

THE SCHOOL DISTRICT
OF PHILADELPHIA

SECTION: OPERATIONS

TITLE: RATIFICATION OF
CONTRACTS AND
ACCEPTANCE OF GIFTS

ADOPTED: October 5, 2011

REVISED:

<p>1. Authority</p> <p>2. Guidelines</p> <p>SC 696(e)(1), (2), (i)(3), (5) 24 P.S. Sec. 336, 337a – 337c 62 Pa. C.S.A. Sec. 515, 516 Pol. 610, 612</p>	<p style="text-align: center;">820. RATIFICATION OF CONTRACTS AND ACCEPTANCE OF GIFTS</p> <p>It is the policy of The School District of Philadelphia that the execution, delivery and performance of contracts and acceptances of gifts and donations on behalf of the District without advance approval by the School Reform Commission (SRC) is impermissible except as stated herein.</p> <p>On rare occasions, it may be necessary for the District to take action before SRC approval. In such cases, the School District staff is directed to promptly and expeditiously submit proposed ratifying resolutions for deliberation and voting at a public SRC meeting held at the next scheduled SRC meeting. It is the policy of the School District that there shall be adverse consequences to employees who violate this policy.</p> <p>Ratification of unapproved actions by the District may be considered by the SRC in the following situations:</p> <p>1. Emergencies – Goods And Services</p> <p>The SRC 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.</p> <p>The Superintendent or Deputy Superintendent may make or authorize others to make an emergency procurement when:</p> <ol style="list-style-type: none"> 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.
--	--

<p>SC 701, 751(a) 24 P.S. Sec. 336, 337a – 337c Title 22 Sec. 21.21(a)</p> <p>SC 696(e)(1), (2), (i)(1), (3), (5), (14) 62 Pa. C.S.A. Sec. 515</p>	<p>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.</p> <p>3. 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.</p> <p>2. Emergencies – Construction, Renovations; Environmental</p> <p>The SRC 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 the schoolchildren.</p> <p>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’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 emergency construction work. 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</p> <p>3. Sole Source Items</p> <p>The School District may obtain goods and services from sole source vendors when one (1) of the following conditions exists:</p> <ol style="list-style-type: none"> 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;
--	---

	<p>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;</p> <p>4. The contract is for financial or investment experts, litigation consultants or expert witnesses.</p> <p>For purposes of this policy, sole source vendor shall mean vendors which perform a service or provide goods for which no other source exists.</p>
<p>SC 696(e)(1), (2) (i)(3), (13), 701</p>	<p>4. Construction Changes, Change Orders And Change Directives</p> <p>The SRC recognizes that changes are inevitable on any significant construction project; 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 the contract, defective plans, drawings or specifications, differing site conditions or changed conditions, unforeseen site conditions, acceleration, and 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.</p> <p>For the reason that a construction contractor has the right to initially refuse to proceed with performing change order work until it receives SRC approval and 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-approved change order, the Office of Capital Programs is authorized to review, negotiate and approve change orders, subject to ratification ninety (90) days after execution and delivery of a contract 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.</p>
<p>SC 696(e)(1), (2), (i)(3), (5), (13), 701</p>	<p>5. Prequalification Of Construction Contractors And Design Professionals; Professional Design Services Contracts And Contract Amendments; Small Contractors Capital Maintenance Work Program Contracts</p> <p>Prior SRC resolutions delegate to the Office of Capital Programs 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 for ratification ninety (90) days after execution and delivery of a contract.</p>

<p>SC 111, 508, 696(i)(5), 1121 Pol. 304</p>	<p>6. Employment Of School District Personnel</p> <p>The SRC recognizes that “contracts of any kind” must be approved by the SRC, that the School District is required to have employment contracts with its professional employees and that the SRC shall approve the employment and determine responsibilities and compensation for each employee.</p> <p>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.</p>
<p>SC 696(e)(1), (2), (h), (i)(3), (13)</p>	<p>7. Federal, State And Local Memoranda Of Understanding, Fees, Permits, Licenses, Etc.</p> <p>The SRC recognizes the School District is required to pay or reimburse other public agencies for fees and charges for permits, licenses, inspections – sometimes pursuant to purchase orders or invoices. The amounts due are not always known in advance to be authorized by the SRC. Also, the Superintendent or Deputy Superintendent may negotiate, Memoranda of Understanding with other public agencies for non-expenditure services if there is an important need to do so prior to SRC 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</p>
<p>SC 696(e)(1), (2), (i)(3), (13) Pol. 702</p>	<p>8. Acceptance Of Gifts and Donations</p> <p>The SRC recognizes that occasionally donors of gifts and donations in excess of \$5,000 want to make the gift or donation promptly, before time for SRC approval. The School District may accept gifts and donations if the acceptance is in the best interests of the School District and there are good grounds for acceptance prior to SRC 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</p>
<p>SC 696(e)(1), (2), (i)(3), (5), (13)</p>	<p>9. Summer Activities And Summer School Programs</p> <p>The SRC recognizes that summer activities and summer school programs may not always be developed or planned in time for deliberation and voting no later than the public SRC meeting in June of each year. The School District shall notify the SRC</p>

<p>20 U.S.C. Sec. 1400 et seq 29 U.S.C. Sec. 794 42 U.S.C. Sec. 12101 et seq</p>	<p>in writing no later than its action meeting in June of each year of planned activities and the amounts of expenditures over the summer for which ratification may be sought no later than the September meetings of the same calendar year.</p> <p>10. Specialized Instructional Services</p> <p>The SRC recognizes that the Office of Specialized Instructional Services may need to provide and/or pay for services prior to SRC approval in the following situations:</p> <ol style="list-style-type: none"> 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 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. 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. <p>11. Other Ratifications</p> <p>Ratification of other unapproved actions and acceptance of gifts and donations by the School District may be considered and approved by the SRC in other situations, if the SRC is satisfied that approval is in the best interests of the School District.</p> <p>References:</p> <p>School Code – 24 P.S. Sec. 111, 508, 696, 701, 751, 1121</p> <p>State Board of Education Regulations – 22 PA Code Sec. 14.101 et seq., 21.21</p> <p>Ratification of Building, Labor and Materials Contracts – 24 P.S. Sec. 336, 337, 337a, 337b, 337c</p> <p>Commonwealth Procurement Code – 62 Pa.C.S.A. Sec. 515, 516</p> <p>Individuals With Disabilities Education Act – 20 U.S.C. Sec. 1400 et seq.</p>
--	---

Section 504 of the Rehabilitation Act of 1973 – 29 U.S.C. Sec. 794

Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.

School Reform Commission Policy – 304, 610, 611, 612, 702

School District Manual of Procurement Policies and Procedures, p.12, 32