

State of Utah
Little Manual
for
Local & Special Service Districts



OFFICE OF THE
UTAH STATE AUDITOR

**OFFICE OF THE UTAH STATE AUDITOR
STATE OF UTAH
LITTLE MANUAL – LOCAL & SPECIAL DISTRICTS**

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Introduction

The Office of the Utah State Auditor has compiled this manual for local and special service districts to help them more fully comply with financial accounting and reporting requirements prescribed by Utah Law and professional accounting standards. This manual is designed to provide a basic overview and ready reference to the most frequently asked questions regarding district governance and accountability. Each paragraph contains a code reference to the left of the text that indicates where in the *Utah Code* the information is found. These references may be useful in obtaining further information regarding the summarized information contained within the text. Copies of this manual may be obtained on the internet at auditor.utah.gov/local-government/local-districts/local-districts-accounting-manual/.

The Office of the Utah State Auditor also has a Uniform Accounting Manual (UAM) which is much more comprehensive; it should be used for areas not covered by this manual. The UAM may also be found on the internet at auditor.utah.gov/local-government/local-districts/local-districts-accounting-manual/.

Please keep this manual with your district records and pass it on to the individual taking your place. We hope this manual will help you in meeting your responsibilities, which are important. Your efforts in meeting those responsibilities are very much appreciated.

If you have any questions about this manual, please contact Ryan Roberts by email at ryanroberts@utah.gov or by phone at (801) 538-1721.

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Governing Board Responsibilities

Stephen J. Gauthier explains in his book titled, “Governmental Accounting, Auditing and Financial Reporting,” that a governing board provides leadership needed for an entity to achieve its purpose. A board is not free to act in any way it chooses, and is ultimately judged based upon the following four criteria:

1. Effectiveness – How well does the board achieve their objectives or purpose?
2. Efficiency – Does the board make optimal use of the resources placed under their control?
3. Compliance – Does the board comply with applicable policy, law, or regulation?
4. Reporting – Does the board prepare regular financial reports made available to those who pay the tax or fee used to operate the district?

This manual will focus on compliance and reporting criteria noted above. As compliance and reporting requirements are presented in this manual, keep in mind that the underlying principle is that the governing board is accountable to its constituents for everything the district does. It is the board's duty to (a) manage the district for the benefit of its constituents, and (b) manage the district openly and democratically.

Board members do not serve indefinitely. Therefore, one of the most important things a board can do is establish good policies and procedures that will last beyond their service. Good policies and procedures will protect the district's resources in the event that a future board member does not maintain high ethical standards.

Generally, the following are areas of responsibility for governing boards:

- Meetings
- Budgeting
- Accounting
- Internal Control
- Reporting
- Personnel
- Purchasing
- Records (GRAMA)
- Insurance
- Fund Balance Limitation

Each of the items noted above are discussed in their own sections of this manual. The remainder of this section addresses other governing board considerations.

Board Member Responsibilities

The *Utah Code* requires a governing board to elect a chair, clerk and treasurer, and the board may elect other officers as the board considers necessary. The offices of chair, clerk and treasurer may NOT be held by the same person. The discussion depicts the specific responsibilities of each officer and the governing board as a whole:

District Chair

- Conduct Meetings

[17B-1-631~632](#)

District Clerk (or other designated person not performing treasurer duties)

- Attend meetings and keep a record of the proceedings
- Maintain financial records
- Prepare checks after determining that the claim:
 - was authorized by the board or financial officer
 - does not over expend the budget
 - was approved in advanced
- Present a financial report to the board at least quarterly
- May NOT sign a single signature check

[17B-1-638](#)

[17B-1-633~637](#)

District Treasurer (or other designated person not performing clerk duties)

- Sign checks after determining that sufficient funds are available
- Maintain custody of all money
- Deposit and invest money in accordance with the State Money Management Act
- Receive all funds
- Issue a receipt for money received

[17B-1-642](#)

Entire District Board

- Approve all expenditures; however, the board may authorize a district manager or other official to act as the financial officer for the purpose of approving payroll checks and routine expenditures (e.g., utility bills, payroll expenses, supplies)
- Set a maximum sum over which all purchases may not be made without the board's approval
- Review all expenditures authorized by the financial officer at least quarterly
- In a district with an expenditure budget of less than \$50,000 per year, a governing board member may also sign checks

Appointment / Election

[17B-2a](#)

A board of trustees may be elected or appointed depending upon the *Utah Code* section under which the district was created and the law, ordinance or resolution creating the district. It is important that governing boards remain fully staffed and that vacancies are filled in a timely manner. The number of governing board members varies based upon the *Utah Code* section under which the district was organized and the district's by-laws or organizing documents.

[17B-1-303~306](#)
[20A-1-512](#)

Generally, governing boards should consist of an odd number of members (at least three) who serve four-year terms which begin at noon on the January 1 following the member's election or appointment. Specific appointment or election procedures may vary by the type of district. In nearly all situations, vacancies on boards should be advertised and interested citizens should be given the opportunity to be considered for the vacancy.

[17B-1-303\(2\)\(b\)](#)

The law also states that, "each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office." In other words, if a board member's term expires and a new board member has not been appointed or elected, the existing board member should continue to serve.

Compensation

[17B-1-307](#)

A board member of a district may receive compensation for their service as determined by the board. However, a board member may not receive over \$5,000 annually for their service on the board. The \$5,000 limit does not include a board member's reimbursement for district expenditures incurred by the board member for such things as travel or other purchases made on behalf of the district.

Qualification

[17B-1-311](#)

A district board member may not be employed by the district either as an employee or under a contract. There is an exception to this requirement when:

- fewer than 3,000 people live within 40 miles of the primary place of employment,
- the job opening has had reasonable public notice, and
- the person employed is the best qualified candidate for the position.

A local district is not in violation of this provision if the district treats a board member as an employee for income tax purposes and complies with the applicable compensation limits.

[17B-1-302](#)

A district board member must also be a registered voter and a resident within the boundaries of the district. There are two exceptions to the residency requirement: (1) for districts with a large number of part time residents (seasonally occupied homes), and (2) for basic local districts with less than one residential dwelling per ten acres of land.

Ethics

[67-16](#)

The *Utah Code*, 67-16, addresses ethics and conflicts of interest. Generally, ethics prohibit the acceptance and solicitation of gifts, compensation or loans by a public officer or employee. A public officer may accept an occasional gift having a value of \$50, or less. A conflict of interest may be allowed as long as full and proper disclosure is made. Please refer to the *Utah Code* or your legal advisor for specific disclosure requirements.

It is very important to understand this part of the *Utah Code* because the penalties for violations can be significant.

Nepotism

[52-3](#)

The *Utah Code*, 52-3, addresses nepotism. Generally, it means that no public officer may employ, appoint, vote for, or recommend a relative for employment. Further, no public officer may directly supervise an appointee who is a relative. Relative means a father, mother, husband, wife, son, daughter, sister, brother, aunt, uncle, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[52-3-1](#)

There are several exceptions as defined in the *Utah Code*. The most important exception is that the relative may be employed if they are the only person available, qualified, or eligible for the position.

Meetings

[52-4](#)

The law recognizes that district councils exist to conduct the people's business and contains provisions designed to help ensure that a council's actions and deliberations are conducted openly. Meetings are an important aspect of carrying out a local government's operations in a way that best meets the people's needs.

Open Meetings

[52-4-201, 208](#)

An open and public meeting is when the majority of a governing board or council meets to discuss or act upon a matter for which they have responsibility. Public meetings include workshops or executive sessions, but do not include chance or social meetings.

Closed Meetings

[52-4-205](#)

All meetings shall be open to the public, except for discussion of the following:

- The character, competence or health of an individual.
- Deployment of security personnel, devices, or systems.
- Collective bargaining issues.
- Pending or reasonably imminent litigation.
- Purchase, exchange, lease, or sale of real property, if such discussion prevents the town from completing a transaction on the best possible terms.
- Investigative proceedings regarding allegations of criminal misconduct.

No ordinance, resolution, rule, regulation, contract, or appointment may be approved in a closed meeting. Also, a closed meeting may be held only upon the affirmative vote of two-thirds of the council members present at a public meeting.

[52-4-206](#)

If a meeting is closed to discuss the character, competence or health of an individual, or the deployment of security personnel, devices, or systems, then the person presiding shall sign a sworn written statement affirming that the sole purpose for closing the meeting was to discuss these issues. No recorded or written minutes are required when a meeting is closed for these purposes. If a meeting is closed for a purpose other than those mentioned above, the council must record the closed portion of the meeting and may keep detailed written minutes.

Public Hearing

A public hearing is the portion of an open meeting at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. Public hearings are required when a local government imposes or increases a fee or adopts a budget.

[52-4-207](#)

Electronic Meetings

An electronic meeting is a public meeting convened or conducted by means of a conference using electronic communications. A district may convene an electronic meeting if they have adopted a resolution, rule, or ordinance governing the use of electronic meetings. The *Utah Code* contains a list of items that the resolution or rule may include and a list of things the district must do in order to convene or conduct an electronic meeting.

[52-4-203](#)

Meeting Minutes

Written minutes and an audio recording shall be kept of all open meetings except for the following where a recording is not required to be kept: (1) during a site visit or traveling tour where no vote or action is taken, or (2) if the town's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

[52-4-203](#)

The written minutes and recordings of open meetings are public records under GRAMA, including “pending minutes,” which are written minutes that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting. Written minutes shall be available to the public within a reasonable time after the end of the meeting. When a meeting (whether open or closed) is required to be recorded, the recording shall be complete and unedited and include all portions of the meeting from the commencement of the meeting through adjournment of the meeting. A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting.

A public body shall establish and implement procedures for the public body’s approval of the written minutes of each meeting. Written minutes that are made available to the public before approval by the public body shall be clearly identified as “awaiting formal approval” or “unapproved” or with some other appropriate notice that the written minutes are subject to change until formally approved.

Content of Minutes

Open meeting minutes shall include the following:

[52-4-203](#)

- a) Date, time and place of the meeting
- b) Names of council members present and absent
- c) Substance of all matters proposed, discussed, and decided
- d) Votes taken by individual members of the public body
- e) Names of each person who is not a member of the public body, and after being recognized by the presiding member of the public body, provided testimony or comments and the substance in brief of their testimony or comments
- f) Any other information that is a record of the proceedings of the meeting that any member requests to be entered in the minutes

When a governing body closes a meeting, the following must be publicly announced and entered into the minutes of the open meeting at which the closed meeting was approved:

- a) Reason or reasons for holding the closed meeting
- b) Location where the closed meeting will be held
- c) Vote of each member of the governing board, either for or against the motion.

Notice Requirements

[52-4-202](#)

Districts that hold regular meetings that are scheduled in advance over the course of a year shall give public notice at least once a year of its meeting schedule, giving dates, time, and place. If regular meetings are not held, the district shall give no less than 24 hours public notice specifying the date, time, and place. All meetings whether regularly scheduled in advance over the course of a year or scheduled as needed must provide no less than 24 hours notice of meeting agendas. The method of providing public notice for meetings and agendas depends upon whether a public hearing will be held during a portion of the meeting. It is important to distinguish between notice requirements for regular meetings and notice requirements for a meeting that will include a public hearing.

The table below contrasts notice requirements for a regular meeting and a public hearing held for the purpose of adopting a budget.

Requirement	Regular Meeting	Public Hearing
Media	Must <i>notify</i> at least one newspaper of general circulation within district boundaries, or a local media correspondent.	Must <i>publish</i> notice in at least one issue of a newspaper of general circulation within district boundaries. If a newspaper is not available, written notice must be posted in three public places within the district.
Posting	Notice must be posted at the location where the meeting is to be held.	Notice must be posted at the location where the meeting is to be held.
Notice	At least 24 hours before the meeting.	At least 7 days prior to the hearing.

Utah Public Notice Website

[52-4-202-\(3\)\(b\)](#)

Most public bodies are required to post notices for a public meeting on the Utah Public Notice Website utah.gov/pmn/index.html. Districts with annual budgets less than \$1 million are encouraged, but not required to post notice on the Utah Public Notice Website for regular meetings.

By posting on the website, public bodies comply with the requirement to notify a newspaper or local media correspondent; however, all other notice requirements for a public hearing, such as publishing the notice in a newspaper, still apply. The website allows the public to subscribe to the entity’s notices and receive notification of upcoming meetings and updates to current meetings. The website is designed to provide:

- Greater accessibility to public meeting information, which encourages greater participation by the public.
- A central source for all public meeting information statewide.
- Standardized format for publishing.
- Access to past public meeting minutes.

The website is administered by Utah State Archives who has prepared a training manual and quick guide for owners and posters as well as training sessions that can be accessed on their website archives.utah.gov/public-notice.html.

Budgeting

Budgets are required by law. It is an important way for the public to have input on district expenditures and plans. Upon formal adoption, the budget constitutes spending authority for the district and a formal plan for spending. At adoption, the district has legally bound itself to spend this much and no more. Any expenditure in excess of the budget is illegal, even if the district has money available to spend.

Budget Amendments

[17B-1-622](#)

Original budgets may be amended during the budget year to increase the original budget; however, budgets may not be changed after the budget year end. Generally, budget amendments must follow the same procedures as the adoption of the original budget (public notice and hearing); however, there are some exceptions.

[17B-1-620](#)

A governing board may move budgeted expenditures from one budgeted line item to another without a public hearing. Adjusting line items is allowed as long as the adjustment is within the same fund and as long as the adjustment does not increase total expenditures or involve reducing the amount budgeted for debt retirement or reduction of a deficit. The *Utah Code* requires that a board of trustees establish policies for amending budgeted line items. For example, if a district has a general fund and within the general fund are two departments (water and sewer), a policy may authorize a budget officer, with the approval of a General Manager, to move money from one budgeted line to another budgeted line within the same department.

[17B-1-621](#)

When adjusting budgeted line items between departments within a fund, the policy may require that the transfer be approved by the governing board. When the policy requires the approval of a governing board, the board should place the adjustment on the agenda of an open meeting and approve the adjustment in the meeting.

[17B-1-630](#)

The budget of an enterprise fund may be amended by a resolution of the board of trustees at any regular or special meeting called for that purpose without a public hearing. This includes increasing total expenditures of the fund.

Budget Calendar

The budget process must be completed before the budget year begins. Following is a suggested budget calendar for districts with a December 31 year end. (Those districts with a June 30 year end can easily convert the budget calendar for their purposes.)

MONTH	TASK
October	<ul style="list-style-type: none"> • Prepare a tentative budget for the board to review at its first meeting in November
November	<p>At the first meeting in November, the Board shall:</p> <ul style="list-style-type: none"> • Approve a tentative budget • Set a budget hearing date
December	<ul style="list-style-type: none"> • Hold a public hearing • Adopt a final budget • Submit final budget to the Office of the Utah State Auditor within 30 days

[17B-1-609](#)

During November or December, but at least 7 days before the hearing date, public notice must be given of the hearing. (Public Notice means publication in at least one issue of a newspaper of general circulation. If the district's area has no newspaper of general circulation, then the notice may be posted in three public places and on the Utah Public Notice Website.)

[17B-1-608](#)

The tentative budget must be available to the public for seven days prior to the public hearing for the adoption of the final budget. Keep a copy of the budget for district use and public inspection. To view a sample budget form, visit our website, reporting.auditor.utah.gov/Forms/DownloadForms.aspx, or contact Ryan Roberts by email at ryanroberts@utah.gov or by phone at (801) 538-1721.

Accounting

Accounting is the process of keeping track of money, other items of worth (assets), and what is owed to others (liabilities). It is very important for the district to accurately keep track of such information not only for its own use, but also to be accountable to its constituents and to complete legally required reports.

Accounting need not be complicated. All it requires for small districts is a carefully kept, readable checkbook which has been reconciled to the bank statements. The following should be done:

- All money coming into the district should be deposited into the district bank account and recorded in the accounting records
- Payments should not be made using cash on hand unless the cash is part of a properly established petty cash fund
- A running checkbook balance should be kept
- All entries made in the checkbook should be:
 - Immediate, so nothing is forgotten
 - Clearly written
 - Well explained (e.g., it is not necessary to write "Deposit" because that is obvious by the column it is placed in, but it is necessary to explain where it came from and what it was for).
- The checkbook should be reconciled monthly to the bank statement. (Bank statements should be kept for four years and check registers should be kept for seven years.)

For small districts, the checkbook may be the official financial record of the district and should be safeguarded. The balances, deposits, and check amounts in the checkbook should be used to complete the required annual financial statements.

Required Reports

The following schedule shows which reports are required by law, when they are due, where they can be found, and where they should be sent:

Report	Due Date	Form Location	Electronically Submitted:
Budget	No later than 30 days after adoption.	reporting.auditor.utah.gov/Forms/DownloadForms.aspx	reporting.auditor.utah.gov_sao@utah.gov Office of the Utah State Auditor PO Box 142310 Salt Lake City, UT 84114
Financial Statements	No later than 180 days after year end.	Generated by local governments themselves. For smaller entities, information will be entered online at: reporting.auditor.utah.gov	
UT or Survey of Local Government Finances	No later than 180 days after year end.	Forms available at: reporting.auditor.utah.gov/Forms/DownloadForms.aspx Smaller entities will enter information online at: reporting.auditor.utah.gov	
Report of Impact Fees on Hand at Year-End	No later than 180 days after year end.	reporting.auditor.utah.gov/Forms/DownloadForms.aspx	
Deposit and Investment Report	Bank Balances as of June 30 and December 31. (Twice per year)	utah.gov/treasurer/mmc-forms.html	mmcouncil@utah.gov Utah State Treasurer PO Box 142315 Salt Lake City, UT 84114

Financial Report Requirements

Before an annual financial statement is submitted to the State Auditor, many local governments will be required to have an audit of their financial statements. The following criterion establishes whether a financial statement audit is required:

If revenues or expenditures are:

- Greater than \$500,000, an audit is required
- Between \$100,000 and \$500,000, an agreed-upon procedures report is required
- Less than \$100,000, basic financial forms are required

[51-2a-201](#)

The following describes the different types of financial reports:

- **Audit**- an examination completed by an independent certified public accountant (CPA)
- **Agreed-Upon Procedures**- an engagement by an independent CPA following procedures that are set forth by the Office of the State Auditor. These procedures can be found at auditor.utah.gov/local-government/for-cpas-and-practitioners/.
- **Basic Financial Forms**- basic financial information is submitted online to the Office of the State Auditor. The forms to provide this information are found at reporting.auditor.utah.gov/.

On-Line Submission of Financial Data

Information regarding assets, liabilities, revenues and expenses is submitted on-line to the Office of the Utah State Auditor. This information is generally provided by the district budget officer who may receive assistance from the Office of the Utah State Auditor, a CPA, or other qualified individual.

A district may choose to have a report prepared that exceeds the reporting requirements outlined above if the district wants to obtain greater assurance that their financial statements are correct. For example, a district with \$350,000 in revenues may choose to have an audit when only an agreed-upon procedures report is required.

Utah Public Finance Web Site

[63A-3-402~405](#)

Districts with annual budgets of \$1 million or more are required to provide public financial information through the Utah Public Finance Website (www.transparent.utah.gov) or their own website and provide a link to their website through the Utah Public Finance Website. Detailed revenue and expenditure transactions are required to be posted quarterly within one month after fiscal quarter end. In addition, employee compensation information is required to be posted annually within 3 months of fiscal year-end.

For questions regarding specific requirements or for help in posting information to the website contact the Utah Division of Finance at (801) 538-3082.

Internal Control

An internal control is a process designed to provide reasonable assurance regarding the achievement of objectives. For example, if the objective is to minimize the risk that district assets (cash, equipment, etc.) will be lost or stolen, then procedures would be designed that separate responsibilities and put a system of checks and balances in place.

Internal control is meant to keep honest people honest and to protect those who handle money and other assets. In order to properly design "checks and balances," several people will usually be involved in the accounting. In small districts, it is especially important for board members to be involved in reviewing and approving financial transactions.

The following procedures should be followed by board members:

- NEVER SIGN A BLANK CHECK. Signing blank checks is an open invitation for theft. Consider writing checks monthly; then check signers are only inconvenienced once a month.
- Consider requiring two signatures on checks. The *Utah Code* states that, "in a local district with an expenditure budget of less than \$50,000 per year, a member of the board of trustees shall also sign all checks." This requirement may be considered for districts with budgets larger than \$50,000; however, in any case, be careful not to rely on the bank alone to ensure proper payment. Banks may process checks requiring dual signatures with only a single signature.
- Deposits and disbursements should be reviewed by a governing board at least quarterly. Board members should ask questions if something is unclear or looks unusual.
- In small districts, the monthly reconciliation of the checkbook to the bank statement should be made, or at least reviewed, by a board member who does not sign checks. In larger district's, a review of the bank reconciliation by a board member is also an effective control.
- The board members should take a healthy interest in the finances of the district by reviewing the annual financial statements and physically inspecting other assets, such as pipes, trucks, lawnmowers, etc., to be sure they have not been lost or stolen and are in good condition.

[17B-1-635](#)

[17B-1-642](#)

Personnel

Personnel Policy

[17B-1-801~804](#)

The *Utah Code* addresses personnel matters. Generally, this part does not apply to districts with annual revenues less than \$50,000. It does say, however, that each district which has full-time or part-time employees shall annually review its personnel policies to ensure that they conform to requirements of state and federal law. In other words, small districts without full or part-time employees do not need a personnel policy. Districts with full or part-time employees need a policy. Districts should contact their legal advisor for assistance in drafting a personnel policy.

The following is a list of items that should be considered when developing a personnel policy. The list is not all inclusive, but is intended to be a starting point:

- Vacation, sick leave and holidays
- Reimbursement of expenses such as mileage, meals and lodging while traveling
- Grievance process
- Work hours, approval of leave and overtime pay
- Reporting of accidents (vehicle and workers compensation)
- Sexual harassment
- Drugs

Independent Contractor or Employee

As a potential employer, you may choose to hire an employee to get a job done, or you may hire an independent contractor. You should consider the following factors in making your decision:

- In most cases, an employee must be granted all benefits, including health insurance, retirement, etc., that are generally provided for employees by the district. An independent contractor is not paid these benefits.
- An employer must withhold federal and state income taxes, pay social security taxes, workers compensation contributions, and unemployment insurance for an employee. No taxes or unemployment insurance are paid for an independent contractor.
- Firing an employee can be more difficult than canceling a contract with an independent contractor.
- You may specify the results desired, but may not control the work performance of an independent contractor. An employee may be given explicit directions about how, when, and where to perform a job and may be closely supervised.
- Generally, the liability of an organization for its employees is much greater than the liability of an organization for an independent contractor.

The following is an excerpt from IRS publication 1779 regarding factors determining whether a worker is an employee or independent contractor. Understanding these factors is important because you may be able to design an agreement that meets your needs.

IRS Publication 1779

The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These relevant facts fall into three main categories: behavioral control; financial control; and relationship of the parties. In each case, it is very important to consider all the facts – no single fact provides the answer. Carefully review the following definitions.

Behavioral Control

These facts show whether there is a right to direct or control how the worker performs the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done as long as the business has the *right* to direct and control the work. For example:

- Instructions – if you receive extensive instructions on how work is to be done, this suggests that you are an employee. Instructions can cover a wide range of topics, for example:
 - how, when, or where to do the work
 - what tools or equipment to use
 - what assistants to hire to help with the work
 - where to purchase supplies and services

If you receive less extensive instructions about what should be done, but not how it should be done, you may be an independent contractor. For instance, instructions about time and place may be less important than directions on how the work is performed.

- Training – if the business provides you with training about required procedures and methods, this indicates that the business wants the work done in a certain way, and this suggests that you may be an employee.

Financial Control

These facts show whether there is a right to direct or control the business part of the work. For example:

- Significant Investment – if you have a significant investment in your work, you may be an independent contractor. While there is no precise dollar test, the investment must have substance. However, a significant investment is not necessary to be an independent contractor.
- Expenses – if you are not reimbursed for some or all business expenses, then you may be an independent contractor, especially if your unreimbursed business expenses are high.
- Opportunity for Profit or Loss – if you can realize a profit or incur a loss, this suggests that you are in business for yourself and that you may be an independent contractor.

Relationship of the Parties

These are facts that illustrate how the business and the worker perceive their relationship. For example:

- Employee Benefits – if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor.
- Written Contracts – a written contract may show what both you and the business intend. This may be very significant if it is difficult, if not impossible, to determine the status based on other facts.

If you have a special situation, you should contact your legal advisor for assistance.

Purchasing

[17B-1-618](#)

The *Utah Code* requires that all purchases by a district be made according to the purchasing procedures established by each district by resolution and only on an order or approval of the person duly authorized. In other words, districts are required to have a purchasing policy which shall be followed by a duly authorized purchasing agent. There are no limitations as to who the purchasing agent may be as long as they are authorized to do the purchasing by the board. Essentially, a purchasing policy should establish a competitive procurement process which safeguards against bias or conflicts of interest. The policy should also consider the cost of soliciting or advertising bids with the benefits of competition among vendors.

A sample purchasing policy has been included at the end of this manual ([Sample Purchasing Policy](#)). This sample policy is intended to assist the district in preparing a purchasing policy and may not address all of the needs of the district. It is recommended that a district work with their legal advisor for assistance.

The following is a list of items that should be considered when developing a purchasing policy. The list is not all inclusive, but is intended to be a starting point:

- Amount under which competitive quotes are not required.
 - (Example – Purchases less than \$500 do not require competitive quotes.)
- Amount over which verbal quotes will be obtained.
 - (Example – Purchases between \$501 and \$2,000 require at least two verbal quotes.)
- Amount over which written quotes will be obtained.
 - (Example – Purchases between \$2,001 and \$50,000 require at least three written quotes)
- Amount over which public advertising is required.
 - (Example – Purchases greater than \$50,000 will be publicly advertised and subject to competitive sealed bidding.)
- Method of soliciting quotes.
- Purchases made from a single or sole source provider.
- Emergency purchases.
- Cancellation and rejection of bids.

[11-39](#)

Construction Projects

Procurement for construction projects are subject to *Utah Code* 11-39, which, among other things, mandates bidding on most building and public works construction projects and specifies how the bidding is to be conducted.

Governmental Records Access and Management Act (GRAMA)

[63G-2-102](#) The “Governmental Records Access and Management Act” (GRAMA) provides for the control and disposition of public records. In enacting this act, the Legislature recognized two constitutional rights: (1) the public’s right to access information concerning the conduct of the public’s business; and (2) the right of privacy in relation to personal data gathered by governmental entities. The Legislature also recognized a public policy interest in allowing a government to restrict access to certain records, as specified by this chapter, for the public good.

Record Classifications

[63G-2-301](#) **Public:** *Records available for public review*

Public records include those that contain certain identifying information about public employees; laws; final interpretations of the laws or rules; transcripts, minutes, or reports of open meeting, private data on individuals where the individual consents to public release; and others as outlined in *Utah Code*. Additionally, public records are those which are normally publically provided, but not otherwise properly classified, such as staff manuals and instructions, policy statement; compliance records with government contracts; chronological logs and initial contact reports; correspondence where government determines or states an opinion; original data in a computer program; arrest warrants after issuance; search warrants after execution, and other as outlined in *Utah Code*.

[63G-2-302](#) **Private:** *Records available only to the individual to whom the record pertains and other authorized persons*

Private records consist of those of an individual’s eligibility for certain government benefits; medical records; certain information on public employees, and others as outlined in *Utah Code*. Additionally, performance evaluation and personal status information concerning public employees; records where disclosure would be a clearly unwarranted invasion of personal privacy; and others as outlined in *Utah Code* may be considered private records if properly classified.

[63G-2-304](#) **Controlled:** *Records available to authorized persons or agencies but not to the individual to whom it pertains*

Controlled records are those that contain medical, psychiatric, or psychological data on the individual when the governmental entity believes that disclosure would: (1) be detrimental to the subject’s mental health or to the safety of any individual or; (2) releasing would violate professional practice and medical ethics.

[63G-2-305](#) **Protected:** *Records containing non-personal data that are available to the person submitting the information and other authorized persons or agencies*

Protected records are those which contain trade secrets; records where disclosure would jeopardize the life or safety of an individual, the security of government property, or programs; the security or safety of a correctional facility or their records; attorney’s work product; drafts unless classified as public; the identity of a donor or prospective donor who requests anonymity in writing; and other as outlined in *Utah Code*.

[63G-2-201\(3\)](#) **Exempt:** Records only available expressly by statute

Exempt records are those which access is restricted by court rule, another state, federal statute, or federal regulation, including records for which access is restricted as a condition of participation in a state or federal program or for receiving state or federal funds *Utah Code*.

The following is a schedule of records a district may typically have; it includes the type of record, classification and retention requirements.

Record	Classification	Retention
Meeting Minutes	Public	Permanent
Meeting Agenda	Public	2 Years
Annual Financial Reports	Public	Permanent
Budgets	Public	Permanent
Bank Statements	Public	4 Years
General Ledger	Public	10 Years
Timesheets	Public	3 Years
Accounts Payable & Receivable	Public	4 Years
Deposit Slips	Public	4 Years
Check Register	Public	7 Years
Receipt Books	Public	3 Years
Fixed Asset Lists	Public	10 Years

Records Retention

The Utah State Archives prepares general records retention schedules and the State Records Committee approves those schedules to provide assistance to state and local governments in the retention and disposition of common public record series. A complete General Records Retention Schedule can be obtained by going to the State Archives website at archives.utah.gov/recordsmanagement/retention-schedules.html. Errors or recommended changes to the schedules should be forwarded to State Archives, Records Analysis Section. All approved retention schedules are available on the internet.

To have retention schedules prepared for record series not listed in the general schedule you would need to prepare an inventory worksheet and send it to State Archives. A records analyst from the Archives will work with individual government entities to schedule those record series specific to your own office. For more information call the State Archives at (801) 531-3848. Records management and GRAMA Training Sessions are held annually throughout Utah and are available on-line at archives.utah.gov.

Purpose of Classification Worksheet

The Designation and Classification Worksheet was developed to allow for the reporting of record series classifications. Districts may use this form to report to the Utah State Archives classifications and to indicate which general schedule items exist in their office. It is important that this sheet be completed and returned to the Utah State Archives to report your entity’s designated classification. Copies of the Classification Worksheet can be obtained on the State Archives website at archives.utah.gov/recordsmanagement/forms/forms-grama.html.

Preparing for a GRAMA Request

Districts are to adopt a policy as to who handles record requests. Each person within a local government should know who handles record requests. The records officer is to ensure that policy is in compliance with the law. Local governments are to create a standard GRAMA request form. A sample form can be found within the forms section at the end of this manual ([Sample GRAMA Request & Denial](#)) or at the State Archives website linked above.

Receiving and Responding to a GRAMA Request

Districts must respond to a GRAMA request within 10 business days (5 days for an expedited response). Districts may deny the request if necessary (failure to respond is considered a denial). If extraordinary circumstances exist; i.e. another agency is using the record, the record is undergoing an audit, a large number of records are being processed, and etc., the district must notify the requester of any such circumstances. If a district denies a request, in whole or in part, it must provide notice of denial to the requester in writing. A notice of denial example is included in the forms section at the end of this manual ([Sample GRAMA Request & Denial](#)).

GRAMA Training

[63G-2-108](#)

A local government's record officer is to receive annual training on GRAMA. The training is located on the State Archives website at archives.utah.gov/recordsmanagement/training.html.

Insurance

[51-7-15](#)

All public treasurers are required to be bonded in accordance with the Utah State Money Management Council. The following schedule sets forth the amount each public treasurer should be bonded for according the annual budget of the governmental unit.

The schedule below sets forth the amount for which each public treasurer should be bonded according to the annual budget for the governmental unit. The basis used shall be budgeted gross revenue for the previous year. Budgeted gross revenue includes all funds collected or handled by the public treasurer.

Budget	Percent For Bond	Minimum Bond
0 to 10,000	N/A	0
10,001 to 100,000	9% but not less than	5,000
100,001 to 500,000	8% but not less than	9,000
500,001 to 1,000,000	7% but not less than	40,000
1,000,001 to 5,000,000	6% but not less than	70,000
5,000,001 to 10,000,000	5% but not less than	300,000
10,000,001 to 25,000,000	4% but not less than	500,000
25,000,001 to 50,000,000	3% but not less than	1,000,000
50,000,001 to 500,000,000	2% but not less than	1,500,000
over 500,000,000		10,000,000

Bonds must be issued by a corporate surety licensed to do business in the State of Utah and rated XII or better by the latest issue of Bests Rating Guide. Bonds should be effective as of the date the treasurer assumes the duties of the office or is sworn in.

It would also be wise to consider in which areas the district and its board members should be insured. The law requires a district with an annual operating budget of at least \$50,000 to obtain liability insurance as considered appropriate by the board. The *Utah Local Governments Trust* was created by and for local governments in Utah to assist in meeting insurance needs. They will be glad to help you with insurance matters. The Salt Lake City phone number is (801) 936-6400 and the toll-free number is 1-800-748-4440.

Fund Balance Limitation

[17B-1-612-\(2\)](#)

A common problem for districts is the accumulation of large fund balances or cash reserves. Large fund balances are inappropriate for governmental units and are generally a violation of state law. The *Utah Code* limits the amount that can be retained as unreserved fund balance in the general fund. The accumulation of a fund balance in the general fund may not exceed the greater of:

- a. 100% of the current year's property tax, or
- b. 25% of the total general fund revenues for districts with annual general fund budgets greater than \$100,000, or
- c. 50% of the total general fund revenues for districts with annual general fund budgets equal to or less than \$100,000.

The most common criteria will be 100% of the current year's property tax.

The concept is basically that a government should tax its constituents on a "pay as you go" basis. This means that purchases of economic resources which benefit taxpayers today should not be made with funds accumulated from prior taxpayers or by issuing excessive debt that places the burden on future taxpayers. Essentially, taxpayers should be allowed to determine the best use of their funds while being taxed in a manner that allows a government to meet its current obligations.

There are provisions in the law that allow the governing board to accumulate funds for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan adopted by the governing body. Generally, the accumulation of these funds should be reported in a capital projects fund.

Publishing District Information in the Telephone Directory

[17B-1-112](#)

The *Utah Code* requires that districts with an annual budget over \$5,000 provide the name, telephone number, and address of the district to the telephone directory publisher serving the geographic area within which the district is located. The district should also request the telephone directory publisher to publish the required information in the government or other appropriate government-related section of the publisher's telephone directory.

If the district does not have a telephone or address or both, the district shall provide the telephone number or address or both, as the case may be, of the district's officer in charge of the district's day-to-day operations. The district is not required to notify the telephone directory publisher if the information is already published in the government or other appropriate government-related section of the telephone directory.

Training

[17B-1-312](#)

The Office of the Utah State Auditor, in cooperation with the Utah Association of Special Districts, provides training for members of district governing boards and others as applicable. This training is required for new board members by the *Utah Code* which states that each member of a board of trustees of a local district should, within one year after taking office, complete training developed by the Office of the Utah State Auditor in cooperation with the Utah Association of Special Districts.

The training is designed to help governing boards increase their understanding of their role, functions, and responsibilities. Topics covered by this training typically include items included in this manual. However, the training provides board members and others with the opportunity to ask questions and understand concepts behind laws and other requirements. A training module that fulfills this requirement is also available on the State Auditor's website at auditor.utah.gov/local-government/local-districts/local-districts-training/.

It is the intention of the Legislature, the Office of the Utah State Auditor and the Utah Association of Special Districts, to encourage board members to participate in this training to enhance governance and accountability of local and special service districts. This training is generally provided as requested by governing boards. If you have any questions regarding this training please contact Ryan Roberts by email at ryanroberts@utah.gov or by phone at (801) 538-1721.

Utah Association of Special Districts

The association is dedicated to promoting the proper and efficient operation of all districts in our state. It assists districts in fulfilling their respective missions by informing governmental and public officials about districts; promoting district awareness; providing training to board members, management, and staff; and providing legislative input and advocacy, and updates of current laws and regulations. Membership is available for all districts. For more information please contact:

Mr. LeGrand W. Bitter, Executive Director
Utah Association of Special Districts
1272 West 2700 South
Syracuse, UT 84075
(801) 614-0405 or (801) 776-4228
E-mail: uasdmail@yahoo.com
Website: www.uasd.org

Sample Purchasing Policy

Authority to Purchase

The governing board shall approve all expenditures of the district. No individual may make purchases on behalf of the district unless they have been duly authorized by the governing board and designated as a purchasing agent. No purchase greater than \$2,000 may be made without obtaining prior approval from the governing board.

Purchasing Agent

The governing board may authorize a purchasing agent to make routine purchases for items such as payroll checks, if the checks are prepared in accordance with a schedule approved by the board, and routine expenditures, such as utility bills, payroll-related expenses, supplies and materials. All expenditures made by the purchasing agent will be reviewed and approved by the governing board subsequent to the purchase.

The purchasing agent may not have accounting or bookkeeping responsibilities or have access to the accounts records.

Prior Authorization

Prior authorization by the governing board is required for all purchases that exceed \$2,000 and for all purchase not considered payroll or routine as noted above.

Purchasing Procedure

No purchase may be artificially divided to circumvent procedures noted below.

Purchases up to \$500 - The purchaser may select the best source without seeking competitive quotes.

Purchases from \$501 to \$2,000 - Obtain price quotes from at least two vendors. Price quotes must be obtained by phone, FAX, or letter from a representative of an established, viable vendor and documented on a quote sheet.

Purchases from \$2,001 to \$50,000 - Obtain written price quotes from at least three vendors. Price quotes must be written proposals from a representative of an established, viable vendor who is a properly licensed to complete the work.

Purchases greater than \$50,000 - Purchases greater than \$50,000 are subject to competitive sealed bidding. The purchasing agent may contact potential vendors seeking requests for proposals; however, a request for proposals will also be publicly advertised in at least one newspaper of general circulation in the area.

Sole Source Procurement

If at least two quotes cannot be obtained, the purchase is considered a sole-source purchase. Sole-source purchases require prior governing board approval and if the service is on-going, the service must be re-approved by the governing board annually.

Open Charge Accounts

All open charge accounts must be re-approved by the governing board annually.

Emergency Purchases

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may

arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be determined by the governing board. The existence of such condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods.

Emergency procurement shall be limited to only those supplies, services or construction items necessary to meet the emergency.

When an emergency arises, the purchaser should seek competitive procurement as practical; however, competitive procurement procedures may be omitted. The person responsible for making an emergency procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular supplier.

Acceptance of Proposals

Award must be made to the vendor submitting the lowest quote meeting the minimum reasonable specifications and delivery date.

Non-Compliance

Individuals who do not comply with provisions of this policy will be subject to withdrawal of the authority to make purchases.

Quote Sheet

Product or Service Requested: (Include specific project requirements such as required completion date etc.)

Vendor #1:

Company Name: _____

Person Contacted: _____ Date Contacted: _____

Method of Contact: Phone E-mail In person Other: _____

Contact Information: Phone: _____ Address: _____

Amount Quoted: (Or attach vendor's written proposal or bid) _____

Vendor #2:

Company Name: _____

Person Contacted: _____ Date Contacted: _____

Method of Contact: Phone E-mail In person Other: _____

Contact Information: Phone: _____ Address: _____

Amount Quoted: (Or attach vendor's written proposal or bid) _____

Sample GRAMA Request & Denial Utah Government Records Request Form

To: _____
(Name of government office holding the records and/or name of agency contact person)

Address of Government Office: _____

Description of Records Sought (records must be described with reasonable specificity):

- I would like to inspect (view) the records
- I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted
- Utah Code 63G-2-203-(4)* encourages agencies to fulfill a records request without charge. Base on *Utah Code 63G-2-203-(4)*, I am requesting a waiver of copy costs because:

Releasing the record primarily benefits the public rather than a person. Please explain:

I am the subject of the record

I am the authorized representative of the subject of the record

My legal rights are directly affected by the record and I am impoverished
(Please attach information supporting your request for a waiver of the fees)

If the requested records are not public, please explain why you believe you are entitled to access:

I am the subject of the record

I am the person who provided the information

I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by *Utah Code 63G-2-202* is attached

Other; Please explain:

- I am requesting an expedited response as permitted by *Utah Code 63G-2-204-(3) (b)*.
(Please attach information your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response)

Requester's Name: _____

Mailing Address: _____

Telephone Number: _____ **Date:** _____

Signature: _____

Notice of Denial

Date: _____

To: _____

Address: _____

Your request received on _____ for the following records or portion of records has been denied:

These records have been classified as (provide the exact citation here):

Private in accordance with UCA 63G-2-302 _____

Controlled in accordance with UCA 63G-2-304 _____

Protected in accordance with UCA 63G-2-305 _____

These records are exempt from disclosure by the following:

Court order: _____

Statue: _____

You have the right to appeal the denial to the chief administrative officer (UCA 63G-2-205-(2) (C)). A notice of appeal must be submitted within 30 days. Your notice of appeal must include your name, mailing address, telephone number, and explanation of what relief you are seeking. You may also include any supporting information with your notice of appeal. The notice of appeal should be sent to:

Chief Administrative Officer: _____

Address: _____

Name of person denying the request: _____

Title of person denying the request: _____

