

County Commissioners-- Compliance Matters

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Agenda

- Financial Responsibilities
- Annual Financial Report
- Internal Controls
- Audits and Audit Reports
- Bid Laws
- Surplus Property



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
- ❑ Attending training sessions such as this one



Financial Responsibilities

What can the governing board do?

- Entity Definition
- Develop Strong Financial Policies
- Review Reliable and Timely Financial Information
 - Review the monthly budget reports
 - Get closer to the voucher approval process
 - Scan bank statements and cancelled checks
 - Engage an audit, as needed

Financial Responsibilities

- Follow up on auditor's comments
- In smaller entities, the governing board may even become involved in spot checking the bank reconciliation, utility billings, credit cards and payroll.
- Hire competent personnel.
- Provide personnel with proper training and tools to efficiently carry out duties.
- Good communication with department heads and legal counsel.

Question(s) Of The Day

- How much total cash does each Fund of the County have?
 - What % of next year's budgeted appropriations (expenditures) does this total cash equal?
 - Is a portion of the offsetting equity (fund balance or net position "earmarked" for specific purposes? If so what are those purposes?

Annual Financial 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.
(42 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?



Annual Financial 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.

Why are Financial Statements Important?

- Investors and Creditors
 - Consult statements to assess creditworthiness and
 - Compliance with finance-related legal and contractual requirements (bond covenants)
- Legislative and Oversight Bodies (Governing Board).
 - Rely upon the financial statements to make informed decisions concerning the allocation of scarce resources and to monitor management's compliance with budgetary and other legal restrictions.



Why are Financial Statements Important?

□ Citizens

- Depend upon financial statements to evaluate the financial stewardship of their public officials.
- To obtain the information they need to participate meaningfully in the budget process.

Who is Responsible for Financial Statements?

- Financial statements are management's written representations (assertions) regarding the finances of the entity being managed.
 - Management is *primarily* responsible for the financial statements.
 - Management cannot transfer its primary responsibility for financial reporting to someone else.
 - Firm hired to assist in preparing the financial statements.



Who is Responsible for Financial Statements?

- Auditing standards require that management acknowledge in writing its responsibility for the financial statements. Also require that the independent auditor's report on the fair presentation of the financial statements expressly indicate that management is responsible.



Internal Controls

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



Why is management primarily responsible for internal control?

- Management cannot meaningfully assume responsibility for the financial statements without first having taken steps to ensure that the underlying data are, in fact, complete and reliable.
 - Accountants describe those steps, in the aggregate, as **internal control**.



Why is management primarily responsible for internal control?

- Management can only fully meet its financial reporting responsibility by designing, implementing, and maintaining a comprehensive, integrated framework of internal control.
 - It is impossible to **separate** financial reporting from internal control.

What is the role of the independent auditors?

- It is the role of the independent auditors to provide *independent* reasonable assurance that the financial statements can be relied upon.
- A basketball coach could not be expected to serve as both coach and official referee in the same game!!

What is the governing body's responsibility for IC and reporting?

- Management is *primarily* responsible for internal control and financial reporting
- Governing body is *ultimately* responsible for both.
 - Responsibility of governing body to make sure that management fulfills its internal control and financial reporting responsibilities.

Responsibilities

- Three parties share responsibility each in its own way, for the quality of the financial reporting.
 - Management= makes the representation of the financial statements.
 - Independent Auditors= attest to the reliability of the representations made by management.
 - Governing Body = responsible for making sure both fulfill their respective responsibilities.
 - “first among equals”

Audits

□ **Audit Requirements**

- If a county spends more than \$750,000 of federal financial assistance, then a Single Audit is required under Uniform Guidance. 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)

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.
- ❑ Financial and Compliance Audits.
- ❑ Utilize auditors while on site to address questions and concerns



Audit Report

- SDCL 4-11-12 requires that counties, cities and school districts make their audit reports available on their website. (effective 7/1/18)



What is an Audit?

- Process used by properly trained and experience persons, who are independent form management of an auditee, to gather evidence from both inside and outside an organization to allow for the formation and communication of a professional opinion about the fairness of the organization's financial reports and its compliance with applicable legal requirements.



What is an Audit?

- Financial and compliance audits of governments, through inquiries, observations, analyses, and sampling of transactions data, are designed to determine whether an entity's financial statements are presented fairly in accordance with GAAP, and to determine whether the government entity has complied with applicable laws, regulations, and contractual agreements that have a material effect on the financial statements.

What is an Audit?

- A **Single Audit** is a special type of audit, required by the federal government, that has specific guidelines for auditors to follow.
 - Those guidelines must be followed in order to determine how many and which federal awards to test, which compliance requirements to test for each program, and how much testing is adequate.

Key Concepts of financial statement audit.

□ **Fair Presentation**

- Auditor is responsible for rendering an opinion on whether financial statements are fairly presented.
 - Evaluation of the reliability of an entity's financial reporting, *not* an assessment of its economic well-being.

Key Concepts of financial statement audit.

□ Reasonable Assurance

- Auditor's goal is to obtain *reasonable assurance* concerning the fair presentation of F/S, *not* certainty. (assurance at high level, rather than absolute assurance)
 - Costs should never exceed related benefits
 - Auditors rely heavily on sampling rather than attempting to test each and every transaction.

Key Concepts of financial statement audit.

□ **Materiality**

- Potential misstatements are virtually unavoidable
- The possibility of minimal degree of misstatement must be accepted
- Goal is for the F/S to be free from *material* misstatements.

Questions during an Audit?

- Most frequent question
 - Is all the money there?
- Ask questions
- Take advantage of the audit process.
- Make sure audit report, findings, recommendations, and formal audit adjustments are clearly communicated to management and governing board.



Federal Grant Expenditures

□ **Uniform Rules-Federal Awards**

- Procurement standards under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Rules”)
- Codified at 2 C.F.R. §200.317 through 200.326, which supersedes the procurement regulations formerly found at 44 C.F.R. pt. 13 (State, Local, and Tribal Governments), and 2 C.F.R. pt. 215 (Private Nonprofit Organizations)

ARP Funds

□ Reporting Requirements:

Table 2: Reporting requirements by recipient type

Tier	Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
1	States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021 or 60 days after receiving funding if funding was received by October 15, with expenditures by category.	By January 31, 2022, and then 30 days after the end of each quarter thereafter <i>Note: NEUs were not required to submit a Project and Expenditure Report on January 31, 2022. The first reporting date for NEUs will be April 30, 2022.</i>	By August 31, 2021 or 60 days after receiving funding, and annually thereafter by July 31
2	Metropolitan cities and counties with a population below 250,000 residents that are allocated more than \$10 million in SLFRF funding, and NEUs that are allocated more than \$10 million in SLFRF funding.	<i>Note: NEUs were not required to submit an Interim Report</i>	By April 30, 2022, and then annually thereafter	
3	Tribal Governments that are allocated more than \$30 million in SLFRF funding			
4	Tribal Governments that are allocated less than \$30 million in SLFRF funding			
5	Metropolitan cities and counties with a population below 250,000 residents that are allocated less than \$10 million in SLFRF funding, and NEUs that are allocated less than \$10 million in SLFRF funding.			

Local Assistance Tribal Consistency Fund (LATCF)

I. Annual Report

a. Reporting Deadlines

Each recipient will be responsible for submitting an annual Obligation and Expenditure Report to Treasury by March 31 of each year (beginning in 2023) until the recipient has submitted its final report accounting for expenditure of all LATCF funds received. Recipients that received their first tranche payments after December 31, 2022 are not required to submit an annual report by March 31, 2023, because that report covers the reporting period from January 1, 2022 to December 31, 2022. Recipients are required to continue submitting an annual report until their entire award is expended and accounted for in their submitted report(s) and will be required to indicate when their final report is submitted. After verifying that all obligations and expenditures have been reported, Treasury will send notice to the recipient confirming that no additional reports are required. Treasury may provide additional closeout guidance at a later date.

For example, for the next several fiscal years, each annual report should be submitted as follows:

Table 1. Reporting Periods and Submission Deadlines.

Reporting Period	Submission Deadline
January 1, 2022 to December 31, 2022	March 31, 2023
January 1, 2023 to December 31, 2023	March 31, 2024
January 1, 2024 to December 31, 2024	March 31, 2025
January 1, 2025 to December 31, 2025	March 31, 2026
January 1, 2026 to December 31, 2026	March 31, 2027
January 1, 2027 to December 31, 2027	March 31, 2028

b. Required Information

Recipients are required to report annually on obligations and expenditures made using their LATCF award.¹ Specifically, recipients are required to report on (i) current period obligations, (ii) cumulative obligations, (iii) current period expenditures, and (iv) cumulative expenditures for each government purpose reporting category discussed below. Data may be reported on a cash, accrual, or modified accrual basis, as long as the methodology is consistently applied throughout the covered period and until reporting is no longer required.

As a general matter, recipients may use funds to cover costs incurred on any eligible use, including costs incurred from March 15, 2021. Recipients may use funds to cover costs of administering the LATCF program, including costs of consultants to support effective management and oversight as well as compliance with legal, regulatory, and other program requirements. In the [*Guidance for the Local Assistance and Tribal Consistency Fund*](#), Treasury

Bid Booklet

- SD Local Government Guide for Acquisition, Disposals and Exchanges (Bid Booklet)
 - DLA Website
 - <http://legislativeaudit.sd.gov/resources/resources.aspx>

RESOURCES	
+ COUNTIES	
+ MUNICIPALITIES	
+ SCHOOL DISTRICTS	
+ INDEPENDENT PUBLIC ACCOUNTANTS	
+ LEGISLATORS	
+ TAXPAYERS	
+ TOWNSHIPS	
+ OTHER LOCAL GOVERNMENTS	
+ NOT-FOR-PROFIT ORGANIZATIONS	
- BID BOOKLET	
	SD Local Government Guide For Acquisitions, Disposals And Exchanges-(Bid Booklet)
+ STATE LINKS	
+ FEDERAL LINKS	
+ NATIONAL LINKS	



Bid Laws

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

BID - LIMITS

- \$25,000 for **supplies** (except equipment) or **services**
- 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
- Effective July 1, 2020, SB135 of 2020 Session increased the threshold for “**public improvement**” to \$100,000.



Bid Definitions

- Purchasing Agency – any governmental body (in SD) authorized by law to enter into contracts
(cities, counties, schools, state...)



Bid Definitions

- 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...



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;

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

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.



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

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



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



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

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)

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



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



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



Bid Advertisement

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

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

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.



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



Bid - Opening

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

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



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.

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

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.

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



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

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.**