, or corporation for a minimum of \$1 per year for a term not to exceed 99 years, as long as the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17403, 17406)

*(cf. 3280 - Sale or Lease of District-Owned Real Property)*  
*(cf. 3312 - Contracts)*

Before the district enters into such a lease or agreement, it shall have available a site upon which a building may be constructed for use by the district, shall have complied with requirements related to the selection and approval of sites, and shall have prepared and adopted plans and specifications for the building that have been approved in accordance with Education Code 17280-17316. (Education Code 17402)

*(cf. 7150 - Site Selection and Development)*

### **Procedures for Awarding the Contract**

The district's intent to enter into a lease-leaseback contract may be described in a resolution adopted by the Governing Board which includes, but is not be limited to, a description of the available site and the building to be constructed, the amount and term of the lease, and where to obtain information about the procedures for submitting a proposal.

Any lease-leaseback contract shall be awarded through a competitive "best value" procurement process whereby a person, firm, or corporation is selected on the basis of objective criteria for evaluating the qualifications of proposers, with the resulting selection representing the best combination of price and qualifications. (Education Code 17400, 17406)

To make this determination, the district shall use the following procedures: (Education Code 17406; Public Contract Code 2600)

1. **Request for Sealed Proposals:** The Superintendent or designee shall prepare a request for sealed proposals which shall include:
  - a. An estimate of the project's price
  - b. A clear, precise description of any preconstruction services that may be required and the facilities to be constructed
  - c. The key elements of the contract to be awarded
  - d. A description of the format that proposals shall follow and the elements they shall contain

AR 3311.2(b)

#### **LEASE-LEASEBACK CONTRACTS (continued)**

- e. The standards the district will use in evaluating proposals and the qualifications of the proposers, including:
  - (1) Relevant experience
  - (2) Safety record
  - (3) Price proposal, including, at the district's discretion, either a lump-sum price for the contract to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the district
  - (4) Whether each criterion will be evaluated on a pass-fail basis or will be scored as part of the "best value" score, and whether proposers must achieve any minimum qualification score for award of the contract
  - (5) For each scored criterion, the methodology and rating or weighting system that will be used by the district in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score

- (6) Other factors established by the district
  - f. The date on which proposals are due
  - g. The timetable the district will follow in reviewing and evaluating proposals
  - h. A statement that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603
2. **Notice:** At least 10 days before the date for receipt of the proposals, the Superintendent or designee shall give notice of the request for sealed proposals using both of the following methods:
- a. Providing notice at least once a week for two weeks in a local newspaper of general circulation pursuant to Public Contract Code 20112
  - b. Providing notice in a trade paper of general circulation published in the county where the project is located

The Superintendent or designee also may post the notice on the district's web site or through an electronic portal.

AR 3311.2(c)

## **LEASE-LEASEBACK CONTRACTS** (continued)

3. **Prequalification:** A proposer shall be prequalified in accordance with Public Contract Code 20111.6(b)-(m) in order to submit a proposal. Any electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements.

*(cf. 3311 - Bids)*

4. **Evaluation of Proposals:** All proposals received shall be reviewed to determine whether they meet the format requirements and the standards specified in the request for sealed proposals. The district shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposals shall be ranked from the highest best value to the lowest best value to the district.
5. **Award of Contract:** The award of the contract shall be made by the Board to the responsive proposer whose proposal is determined, in writing by the Board, to be the best value to the district.

If the selected proposer refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the district. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score.

Upon issuance of a contract award, the district shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

6. **Rejection of Proposals:** At its discretion, the Board may reject all proposals and request new proposals.

Any lease-leaseback agreement shall be reviewed by the district's legal counsel to ensure that all required terms, including a lease term that provides for the district's occupancy of the building or improved property during the lease and an appropriate financing component, are included in the agreement.

### **Skilled and Trained Workforce**

Prior to entering into a lease-leaseback agreement, the Superintendent or designee shall have on file the contractor's enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or

AR 3311.2(d)

### **LEASE-LEASEBACK CONTRACTS (continued)**

contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17407.5; Public Contract Code 2602)

*Skilled and trained workforce* means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate

compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to that plan. (Public Contract Code 2602)

(cf. 9124 - Attorney)

*Legal Reference: (see next page)*

AR 3311.2(e)

## **LEASE-LEASEBACK CONTRACTS (continued)**

*Legal Reference:*

EDUCATION CODE

17280-17316 Construction of school buildings; approvals

17400-17429 Leasing property, especially:

17400 Definitions

17403 Term of lease or agreement

17406 Lease-leaseback contract

17407.5 Use of a skilled and trained workforce

PUBLIC CONTRACT CODE

2600-2603 Skilled and trained workforce requirements

20111.6 Prequalification procedures

20112 Notices

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal. App. 4th 235

Davis v. Fresno Unified School District, (2015) 237 Cal.App.4th 261

*Management Resources:*

WEB SITES



CSBA: <http://www.csba.org>  
California Association of School Business Officials: <http://www.casbo.org>

Regulation  
approved:  
**Business and Noninstructional Operations**

CSBA MANUAL MAINTENANCE SERVICE  
March 2021  
AR 3311.3(a)

## **DESIGN-BUILD CONTRACTS**

The Governing Board may approve a contract with a single entity for both design and construction of any school facility in excess of \$1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

*(cf. 3311 - Bids)*  
*(cf. 3312 - Contracts)*  
*(cf. 7110 - Facilities Master Plan)*  
*(cf. 7140 - Architectural and Engineering Services)*

Design-build documents shall not include provisions for long-term project operations, but may include operations during a training or transition period. (Education Code 17250.25)

### **Procedures for Awarding the Contract**

The procurement process for design-build projects shall be as follows: (Education Code 17250.25, 17250.35; Public Contract Code 2600)

1. **Performance Specifications:** The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:
  - a. The size, type, and desired design character of the project
  - b. Performance specifications that cover the quality of materials, equipment, and workmanship
  - c. Preliminary plans or building layouts
  - d. Any other information deemed necessary to describe adequately the district's needs

The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. **Prequalification:** The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:
  - a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity

AR 3311.3(b)

## **DESIGN-BUILD CONTRACTS (continued)**

- b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors
- c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25
- d. A notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603

The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

3. **Request for Proposals:** The district shall prepare a request for proposals (RFP) that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The RFP shall include the information identified in items #2a, 2b, and 2d above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method for a project, the district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the district to ensure that any discussions or negotiations are conducted in good faith.
4. **Selection Based on Low Bid:** For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.
5. **Selection Based on Best Value:** For those projects utilizing best value as a selection method, the following procedures shall be used:
  - a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years.
  - b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.

AR 3311.3(c)

#### **DESIGN-BUILD CONTRACTS (continued)**

- c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.
- d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

#### **Skilled and Trained Workforce**

A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17250.25; Public Contract Code 2602)

*Skilled and trained workforce* means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to that plan. (Public Contract Code 2602)

*Legal Reference: (see next page)*

AR 3311.3(d)

## **DESIGN-BUILD CONTRACTS (continued)**

*Legal Reference:*

EDUCATION CODE

17250.10-17250.55 *Design-build contracts*

PUBLIC CONTRACT CODE

2600-2603 *Skilled and trained workforce requirements*

*Management Resources:*

WEB SITES

CSBA: <http://www.csba.org>

Regulation  
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March 2021

**Business and Noninstructional Operations**

AR 3320(a)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT**

Any claim against the district for money or damages shall be filed and acted upon in accordance with the Government Claims Act (Government Code 810-996.6) or other applicable law. Claims that are specifically excepted from the Government Claims Act by Government Code 905 and are not governed by any other statute or regulation may be filed and acted upon in accordance with district-established procedures pursuant to Government Code 935.

Unless otherwise provided by law, a written claim shall be presented to and acted upon by the Governing Board in accordance with such procedures prior to filing a lawsuit against the district for money or damages.

### **Time Limitations**

The following time limitations apply to the presentation of claims for money or damages against the district:

1. Claims relating to a cause of action for death or for injury to a person, personal property, or growing crops shall be presented to the Board not later than six months after the accrual of the cause of action. (Government Code 911.2)

2. Claims relating to any other cause of action subject to the Government Claims Act shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)
3. Claims relating to childhood sexual assault and other causes of action which are specifically excepted from the Government Claims Act by Government Code 905 but are subject to a claims presentation procedure in another statute or regulation shall be presented to the Board in accordance with the applicable governing statute or regulation. (Government Code 905)

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

4. Claims relating to any cause of action which is specifically excepted from the Government Claims Act by Government Code 905 but is not governed by any other claim presentation statute or regulation shall be presented to the Board within the time limits specified in items #1 and 2 above, depending on the applicable cause of action. (Government Code 911.2, 935)

### **Receipt of Claims**

A claim shall be deemed presented and received when delivered to the district office or deposited in a post office, mailbox, sub-post office, substation, mail chute, or other similar

AR 3320(b)

### **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

facility maintained by the U.S. government, in a sealed envelope properly addressed to the district office with postage paid, or when otherwise actually received in the district office or by the Board secretary or clerk. (Government Code 915, 915.2)

A claim may be submitted electronically in the manner specified by the Superintendent or designee. (Government Code 915, 915.2)

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's joint powers authority or insurance carrier in accordance with the applicable conditions of coverage.

### **Review of Contents of the Claim**

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant

2. The post office address to which the person presenting the claim desires notices to be sent
3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted
4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim
5. The name(s) of the district employee(s) causing the injury, damage, or loss, if known
6. The amount claimed if it totals less than \$10,000, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds \$10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a limited civil case of \$25,000 or less.
7. The signature of the claimant or the person acting on the claimant's behalf

#### **Notice of Claim Insufficiency**

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, provide a notice in the manner specified in Government Code 915.4 that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

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#### **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

#### **Amendment to Claims**

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

#### **Late Claims**

When a claim that is required to be presented not later than six months after the accrual of the cause of action, as specified in the section "Time Limitations" above, is not presented within that time, an application to present a late claim may be presented to the Board, in the manner specified in Government Code 915 and 915.2, within a reasonable time not to exceed one year

after the accrual of the cause of action. The application shall include the proposed claim and shall state the reason for the delay in presenting the claim. (Government Code 911.4, 915, 915.2)

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

The Board shall grant or deny the application to present a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.
2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.

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#### **CLAIMS AND ACTIONS AGAINST THE DISTRICT** (continued)

3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason the person failed to present the claim.
4. The person who sustained the alleged injury, damage, or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in substantially the same form as set forth in Government Code 911.8 and in the manner specified in Government Code 915.4. (Government Code 911.8, 915.4)

If the Board does not take action on the application to present a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Government Code 911.6)



## **Action on Claims**

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement between the district and the claimant before the expiration of the 45-day period. If the 45-day period has expired, the time limit may be extended if legal action has not commenced or been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

AR 3320(e)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

If the Board allows the claim in whole or in part or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it in settlement of the entire claim. (Government Code 912.6)

The Board or its designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall be provided in the manner specified in Government Code 915.4. (Government Code 913, 915.4)

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## **Business and Noninstructional Operations**

BP 3452(a)

### **STUDENT ACTIVITY FUNDS**

The Governing Board recognizes that student organizations can provide students with an opportunity to conduct worthwhile cocurricular activities while helping students learn about effective financial practices and develop leadership and management skills. To that end, the Board may approve the formation of associated student body organizations which are composed entirely of students, operate under the oversight of the principal or other district-employed advisor, and are subject to the control and regulation of the Board. Student organizations may raise and spend funds to support activities that promote the general welfare, morale, and educational experiences of the student body.

*(cf. 1230 - School Connected Organizations)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

### **Fundraising**

At the beginning of each school year, each principal or designee shall submit to the Superintendent or designee a list of the fundraising events that each student organization proposes to hold that year. The Superintendent or designee shall review the proposed events and determine whether the events contribute to the educational experience and do not conflict with or detract from the school's educational program. When reviewing proposed events, the Superintendent or designee shall consider the effects of the activities on student health and safety, evaluate the risk of liability to the district, and ensure that the proposed activities are in compliance with law, Board policy, and administrative regulation.

*(cf. 1321 - Solicitation of Funds from and by Students)*

*(cf. 3290 - Gifts, Grants and Bequests)*  
*(cf. 3530 - Risk Management/Insurance)*  
*(cf. 5030 - Student Wellness)*  
*(cf. 5142 - Safety)*  
*(cf. 5143 - Insurance)*

Fundraising events that involve the sale of food and/or beverages shall comply with applicable state and/or federal nutrition standards and BP/AR 3554 - Other Food Sales. If the fundraising event involves the sale of noncompliant food and/or beverages, it shall not take place from midnight until at least one-half hour after the end of the school day, or not be conducted on school premises.

*(cf. 3554 - Other Food Sales)*

### **Management and Reporting of Funds**

Student body funds shall be managed in accordance with law, regulations, Board policies, and sound business procedures designed to encourage the largest possible educational return to students without sacrificing the security of funds.

BP 3452(b)

### **STUDENT ACTIVITY FUNDS (continued)**

The Superintendent or designee shall develop internal control procedures to safeguard the organization's assets, promote the success of fundraising ventures, provide reliable financial information, protect employees and volunteers from accusations of impropriety, and reduce the risk and promote the detection of fraud and abuse. These procedures shall detail the oversight of activities and funds including, but not limited to, the appropriate role and provision of training for staff and students, parameters for events on campus, appropriate and prohibited uses of funds, and accounting and record-keeping processes, including procedures for handling questionable expenditures.

*(cf. 3400 - Management of District Assets/Accounts)*

The principal or designee shall be responsible for the proper conduct of all student organization financial activities. The budget adopted by the student body organization should serve as the financial plan for the school year and shall be submitted to the Superintendent or designee at the beginning of each school year. The Superintendent or designee shall monitor the budget and periodically review the organization's use of funds to ensure compliance with the district's internal control procedures.

Funds derived from the student body shall be expended according to procedures established by the student organization. All expenditures must be approved by a Board-designated

employee or official, the certificated employee who is the designated student organization advisor, and a student organization representative. (Education Code 48933)

When student body funds are expended for equipment, supplies, or activities that support the district's athletic program, the Superintendent or designee shall ensure that the expenditures are aligned with the district's commitment to provide equitable opportunities for males and females.

*(cf. 6145.2 - Athletic Competition)*

Because of the district's administrative and/or direct financial involvement in the assets of the student organization, the student activity fund shall be reported within the district's fund in accordance with Governmental Accounting Standards Board Statement 84.

The Board shall provide an annual audit of student organization accounts by a certified public accountant or licensed public accountant. The cost of the audit shall be paid from district funds. (Education Code 41020)

*(cf. 3460 - Financial Reports and Accountability)*

*Legal Reference: (see next page)*

BP 3452(c)

## **STUDENT ACTIVITY FUNDS (continued)**

*Legal Reference:*

EDUCATION CODE

35182.5 *Non-nutritious foods and beverages, vending machines*

35564 *Funds, obligations of the student body*

41020 *Requirement for annual audit*

48930-48938 *Student body organization*

49431 *Sale of food, elementary school*

49431.2 *Sale of food, middle and high schools*

49431.5 *Sale of beverages, elementary, middle, and high schools*

51520 *School premise, prohibited solicitations*

51521 *Fundraising projects*

CODE OF REGULATIONS, TITLE 5

4922 *Nondiscrimination in intramural, interscholastic, and club activities*

15500 *Food sales, elementary schools*

15501 *Food sales, ~~middle~~ high schools and junior high schools*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.41 *Nondiscrimination in athletic programs*

COURT DECISIONS

Prince v. Jacoby, (2002) 303 F.3d 1074

*Management Resources:*

*FISCAL CRISIS MANAGEMENT AND ASSISTANCE TEAM PUBLICATIONS*

*Fiscal Alert: GASB 84 and Its Impact on Associated Student Body Accounts, May 2020*

*Associated Student Body Accounting Manual, Fraud Prevention Guide and Desk Reference, 2015*

*GOVERNMENTAL ACCOUNTING STANDARDS BOARD PUBLICATIONS*

*Implementation Guide No. 2019-2, Fiduciary Activities, June 2019*

*Statement No. 84, January 2017*

*WEB SITES*

*California Department of Education: <http://www.cde.ca.gov>*

*Fiscal Crisis Management and Assistance Team: <http://www.fcmat.org>*

*Governmental Accounting Standards Board: [www.gasb.org](http://www.gasb.org)*

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