

**County Commissioners--
Compliance Matters**

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Annual Report

Annual Financial Report

- SDCL 7-10-4 requires that an annual report be:
 - a) Prepared by the first day of March.
 - b) Published within 30 days in the official newspaper.
 - c) Filed with the Department of Legislative Audit.
(41 of 66 have filed as of today)

Important Questions:

- Are cash balances and fund balances sufficient?
- What are the major revenue sources?
- What do we spend taxpayers money on?

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Annual Report

- Do actual expenditures reflect our spending priorities?
- Did fund balances increase/decrease during the year and WHY?
- How do actual revenues and expenditures compare to our budgeted revenues and expenditures?
- Answers to above questions must be considered in implementing future budgets.

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Audits

Audit Requirements

- If a county spends more than \$750,000 of federal financial assistance, then a Single Audit is required (A-133). All federal grants must be added together for comparing to the \$750,000.
- All Counties are required to be audited once every two years.
- Annual Audits vs. Biennial Audits (one covering two years)

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Audits

- Some governing boards feel that the role of the auditor is to "see if the money is all there".
- In actuality, the auditor is to ensure that a system of internal control (self assessment, checks and balances) has been put in place and is working effectively.
- Utilize auditors while on site to address questions and concerns

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Audits

- Audit Reports should be reviewed and understood by governing board members.
 - Internal Control Over Financial Reporting
 - Compliance and Other Matters
- Audit Report and Management Letter findings and recommendations should be addressed by the governing board.

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Financial Responsibilities

- The governing board of a county is ultimately responsible to ensure that a system of **“internal control”** is established and functioning at their county

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Financial Responsibilities

- Why Is Internal Control Important?**
 - Citizens are demanding the very highest level of accountability from government officials for their stewardship of public resources.
 - Not acceptable to consign the whole issue of internal controls to internal and external auditors.
 - Objectives can only be achieved within the framework of a sound and comprehensive system of internal controls.

Financial Responsibilities

So what can the County do to strengthen internal control?

- Analyze the monthly financial reports
- Review the monthly budget reports
- Get closer to the voucher approval process
- Improve communication between departments
- Periodic scan of bank statement(s)

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Financial Responsibilities

- Follow up on auditor's comments
- Expect and demand accountability and transparency.
- Have a comprehensive Policy & Procedures Manual
- Hire *competent personnel*.
- Provide personnel with proper training and tools to efficiently carry out duties.

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Financial Responsibilities

It is critical to set the proper tone-at-the-top:

- Conflict of interest
- Personal use of County equipment
- Compliance with statutes and regulations

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Surplus Property

- Auction –
 - Declare surplus
 - Two notices, first notice 10 days prior auction
 - An appraisal is not required
 - Hold the auction
 - Governing board members may buy at an auction

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Surplus Property

- Sealed bid process –
 - Declare surplus
 - Appraisal by three property tax payers
 - \$500 or less -
 - Public or private sale without notice
 - Over \$500
 - Two notices
 - May award to highest bidder
 - No bids--may reappraise or with 12 mos. sell at sale private sale not < 90% appraised value.

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Surplus Property

- Scrap and recyclable materials (scrap metal, used bridge plank, used culverts)
 - SDCL 34A-6-63.1
 - Establish policies for sale/disposal
 - Exempt from normal surplus property laws

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Surplus Property

- Proceeds of a sale shall be credited, at the discretion of the governing board, to the General Fund or the fund in which inventoried (enterprise)
- Real estate may also be sold through a realtor
- Governing board has the right to accept or reject any sale

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Surplus Property

- **SDCL 6-13-7. Persons prohibited from purchasing surplus property--Exception**
 - No governing board member, any officer of a county, municipality, township, or school district, who has been elected or appointed, or real property owner acting as an appraiser may purchase the surplus property **except at public auction.**

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Bid Booklet

- **South Dakota Local Government Guide for Acquisitions, Disposals, and Exchanges (Bid Booklet)**
 - DLA Website
 - General Resources
 - http://legislativeaudit.sd.gov/General%20resources/general_resources_all.htm

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Bid Laws

- **Current bill laws:**
 - SDCL 5-18A General
 - SDCL 5-18B Public Improvements
 - SDCL 5-18C Local Laws
 - SDCL 5-18D State Agency

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BID - LIMITS

- \$25,000 for supplies (except equipment) or services
- Effective July 1, 2016, SB 118 of 2016 Session increased the threshold for "equipment" to \$50,000 for all public subdivisions. The threshold for supplies and services other than equipment remains at \$25,000
- \$50,000 for any public improvement

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Bid Definitions

- **Purchasing Agency** – any governmental body (in SD) authorized by law to enter into contracts (cities, counties, schools, state...)
- **Professional Services** – Services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor or skill, and the labor or skill involved is predominantly mental or intellectual...

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Bid Definitions

- **Public Improvement** – the process of building, altering, repairing, improving or demolishing any public infrastructure facility, including any structure, building, or other improvements of any kind to real property
- **Supplies** – any property, including equipment, materials, and printing;

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Bid Definitions

- **Competitive Sealed Bid** –
 - Standard notices
 - Opened publicly – witnesses
 - Bid specs shall set forth the evaluation criteria
 - Bids may be modified by fax, price not disclosed
 - If you have a tie bid then you may
 - Award bid by lottery
 - Or rebid

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Bid Definitions (3 slides)

- A contract may be entered into by competitive sealed proposals if the purchasing agency determines in writing that the use of competitive sealed bids is either not practicable or not advantageous.

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Bid Definitions

- **Competitive Sealed Proposal continued....**
 - Solicited through an RFP, state relative importance of price and other factors,
 - Standard notices are required
 - Register of bidders shall be maintained, open to public after contract award
 - Each proposal shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation

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Bid Definition

- Competitive Sealed Proposal continued.....
 - A discussion may be conducted with the offeror to assure a full understanding
 - Revisions may be permitted after submission and prior to an award
 - There can be no disclosure of info derived from any proposal submitted by a competing offeror
 - Award to most advantageous

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Bid Applications

- Multiple purchases – Aggregate for FY
- Installment payments – focus on contract
- Trade-in ---value of what you are acquiring
- Piecemeal – value of the “whole” project

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Bid - Emergency

- When there is a threat to public health, welfare or safety or for other urgent or compelling reason
- Bid notices are not required
- Consider rentals
- Declaration in minutes
- Procurement must be made with such competition as practicable

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Bid Exemptions

- ANY purchase of supplies or services, other than professional services, by purchasing agencies from ANY active contract that has been awarded by ANY government entity by competitive sealed bids or competitive sealed proposals or from ANY contract that was competitively solicited and awarded within the previous twelve months; 5-18A-22 (3)

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Bid Exemptions

- When buying off of another entity's bid, make sure it is not a trade-in bid, and you are encouraged to secure (from the original entity) the following items:
 - Minutes approving contract
 - Specs
 - Affidavit of publication
 - All the bid proposals submitted

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Bid Exemptions

- Federal surplus property
- Purchases from another government (6-5-1)
- From the state price list
- Local vendor matching the state price list
- Real estate and auction services
- Legal, audit, architectural, insurance

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Bid Exemptions

- Computer software
- Communication technologies, computers, peripheral equipment and related connectivity
- May buy off of GSA contracts
- For political subdivisions, any purchase of equipment involving the expenditure of less than fifty thousand dollars

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Purchasing Cooperatives

- SDCL 5-18A-37. Cooperation and agreements with other state and federal purchasing agencies**
 - Any purchasing agency may enter into agreements with purchasing agents in this or any other state or the United States government under which any of the parties may agree to participate in, administer, sponsor, or conduct purchasing transactions under a joint agreement or contract for the purchase of supplies or contractual services. A purchasing agency may cooperate with purchasing agencies and other interested parties in any other state or the United States government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions.

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Bid Advertisement

- Two notices
- First notice at least 10 days prior to opening
- Second notice may be in any legal newspaper

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Bid - Bonding

- Bid bond – 5% cashiers or certified check or 10% bid bond ---provided by each bidder
- Performance bond – in the amount of the contract---provided by the winning bidder
- Bonding is only “required” for construction contracts

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Bid - Bonding

- **SB6 of the 2016 Session-An Act to revise certain performance security requirements for public improvement contracts**
 - Repeals 5-21-1.2 which conflicted with another statute. Adds a new section to chapter 5-21 allowing a public corporation to waive the requirement for a performance security bond for emergency procurements authorized by 5-18A-9.

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Bid Opening

- No bids – if no bids are received, may negotiate a contract for the most advantageous price, if the specs of the original bid are met – even for public improvements

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Bid - Opening

- Bids may not be faxed – must be sealed
- Bids received “late” should not be considered

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Bid - Opening

- HB1102 of the 2016 Session--**
 - Amends 5-18A-5 to allow up to 45 days between the bid opening and the award of the contract for supplies bids and the invitation to bidders for supplies must include the number of days the government will use. For services and public improvement bids, the requirement remains unchanged and the contract must be awarded within 30 days of the bid opening.

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Bid - Fuel

- Not required to publish two notices
- Secure 3 quotes
- May include a procedure for adjusting prices to meet changing market conditions not within the control of the vendor
- SDCL 5-18C-6

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