

THE SCHOOL DISTRICT OF PHILADELPHIA

No. 820
SECTION: 800
Operations
TITLE: 820 Ratifications
ADOPTED: October 5,
2011
REVISED:

820 RATIFICATIONS

Purpose

The Board of Education ("Board") recognizes that on occasion it may be necessary for the School District of Philadelphia ("District") to execute, deliver, and perform contracts and accept grants, gifts, and donations without prior approval of the Board. The Board adopts the within policy to clarify when such action and/or Board ratification are permissible.

Definitions

~~For purposes of this policy, sole source vendor shall mean vendors which perform a service or provide goods for which no other source exists.~~

Authority

It is the policy of ~~The School District of Philadelphia~~ **the Board** that the execution, delivery and performance of contracts and acceptances of **grants**, gifts, and donations on behalf of the District without ~~advanced~~ **prior** approval by the ~~School Reform Commission (SRC)~~ **Board** is impermissible except as ~~stated herein~~ **provided for in this Policy or stated in another policy, resolution, or action item.** On rare occasions, it may be necessary for the District to take action before SRC **Board** approval. In such cases, ~~the School District staff is directed~~ **required** to shall promptly and expeditiously submit proposed ratifying **Action Items to the Board** resolutions for ~~consideration~~ deliberation and voting at a public SRC meeting held at the next scheduled **publicly-held Board SRC meeting unless a different deadline, as set forth below, is applicable.** It is the policy of the School District that there shall be adverse consequences to employees who violate this policy.

Delegation of Responsibility

The Board adopts this Policy and authorizes the District, through the Superintendent or designee, to take the following actions that would otherwise require prior approval from the Board without such prior approval, subject to ratification by the Board: Ratification of unapproved actions by the District ~~may be considered by the SRC in the following situations:~~

1. **Emergencies - Goods and Services, Construction, Renovations, Environmental**
2. **Construction Change Orders**
3. **Employment of School District Personnel**
4. **Federal, State, and Local Memoranda Of Understanding, Fees, Permits, Licenses, etc. with other Public Agencies**
5. **Acceptance of Grants, Gifts, and Donations**
6. **Summer Activities and Summer School Programs**

Other Ratifications - Ratification of other unapproved actions and acceptance of grants, gifts, and donations by the District may be considered and approved by the Board on a case-by-case basis, if the Board is satisfied that approval is in the best interest of the District.

Mandatory Regulatory Procedures:

Emergencies - Goods and Services

The ~~SRC~~ **Board** recognizes that emergencies may occur when imminent danger or threat exists to public health, welfare or safety to persons or property, continuance of existing school classes is threatened, the necessity of keeping vital equipment operative or circumstances outside the control of the School District, creating an urgency or need which does not permit the delay involved in using formal, competitive procurement methods. [1][2][3][4][5][6][7][8][9][10][11][12][13]

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The Superintendent or ~~designee Deputy Superintendent~~ may make or authorize others to make an emergency procurement when:

1. There is a threat to life, public safety, welfare, or safety; or
2. Circumstances outside the control of the ~~School District~~ create an urgency which does not permit using the normal competitive procurement methods. ~~Whenever practical in the case of procurement of supplies and certain services, at least two (2) bids shall be solicited by telephone or electronically. A written determination of the basis for the emergency and for the selection of the contractor shall be prepared and maintained by the Offices of the Superintendent, Procurement Services and General Counsel and shall be included in the contract file and in the proposed resolution for ratification of emergency procurements.~~

~~Email notice of the action shall be provided to the Chair of the SRC~~ **Board** with copies to the Commissioners within twenty-four (24) hours of the action. **The District, through the Office of Procurement Services, is authorized to promptly procure emergency services or supplies in accordance with the terms of Policy 611 and the Procurement Manual and then to obtain ratification at the next regularly scheduled Board meeting. Email notice of the action shall be provided to the President of the Board with copies to all Board Members within forty-eight (48) hours of the action.**

Emergencies – Construction, Renovations; Environmental

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The ~~SRC~~ **Board** recognizes that emergency construction work and environmental remediation on its school buildings may be needed and that the ~~School District~~ has an obligation to provide safe and suitable facilities for the education of **its students**. ~~the school children.~~

~~If due to an emergency a school plant or any part thereof becomes unusable, competitive bids for repairs or replacement may be solicited by telephone or electronically from at least three (3) responsible bidders. The School District, through the s-Office of Capital Programs, is authorized to promptly perform emergency repairs or replacements on school buildings using outside construction contractors in accordance with the terms of the approved bid or bids and then to obtain ratification of completed or approved emergency construction work. Email notice of the action shall be provided to the Chair of the SRC~~ **President of the Board** with copies to the ~~Commissioners~~ all Board Members within ~~twenty four (24)~~ forty-eight (48) hours of the action. [1][11]

Sole Source Items

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The School District may obtain goods and services from sole source vendors when one (1) of the following conditions exists:

1. Only a single contractor is capable of providing supplies, services or construction;
2. A state or federal statute or regulation exempts supplies, services or construction from a competitive procedure;
3. It is clearly not feasible to award the contract on a competitive basis where no other vendor can meet the delivery date or the item is an integral part of a unit, piece of machinery or electro/mechanical system and the time for bidding or other competitive pricing cannot be provided because of the need for immediate

action;

4. ~~The contract is for financial or investment experts, litigation consultants or expert witnesses.~~

Construction Change Orders

- The ~~SRC~~ **Board** recognizes that changes are inevitable in ~~many significant~~ construction projects **and that** projects are rarely built exactly as they were originally designed. Changes can come into play when issues arise involving extra work performed beyond the original scope of ~~a the~~ contract; defective plans, drawings or specifications; differing, ~~site conditions or changed conditions,~~ **or** unforeseen site conditions; **project** acceleration; and **project** delays. The ~~School~~-District's construction contracts contain detailed rules, regulations, and procedures for identifying, investigating, and analyzing changes on construction projects and issuing constructive change directives, and for negotiating, approving, or ratifying, and processing change orders on construction projects.

~~For the reason that a~~ A construction contractor ~~has~~ **may have** the right to initially refuse to proceed with performing change order work until it receives ~~SRC~~ **Board** approval and **may have a claim to a construction** ~~contractor can~~ recover damages from the ~~School~~-District for ~~any~~ construction project delays caused by the District's delay in supplying a ~~SRC~~ **Board**-approved change order. **The time lost can impact related project deadlines, delay project completion, and carry programmatic implications.**

Accordingly, the **District, through the** Office of Capital Programs, is authorized to review, negotiate and approve change orders, subject to ratification **within** ninety (90) days **of Office of Capital Programs' approval of the change order.** ~~after execution and delivery of a contract.~~ Email notice of the action shall be provided to the ~~Chair~~ **President** of the ~~SRC~~ **Board** with copies to the ~~Commissioners~~ **other Board members.** ~~within ten (10) business days of issuing the change order.~~ **[10]**

Prequalification of Construction Contractors And Design Professionals; Professional Design Services Contracts And Contract Amendments; ~~Small Contractors Capital Maintenance Work Program Contracts~~

- **The Board approves and continues prior delegation** ~~Prior SRC resolutions delegate to the Office of Capital Programs of the authority to prequalify contractors and design professionals, and to award professional design services contracts and contract amendments and small contractors capital maintenance work program contracts,~~ and to submit awarded contracts to the ~~SRC~~ **Board** for ratification **within** ninety (90) days after execution and delivery of a contract.

Employment of School District Personnel

- The ~~SRC~~ **Board** recognizes that "contracts of any kind" must be approved by the ~~SRC~~ **Board**, that the ~~School~~-District is required to have employment contracts with its professional employees, and that the ~~SRC~~ **Board** shall approve the employment and determine responsibilities and compensation for each employee.

The Superintendent or designee is authorized to seek Board approval of hiring decisions at the regularly scheduled monthly Board meeting after the hiring process is completed. ~~The monthly personnel resolutions submitted by the Office of Talent and Development approving the hiring and termination of employees are required by law. Monthly approval may be sought after the hiring process is completed. The personnel resolutions must include a statement that the individuals recommended for hiring participated in an application and evaluation process supervised by the Office of Talent and Development and that the individuals have satisfactorily completed the required background checks, clearances, and all other requirements of employment.~~ **[13][14][15][16]**

Federal, State, and Local Memoranda of Understanding, Fees, Permits, Licenses, etc. with Other Public Agencies

- The **SRC Board** recognizes the School District is required to pay or reimburse other public **entities** agencies for fees and charges for permits, licenses, inspections, **etc.** – sometimes pursuant to purchase orders or invoices. The amounts due are not always known in advance to be authorized by the **SRC Board**. Also, the Superintendent or **designee** Deputy Superintendent may **enter into** negotiate Memoranda of Understanding with other public agencies **entities** for nonexpenditure **no cost** services if there is an important need to do so prior to **SRC Board** approval. Email notice of the action shall be provided to the Chair of the **SRC** with copies to the Commissioners within twenty-four (24) hours of the action.

Acceptance of Grants, Gifts, and Donations

- The Board has authorized the Superintendent or designee to accept grants, gifts, and donations that support the mission and priorities of the District or District schools that are valued up to and including the amount set forth in Policy 702. Acceptance of grants, gifts, and donations exceeding that amount shall be authorized by separate Board action items. The **SRC Board** recognizes that occasionally **grantors and** donors of **grants**, gifts, and donations in excess of \$5,000 **the amount established by Policy 702** want or need to make the a grant, gift, or donation **promptly**; before there is time for Board approval. The School District Superintendent or **designee** may accept those **such** grants, gifts, and donations if the acceptance is in the best interests of the District and there are good grounds for acceptance prior to **SRC Board** approval. Email notice of the action **acceptance** shall be provided **promptly** to the President Chair of the **SRC Board**, with copies to the Commissioners copying all Board members., within twenty-four (24) hours of the action. [17]

Summer Activities and Summer School Programs

- The **SRC Board** recognizes that summer activities and summer school programs may not always be fully developed or planned in time for **consideration** deliberation and voting no later than the at the public **SRC Board** meeting in June of each year, **but that they may be important for students and in the best interests of the District.** The School District Superintendent or designee shall **provide written notification to** notify the **SRC Board President, copying all Board members, in writing** no later than its the public **Board** action meeting in June of each year, of the planned activities and the amounts of expenditures over the summer for which ratification may be sought. **The District must seek ratification** no later than the September **Board** meetings of the same calendar year.

Specialized Instructional Services

- The **SRC Board** recognizes that the Office of Specialized ~~Instructional~~ Services may need to provide and/or pay for services prior to **SRC Board** approval in the following situations: [18][19][20][21]

1. When there is a change in student services agreed upon by an IEP team, such as additional 1:1 aides or related services (e.g. occupational or physical therapy), which services must begin **on a timely basis immediately**;
2. When the School District is billed for the full tuition costs - rather than for state subsidized rates - for approved private schools or residential treatment facilities; **and** Billing reconciliations ~~usually~~ do not occur until the last quarter of the school year; or
3. When there is a transition from services provided pursuant to a settlement agreement to a contracted placement. ~~Students placed in out-of-district facilities pursuant to settlement agreements often required contracted arrangements.~~

Other Ratifications

Ratification of other unapproved actions and acceptance of **grants**, gifts, and donations by the ~~School~~-District may be considered and approved by the ~~SRC~~ **Board** in other situations, if the **Board** is satisfied that approval is in the best interests of the ~~School~~-District.

Legal References:

1. ~~School Code—24 P.S. Sec. 111, 508, 696, 701, 751, 1121~~
2. ~~State Board of Education Regulations—22 PA Code Sec. 14.101 et seq., 21.21~~
3. ~~Ratification of Building, Labor and Materials Contracts—24 P.S. Sec. 336, 337, 337a, 337b, 337e~~
4. ~~Commonwealth Procurement Code—62 Pa.C.S.A. Sec. 515, 516~~
5. ~~Individuals With Disabilities Education Act—20 U.S.C. Sec. 1400 et seq~~
6. ~~Section 504 of the Rehabilitation Act of 1973—29 U.S.C. Sec. 794~~
7. ~~Americans With Disabilities Act—42 U.S.C. Sec. 12101 et seq.~~
8. ~~School Reform Commission Policy—304, 610, 611, 612, 702~~
9. ~~School District Manual of Procurement Policies and Procedures, p.12, 32~~
1. [Policy 611](#) - Exceptions to Purchases Subject to a Competitive Process
2. **24 P.S. § 336**
3. **24 P.S. § 337**
4. **24 P.S. § 337a**
5. **24 P.S. § 337b**
6. **24 P.S. § 337c**
7. **62 Pa.C.S.A. § 515**
8. **62 Pa.C.S.A. § 516**
9. [Policy 610](#) - Purchases Subject To Competitive Process
10. **24 P.S. § 7-701**
11. **24 P.S. § 7-751**
12. **22 Pa.Code § 21.21.**
13. **24 P.S. § 1-111**
14. **24 P.S. § 5-508**
15. **24 P.S. § 11-1121**
16. [Policy 304](#) - Employment of District Staff
17. [Policy 702](#) - Gifts, Grants, Donations, Student Fundraising
18. **22 Pa.Code § 14.101, et seq.**
19. **20 U.S.C. §§ 1400, et seq.**
20. **29 U.S.C. § 794. Section 504 of the Rehabilitation Act of 1973**
21. **42 U.S.C. §§ 12101, et seq.**

Administrative Procedures: