

County-Appointed Board Member Handbook



A collaborative effort between
Wyoming County Commissioners Association
and University of Wyoming Extension

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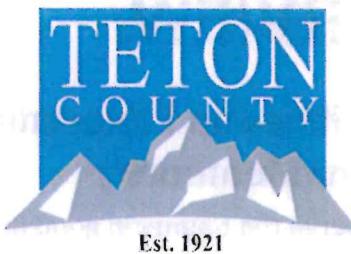
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Dear County Board Member,

Congratulations! Thank you for stepping into a county elected or appointed board position in the county. We appreciate your willingness to accept this position.

This handbook will acquaint you with several aspects of the position. The first four sections, general overview, effective meetings, and board communication, parliamentary procedure, provide basic information for all board members. The latter section on open meetings law and the sample agendas and minutes are references.

Included is a copy of the Wyoming Department of Audit Public Funds Division's Wyoming Special District Handbook. This document was prepared to satisfy the need for a reference and instruction manual in compliance with W.S. 9-1-507 and W.S. 9-1-510.

We hope you find this information helpful during your board service.

If you have any questions, please do not hesitate to contact your board chairman or the county commissioners' office at (307) 733-8094.

Thanks for volunteering your time in service to Teton County.

Sincerely,

Teton County Commissioners

GENERAL OVERVIEW

Basic Roles, Responsibilities and Expectations of County-Appointed Board Members¹

Board members are appointed to serve the County in good faith with the best interests of citizens in mind. Boards govern different county services and each board has its own guidelines or bylaws. Members are responsible for fulfilling the duties described in their board's bylaws and following any state statutes or other applicable agreements. County-appointed boards serve at the will of the county, represent the County Commissioners and serve the citizenry of the county. This obligation means making careful decisions and managing board business in a prudent manner.

Not all boards are the same. Most boards are formed by county resolution or state statute and are either advisory or decision-making bodies. Advisory boards make recommendations to the County Commissioners who are the final decision-makers. Decision-making boards function somewhat independently from the County and have authority to make decisions. Joint powers boards are appointed from multiple elected bodies.

Bylaws describe the purpose or "business" of the board and how it functions. Any changes made to bylaws must be discussed at an official meeting of the board, acted upon and signed by the chairman with a copy of the most current bylaws filed in the county commissioner's office.

When undertaking duties on behalf of the county, board members are indemnified by the county if action is within the scope of their authority and/or done in good faith. Indemnity means protection against hurt, loss or damage.

Administrative Responsibilities

Every board has governance and self-management responsibilities. Good governance includes pursuing the purpose for which the board is intended, establishing direction and making decisions as well as providing internal controls to assure reliable financial information, compliance with applicable laws and regulations, and the effectiveness and efficiency of operations.

Self-management

Self-management includes creating efficient meeting structures, policies and procedures that support good governance. Boards maintain appropriate records of decisions made (minutes) and financial accountability (asset inventories, cash flow statements, balance sheets and monthly treasurer's reports). Boards use appropriate procedures with personnel and related issues to manage their liability and seek counsel from the County Attorney when personnel may be disciplined or terminated. Records such as minutes and treasury reports are open

¹ Shipp, R., Northwest Area Community Development Educator, University of Wyoming Cooperative Extension Service, July 2007.

and available to the public depending on governing statutes (few records are considered confidential in government). Board members usually do not receive compensation for serving on the board.

The ultimate responsibility for good internal control systems rests with board management. Internal controls such as policies, procedures and practices are used to guide activities that carry out its functions.

Boards, committees, and staff

Boards make decisions and staff or committees do work. Boards often utilize committees to investigate issues, explore options and develop recommendations.

Committees

Committee work is done outside regular board meetings and brief reports are given during the meetings. Usually the board acts on the information presented by the committees, but in some cases the board may direct committees to make decisions.

Staff

When boards employ staff, written job descriptions should clearly delineate duties and relationships. Personnel policies and procedures should be written and followed since the board is responsible for employee performance. Board members should differentiate their roles in governance from micro-management. Staff takes care of the day-to-day management. The board defines overall direction and policies and makes major decisions.

Conflicts of interest

Members are expected to attend meetings and participate but refrain from the discussion and voting when there is a conflict of interest. Members also must refrain from discussing board business with each other outside of board meetings.

What constitutes a conflict?

The general public places their trust and confidence in board members to act in the public's best interests. Board service carries with it important ethical obligations.

A clash between public obligations and personal interests arises when the individual tries to perform their duty while watching out for their personal interests at the same time OR when the person is in a public position of trust which requires them to exercise judgment on behalf of others (people, institutions, etc.) and also has interests or obligations that might interfere with their judgment. A person is required to either avoid or openly acknowledge these conflicts.

Examples may include: outside employment in which the interests of a job are involved; family/friends interests where goods or services or considerations are involved; and accepting gifts.

How should conflicts of interest be handled?

The best way to handle a conflict of interest is to make known the connection and conflict, then remove oneself from the room. In other words, avoid the conflict entirely by leaving the room during the discussion and vote.

In some cases, public disclosure may be acceptable. The conflict is stated prior to discussion and a person generally recuses themselves and abstains from the discussion and decision.

More information on government ethics is described in Wyoming State Statutes 9-13-101 through 9-13-109: <https://wyoleg.gov/leginfo/policies/Ethics%20Brochure.pdf>.

Fiscal Responsibilities

- Prepares and submits an annual budget to the Board of County Commissioners. Develops a realistic budget based upon known and projected revenues and expenses.
- Manages budget and purchasing procedures and capital expenditures.
- Maintains an accurate representation of the financial state of the board.
- Provides strict oversight and accounting procedures for handling cash and other assets.
- Annually names the depository for funds and requests FDIC certification from the bank.
- Ensures that annual audits are conducted to establish accounting procedures for cash, receipts and expenditures.
- Maintains a segregation of financial duties to reduce opportunities that might perpetrate and conceal irregularities in finances, i.e., two signatures on checks.
- Maintains fixed asset inventories including identification of assets and sales/dispositions/transfers of property.
- Maintains records of property and equipment.
- Operates within legal and liability guidelines under Wyoming State Statutes 16-4-100 through 16-4-408. See statutes at <https://wyoleg.gov/statutes/compress/title16.pdf>.
- Provides for public openness and availability of minutes, records and treasury reports.

Record Keeping and Record Retention Responsibilities²

Boards manage the records they create. Records generated when doing business may become historical documents. The decision to destroy public records should not be taken lightly.

Organizations cannot afford to retain all or even most of the documents created. Uncontrolled retention of documents is costly, difficult to manage and impossible to store. For these reasons, record retention programs are created to ensure the organization's business is documented and kept in an organized manner.

When determining how long a record should be kept, it is important to review all legal requirements, the purpose it serves today and into the future such as history for new board members, the reason for keeping or destroying it, and the possibility that it is already being maintained by another organization. Don't be in a hurry to clear out files full of records, but remember too that destroying non-essential records is part of an overall record retention program for your board.

As outlined in Wyoming State Statute 9-2-410, "All public records are the property of the state. They shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with Wyoming State Statutes 9-2-405 through 9-2-410." See statutes at <https://wyoleg.gov/statutes/compress/title09.pdf>.

In order to assist units of government including appointed boards, the State of Wyoming has developed sound record retention programs for Wyoming's public records. Information describing how long to keep specific documents is available through the Wyoming State Archives Records Management Unit at <https://wyoarchives.wyo.gov/index.php/records-management-services> and <https://wyoarchives.wyo.gov/index.php/local-government>.

They

can assist you in determining which records have historical value, how long records should be kept and the method used in destroying records. Retention schedules for digital and electronic (email) records are available to ensure the same system is followed for non-paper records.

The State of Wyoming establishes guidelines for public recordkeeping. However, some county auditors recommend that records be kept longer than state recommendations.

EFFECTIVE MEETINGS

Holding effective, well-managed and open meetings is the responsibility of all board members.

Public business of the County should be conducted in meetings open to the public with full transparency in the decision making process and opportunities for all board members to participate in the final outcome. As stated in Wyoming State Statute 16-4-401³, “The agencies of Wyoming exist to conduct public business.” All meetings are to be considered public meetings and open to the public at all times except when an executive session is held. Notice of executive sessions must be given in advance. Discussion may occur in executive sessions but any action taken must be decided at the public meeting. Action taken at a meeting that does not follow these requirements is considered null and void. Conducting the business of the citizenry in a setting that is open to the people is the first step in ensuring effective meetings.

Allowable Reasons for Executive Session as per W.S. §. 16-4-405⁴

Executive sessions are the only time when a meeting can be closed to the public.

Sessions may only occur to discuss the certain types of business. See “When can a governing body go into executive session?” page 33 in the Open Meeting Law section for more detail.

- Meet with public attorneys or law enforcement on matters posing threats to public or private security or rights of access.
- Consider employment—appointments, dismissals and hear complaints unless a public hearing is requested.
- Litigation or proposed litigation.
- National security.
- Prepare, administer or grade examinations as part of licensing.
- Site selection or purchase of real estate when publicity could increase price.
- Acceptance of gifts/donations where donor requests confidentiality.
- Consider/receive information classified as confidential by law.
- Wages, salaries, benefits and terms of employment during negotiation.

Officer Duties

Effective meetings result when board members work together in productive ways to accomplish the purpose of the board. Board members elect officers to enhance meeting productivity and management.

3 <https://wyoleg.gov/statutes/compress/title16.pdf>

4 <https://wyoleg.gov/statutes/compress/title16.pdf>—See page 83.

Officer functions

President or Chair

1. Prepares agenda for regular meetings when there is no executive staff. If the board has executive staff, it is prepared in concert with staff. The agenda determines the purpose of the meeting. The general order of business is:

Call to order, roll call, approval of minutes from past meeting, officers' reports (includes treasurer's report), correspondence and communications, committee reports, unfinished business, new business, time/place of next meeting and adjourn. (See Parliamentary Procedures page 13. Sample agendas are in the Appendix, page 36.)

2. The president keeps the discussion focused on the agenda items moving the meeting along in a timely manner.
3. Facilitates the proceedings depending on the type of meeting structures and monitors the discussion to make sure everybody who wants to participate can voice their opinions while attending to the agenda.
4. Adheres to open meeting laws. (Please see further explanation in handbook.)
5. Acts as liaison with county commissioners and staff.
6. Responsible for board communication to ensure participation of all board members, orients new board members, sends out meeting reminders and acts as spokesperson for the board when necessary.

Vice President or Vice Chair

1. Serves as second-in-command and presides at all meetings when the President is not present.
2. Assumes the duties of the President if s/he steps down due to an inability to fulfill his or her responsibilities.

Secretary

1. Responsible for meeting minutes. This task may be assigned to a staff member.

Any competent person may take minutes, however the *secretary must still sign off* on them. The entire meeting discussion is not required in minutes. Minutes capture the highlights of the business conducted during the meeting, not the entire discussion detail, and usually include the date, place, starting time, members present/absent, presiding officer, approval of past minutes, balance of treasurer's report, name of any member making motions, action taken on the motion, roll call if any members were opposed, other actions/items that affect the body, adjournment and time, and the secretary's signature. (Sample minutes are in the Appendix, page 36.)

2. Cites statute and purpose of executive sessions in a motion and minutes when held.

Executive session minutes—Written minutes serve as the official public record of the meeting. Audio recordings during meetings are supplemental to the written record.

3. Makes sure minutes are open and available to the public depending on applicable state statute.
4. Prepares meeting reminders if assigned by the President.
5. Prepares board correspondence.

Treasurer

1. Prepares an accurate accounting of the monthly financial status including balances, a record of income and expenses, and any other financial reports as needed.
2. Makes sure records and reports are open and available to the public depending on applicable state statute.
3. Encourages the board to carry out fiscal actions in a responsible manner.
4. Prepares annual budget.
5. Pays bills and makes deposits in a timely manner.

Note: Some boards have fiscal responsibilities that may be subject to annual audits.

Other positions, if needed

Scribe—writes bulleted points on a flip-chart for the entire group to see. **Timekeeper**—monitors time to keep the group focused on agenda items. **Gatekeeper**—monitors ground rules to maintain civil discourse and meeting management.

Special committees—may be authorized and appointed for special, limited purposes and serve until completion of assignment. Boards utilize committees to investigate issues, explore options and develop recommendations. Brief reports are given during the meetings and the board usually acts on the information presented. In some cases, the board may direct committees to make decisions.

Meeting Management

Most board by-laws specify the mode of meeting operations, such as Robert's Rules of Order. These rules guarantee the democratic rights to assemble and organize, to propose ideas and speak without reprisal and honor the right of the majority to decide by voting and carry out decisions and the right of the minority to disagree and be protected.

Effective meetings require adequate planning, preparation and group behaviors that foster productive interaction.

According to the 10th edition of Robert's Rules of Order, boards may create standing or special rules for conducting business meetings that supplement parliamentary procedure. This is especially useful for smaller boards. These rules still honor democratic principles but tend to be more flexible, relaxed and simpler. Bylaws must be amended stating that the board follows special rules for conducting business.

Board members should define the purpose of each meeting—what you hope to accomplish. Perhaps it is to gather input, plan a project or event, make decisions, monitor progress or recognize contributions and accomplishments.

Determining the structure of the meeting (five basic agenda types are described in the Parliamentary Procedures page 13), time and place, and the agenda content should be done prior to the meeting. County board members are obligated to follow Wyoming's open meeting laws. See the Open Meeting Law section for more detail, page 29.

Group processes

Sometimes, decisions can be made easily with general discussion. Other times, group process tools may be required. A few useful tools are:

Brainstorming—usually lasts 1-5 minutes and involves the spontaneous contribution of ideas captured on a flip sheet. The goal is quantity to gather lots of ideas without criticism, judgment or concern for quality. Once the brainstorming ends, ideas are evaluated, combined, adapted, discarded or adopted.

T-Charts—draw a large T on a flip sheet or whiteboard. Label one side Pros/Advantages/Pluses and the other side Cons/Disadvantages/ Minuses and name one solution. Make a T-chart for each solution. Board members explore the strengths and challenges of each option or solution before making a final decision.

Rounds—all members participate by going around the table giving everyone an opportunity to speak. Participants may pass if they choose. However, the best information is gathered when all participate.

Small groups—when the group is large, this tool allows more people to be involved in the discussions so more viewpoints can be considered. After a time period, each group shares their findings “piggy-back” style—the first group reports their major points, then every group thereafter adds only the points that have not yet been mentioned.

Brain pool—each member writes the problem in the form of a question at the top of a sheet of paper, then writes 2-3 ideas in 4-5 minutes. All sheets are placed in the middle, shuffled and redistributed. Each member reviews ideas and records any modifications or suggestions. This exchange is continued until an agreed upon time limit is reached, i.e., 20 minutes. All ideas are then shared with the entire group.

Decision-Making

Decision-making policies (i.e. voting) should be defined in the board's bylaws and boards must adhere to those policies. There are several options for making decisions as a board. Options include:

Majority rule—final decisions are made when everyone votes. The majority carries the vote.

Consensus—involves group interaction designed to reach conclusions that everyone can agree on or live with. Requires full participation, mutual understanding and inclusive solutions. This takes more time.

Committee—small groups are assigned specific tasks and may be granted the authority to make decisions or make recommendations to the entire board for a decision.

Individual—chairman/president or a designated individual makes the decision.

There are many ways to make decisions. The following are some of the most common:

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BOARD COMMUNICATION⁵

Board members should foster group interaction to function effectively. It may help to establish ground rules that board members honor as business is conducted. Examples of ground rules include starting/ending on time, being respectful of diverse ideas and opinions, using active listening skills, coming to the meeting prepared and on time, and turning off cell phones.

Visuals can assist in board communication to help increase understanding, capture ideas, keep track of decisions made and increase group memory. These include written agendas, charts, maps, flip sheets and handouts.

Remember that while some individuals learn and process well through hearing, others do so through seeing or active involvement. It is important to use all learning preferences throughout meetings.

Internal Communication

Prior to meetings

- Send agenda with meeting date and time and any other materials for review by board members in advance to allow for adequate review. This is especially important for consent agendas. Request RSVP to establish that a quorum will be present.
- Make facility arrangements.

During meetings

- Introduce and welcome new members and guests present (if appropriate).
- Review ground rules.
- Encourage participation—discussion, identifying the pros/cons of various ideas, questioning, probing, researching facts.
- Summarize the final decisions made, board member assignments and action items, any preparations for the next meeting, other responsibilities, and timelines.

After meetings

- Send out minutes of decisions and action items in a timely manner. This may include flip sheet notes.
- Send out resource materials identified as needed by board members.
- Remind members of action items, responsibilities, timelines, and date of next meeting.

New board member orientation

- Visit with new board members prior to their first meeting to update them on past and current issues.

Community Development Educator, University of Wyoming Cooperative Extension Service, July 2007.

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- Provide them with a “Summary of Past Motions” notebook for historical reference.

External Communication

Speaking with the media

- Once decisions are made, board members speak as a united voice. Even though members may disagree with a decision, members agree to honor the final decision once the vote has been taken.

Dealing with the public

- Done in a courteous and respectful manner.
- Offer opportunities for input.

Public hearings

Public hearings offer opportunities for stakeholders and other interested to voice opinions and concerns for those who believe their interests are affected by a decision.

- Ex parte communication—board members must disclose any contact and/or discussion of the issue outside of the meeting or hearing during the public meeting/hearing.
- Some counties have developed procedures to follow for public hearings. These procedures may include time limits for presentations and input from the public, avoiding repetition of public comments, handouts distributed during the hearing, and authority of the chair to limit or extend debate. Other protocols may address issues such as speaking through the chairman, using the microphone and what happens when the public hearing becomes uncivil. These procedures would be available from the county commission.

The Board Chair in concert with the board’s administrative staff should work together to ensure that the full intent of the Open Meetings Act is in operation during the hearing.

Public hearings are often part of the process of developing or explaining regulations and legislation. Public hearings require notification to the public of the purpose of the meeting. A public hearing’s purpose may be to:

- inform the public (provide information about a proposed or enacted policy)
- consult the public (seek reaction to a proposal), or
- involve the public (use public input as the basis for policy development).

The first step in planning a public hearing is to identify its purpose. The purpose of the hearing needs to be articulated to the gathered participants at the beginning of the hearing. The hearing’s agenda should be drafted and circulated prior to and at the beginning of the meeting. The agenda serves as the guide to keep the group moving towards accomplishing the purpose of the meeting.

It is helpful at the beginning of the meeting to explain the ground rules for the meeting and to set the parameters for participation. Ground rules might include avoid talking while others are speaking, avoid personal attacks or accusations, respect agreements about time being allowed for each participant, comments will be addressed to the chair. Also take care to make sure people feel included and welcomed at the beginning of the meeting. The gathering time prior to the meeting is a very important time to dispel discomfort and fear that is a natural emotion for people coming into the public process.

Another step in planning for the public participation involves identifying and involving key stakeholders.

Diverse participation ensures that relevant information about the particular issue is not overlooked and diverse participation can also help legitimize the final decision or actions for the public. Taking the time to build rapport or relationships with the likely participants can help the participants to perceive the organizer(s) as a person(s) rather than a role and may help build trust and confidence that will reduce hostility at the meeting.

Hearings that are poorly run are not able to meet the expectations of participants. It is important for the chair or facilitator to realize that in his/her job as chair there are no friends, no enemies, just the job to orchestrate this meeting with proper procedures and adhering to the agenda and purpose of the meeting. Board members should understand the procedures in place for the public participation and be committed as a group to behave in a manner which adheres to the board procedures in place and creates a board culture which is conducive to accomplishing the county board's business.

A clearly defined purpose, a clear agenda, effectively engaged participants and an understanding by individual board members of the board's procedures are critical components to successful public hearings.

Characteristics of good board information

Concise—Communicate the information as quickly or briefly as possible.

Meaningful—Presented in relationship to a significant factor such as a goal set by the board, past performance or comparative data needed for deliberation.

Timely—Is the information being distributed relevant to the current agenda?

Relevant—Does the information help the board or committee discharge its responsibilities?

Best available—Is the information the best available regarding the situation or condition being described or deliberated by the board?

Context—Is it clear as to why this information is important?

Presentation—Could the information be presented better graphically than in words?

PARLIAMENTARY PROCEDURE⁶

Many boards follow parliamentary procedures to accomplish their business discussions and decisions. A review of parliamentary procedure follows.

Purpose of Parliamentary Procedure

Parliamentary procedure was developed by General Henry M. Robert during the Civil War to bring order to officer meetings. The basic premise of Robert's Rules of Order is to protect each member's rights, while seeing that the majority rules.

Parliamentary procedure is designed to accomplish one thing at a time, bringing each to resolution before going on to the next, all the while seeing that courtesy is extended to everyone.

Building the Agenda

Before each meeting, the Chair should create a detailed agenda. This includes the regular procedures for the board such as call to order, any opening ceremonies (pledge to the flag, etc.), reading of minutes, treasurer's report, committee reports, announcements, items of old business, items of new business, executive sessions, breaks, next meeting date and location, and any other major items that should come up during the meeting.

Questions to ask before building the agenda

- Does the secretary have the minutes ready for approval? Does the treasurer have a financial report ready to present?
- Do any officers or standing committee chairs have actions to propose or reports to make? Are any special committee reports due? Will any actions be proposed? What are they?
- Were any agenda items not reached at the time the last meeting adjourned? Was anything postponed to this meeting?
- Does the annual planning calendar require that action be taken at this meeting?
- What items will support the strategic direction? How does this meeting promote the organization's progress?
- Have you kept your ear to the ground so there are no surprises?

Five basic types of agenda

- **Priority agenda:** Put the items that must be decided at this meeting early on the agenda. Make sure that the most important items are considered first, when everyone is fresh.

⁶ Taylor, Bill, Northeast Area Community Development Educator, University of Wyoming Cooperative Extension Service, July 2007

- **Subject-based agenda:** Group similar subjects together so that you aren't constantly changing focus, such as: administrative, financial, membership, etc.
- **Strategic agenda:** Group your decisions according to the goals of the board. You can also create a strategic agenda for an entire meeting, retreat, or time period.
- **Presiding agenda:** After the members' agenda is prepared, make yourself a separate agenda with notations about votes required, committee appointments, etc. Leave extra space for notes and reminders.
- **Consent agenda:** The consent agenda is usually put near the start of the meeting. It is actually part of the regular agenda and can be made up of any number of items, but any item placed on the consent agenda should be so uncontroversial that it can be reasonably expected that it will be adopted with no debate or separate vote. The Chair calls up the consent agenda by saying "the consent agenda is before you" and then asks if anyone wants to remove anything. To do so, a member does not need to be recognized; he just calls out the item number. The Chair responds, "Item number x is removed." When no more items are removed, the Chair says: "Without objection, the remaining items on the consent agenda will be adopted." Remember: no debate or separate vote is allowed on any item unless it is removed. If no one objects, all items are adopted. Removed items are either taken up right after the adoption of the consent agenda or are placed later on the agenda under the heading where they would have otherwise appeared. The approval of the minutes, routine matters, or motions that have been discussed at previous meetings are good candidates for a consent agenda.

It is often helpful to ask each person as they arrive if they have any agenda items and to check with committee chairs to see if they have reports to be included. Items of business brought up during committee reports can be handled immediately after the report or added to the order of business during old and/or new business.

Often the agenda is put before the group as soon as the meeting is called to order and the Chair asks for any changes, additions, or suggestions. The agenda can be agreed to by consensus and it remains simply a suggested outline for the Chair. However, if a motion is made and passed to approve the agenda, it becomes the order of the day and must be followed unless a motion is passed to suspend the order. If the "order of the day" is established and the group strays from this order of business, any member may call for the "order of the day" and the Chair is required to immediately bring the meeting back to the current or next item on the agenda.

Voting

There are four basic methods of voting in a meeting:

- **Voice:** The Chair asks members to verbally say "Aye" or "Nay" to a motion. This type of vote is used when a specific count is not required. When used, the Chair must decide and announce which vote carried the majority and whether the motion passed or failed.

- **Rising:** Rising means standing or raising of hands. This method is used for a specific count and that count should be announced by the Chair along with the passage or failure of the motion.
- **Secret ballot:** The secret ballot is used to allow each member to cast their vote while avoiding undue influence by others. The Chair is allowed to vote when using this method.
- **Roll call:** The secretary polls and records the vote of each member. The Chair then announces the results, often stating which members voted for and against the issue.

Most votes require a simple majority, which is one more than half the members voting (**not** 51% of those present). For example, suppose there are 20 members present at a meeting and a vote is required on a motion which needs a simple majority to pass. Fifty one percent of the members present would be 10.2 members. Since you cannot count a portion of a member, 51% would be rounded up to 11 members.

However, if only 16 of the members vote on the motion, then one more than half of those voting would be 9 members. So, in this case, it would require 9 favorable votes to pass the motion (one more than half those members voting), instead of 11 (51% of those members present).

A two-thirds majority is required for motions which limit rights. A two-thirds vote requires a rising or ballot vote.

The Chair does not vote during a voice vote to avoid undue influence by the power of his or her position. If the Chair cannot determine whether the “ayes” or “nays” have more votes, he or she may decide to call for a rising vote. In the case of a rising vote, the Chair may vote to create or break a tie, but not both. The Chair is free to vote in a secret ballot like any other member. In all cases, a tied vote fails to pass the motion.

If a member does not agree with the determination of the chair on a vote, they may call for a “Division of the House.” If the Division of the House is called for, the Chair must proceed to a counted vote (rising or ballot).

Not all motions require a vote by the body, some are simply ruled on by the Chair (e.g. point of order).

Quorum

A quorum is the number of members required to be present at the meeting to conduct business. This amount is usually one member over half unless otherwise stated in the bylaws. If a quorum is not present at the meeting, a general discussion can be held on various issues, but no official business can be conducted.

If stated in the by-laws or previously approved by the membership, alternative methods may be used to obtain a quorum, such as using electronic communications (speaker phone, web cam, email, etc.), proxy votes, or other methods.

General Meeting Requirements

- Presiding officer—Usually the Chair or President
- Secretary or recorder
- Other officers as stated in the bylaws
- A quorum of members

Motion

A motion is simply a tool to transact business. If parliamentary procedure is strictly followed, there should be no discussion or business completed without a motion on the floor. This means there is enough interest for discussion of the issue to proceed. However, this rule is often not strictly adhered to, especially in smaller boards and/or groups which may want to have some open discussion before deciding whether the issue needs to be considered as a formal item of business. However, the Chair should see that most issues proceed quickly to a motion. If a motion is not forthcoming, the item should be referred to another place and time outside the business meeting. The term “business meeting” means just that—a place where business is conducted, not unending discussion of related or unrelated issues.

A second is required by most motions to show that more than one person is interested. If there is no second then the motion lost for lack of second, and the Chair announces it as such. Until a motion is seconded the maker can withdraw it. Once it is seconded, it becomes the property of the group and is on the floor for discussion or final determination.

There are four types of motions:

- **Main**—to introduce business
- **Subsidiary**—to change or take action on the main motion. The most common is an amendment.
- **Incidental**—deals with rules and parliamentary procedure
- **Privileged**—handles personal matters, for example, can't hear, don't understand, too cold, adjourn

See Parliamentary Procedures Summary of Motions, page 27, for a listing of the major motions of each type and their characteristics, such as whether they require a second, if they are debatable and amendable, what vote is required for passage, whether they can be reconsidered, whether subsidiary motions can be applied to them, and whether they are in order when someone else has the floor.

Handling a main motion

Let's review the proper procedure for handling a main motion which has been properly made during the meeting.

A member rises or raises their hand for recognition and addresses the Chair, "Mr/ Madam/Ms President/Chairperson."

The Chair must recognize the member before the member continues by using their name or some other format and asking them to continue.

The member presents the motion by saying, "*I move...*". A motion is **NOT** offered by saying, "*I make a motion...*" or "*I motion...*". Motions are made in the positive. In other words, motions intend to do something or cause something to happen. Motions are not usually offered to **NOT** do something—simply refrain from making a motion if you don't want to follow a course of action.

The Chair asks for a second. Parliamentary law does not require the recognition or recording of who made the second. Consequently, a second only requires a member to call out that they second the motion. A second is required to prove that more than one person is interested in the motion. If a second is required and not made, the Chair will declare that the motion is lost for want of a second.

If seconded, the Chair repeats the motion and asks for discussion. Only during discussion can other motions be made to change the main motion or do something with it. Each member who wants to discuss must be recognized by the Chair. The maker of the motion should have the first right to provide arguments in favor of their motion. The Chair has the responsibility to recognize persons on both sides of the issue, preferably in alternating order if their position is known.

The Chair should not discuss or introduce business. The Chair should only discuss business if he or she gives up the chair to another (vice-chair, etc.). This should not become a general practice and only be used if the Chair feels they have vital discussion concerning the issue before the group.

On the other hand, the Chair may provide information previously unknown to the board without giving up the chairmanship if it is given in a factual and neutral matter and allowing the members to discuss its implications and decide how the information should affect its decisions.

If the Chair gives up the chairmanship to discuss a motion, he or she should not take the chairmanship back until the matter is decided, and then must wait for the invitation of the person who assumed the chairmanship in their place.

Bringing the discussion to an end:

The Chair can ask for a vote if (s)he has asked for more discussion and there is none.

A member can call out "*Question*," which means they are ready and asking for a vote. The call for the question carries no legal weight—it is only a suggestion. If more discussion is offered, the call for the question is ignored.

The Chair states, "*The question has been called. Is there any further discussion?*" If there is none then... "*Seeing none, we will proceed to vote.*"

A member can move "The Previous Question." In this case the member is moving to end discussion and move to a vote. This motion requires a second and, since it curtails the right for further discussion, takes a two-thirds vote to pass.

After discussion, the motion must be voted on unless another motion has done something else with it; e.g.—lay on the table, postpone indefinitely, postpone to a certain time, refer to a committee. The Chair states, "*We shall now proceed to vote on the motion to...*" and restates the motion (as amended, if amended) so all understand what they are voting on. If a counted vote is not required, the Chair calls for a voice vote: "*All in favor of the motion say 'aye.' All opposed 'nay.'*"

After the vote, the Chair must announce the outcome: "*The motion is carried/lost.*" If a gavel is used, one tap of the gavel follows the Chair announcement.

Order of precedence

Order of precedence is the order in which motions must be handled if more than one is on the floor at one time. The chart below shows the order of precedence of some of the more common motions. A motion lower on the chart is out of order if a motion above it is being considered. Whenever a motion is decided it loses its precedence because it is no longer on the floor.

1. Adjournment
2. Recess
3. Points of Order
4. Lay on the Table
5. Previous Question
6. Postpone to Definite Time
7. Refer to a Committee
8. Amendment to Amendment
9. Amendment to Main Motion
10. Postpone Indefinitely
11. Main Motion

The motion to adjourn always has highest precedence because it will end consideration of all other business.

See a complete guide in Robert's Rules of Order for in-depth directions on precedence procedures.

Amendments

Amendments can be made to insert, delete, or change the wording of an amendable motion. However, an amendment is not in order to completely reverse the meaning of the motion.

Amendments are made during discussion of the main or another amendable motion. A second is required, it is debatable and amendable, a majority vote is required, and the amendment can be reconsidered.

If made and seconded, the amendment must be discussed and voted on before going back to discussion on main motion. Why? Because it may change the main motion and change opinions on whether it be pass or fail.

Once the amendment is passed or failed, business proceeds back to discussion on the main motion as it was made or as amended. If amended, the Chair should state the wording of the main motion as amended.

Amendments can be amended.

The same procedure applies as for the amendment to a main motion. However, only two levels (an amendment to the amendment) are usually allowed—too many levels of amendments are confusing. Remember that the “amendment to the amendment” must be decided first (takes precedence), then the “amendment to the main motion,” and then the main motion. And each level of amendment is offered, discussed, and voted upon during the discussion of the motion to which it applies.

Example procedure

Chair: Is there any further business?

MAIN MOTION:

Member: Mr. Chairman

Chair: Tom (Sam, Eunice, Mary, Bill...)

Member: Since our treasury is getting low I move that we hold a sale of services.

SECOND:

I second the motion.

Chair: It has been moved and seconded to hold a sale of one day services by members. Is there any discussion on the motion?

DISCUSSION:

Member 1: Mr. Chairman

President: Mary

Member 1: I think this is a great idea because we have the manpower and our benevolence fund has been completely drained.

Member 2: Mr. Chairman

Chair: Dick

Member: I would urge the membership to vote against this motion because I am so busy. I just don't have the time to donate a day of free work, and I doubt that many of you do either.

AMENDMENT ONE:

Member: Mr. Chairman

Chair: Lucy

Member: I move to amend the motion to add the words "at the February 10th basketball game."

Chair: Is there a second?

Member: I second the motion.

Chair: It has been moved and seconded to amend the motion by adding the words "at the February 10th basketball game." Is there any discussion?

Member: Mr. Chairman

Chair: Sam

Member: I don't think that will work because that is the same day that most of us will be gone on a business trip to Cheyenne.

AMENDMENT TWO:

Member: Mr. Chairman

Chair: Susie

Member: I move to amend the amendment by changing the 10th to the 17th.

Member: Second.

Chair: It has been moved and seconded to amend the amendment by changing the date from the 10th to the 17th. Is there any discussion? (No discussion offered.)

If there is no discussion, we are ready to vote on the amendment to the amendment to change the date to the 17th. All those in favor say "aye."

Those opposed "nay." (Makes judgment on prevailing vote.)

The motion carries.

AMENDMENT ONE:

Chair: We will now resume discussion on the amendment as amended to add the words "at the February 17th basketball game." Is there any further discussion? (No discussion offered.)

If not, we shall proceed to vote on the amendment. All those in favor say "aye." All those opposed "nay." (Makes judgment on prevailing vote.)

The "ayes" have it. The amendment is passed.

MAIN MOTION:

Chair: We will now resume discussion on the main motion as amended to read: "We will hold a sale of services at the February 17th basketball game." Is there any further discussion? (No discussion is offered.)

Hearing none, we will proceed to vote. All those in favor of holding a sale of services at the February 17th basketball game, say "aye."

All those opposed say "nay." (Makes judgment on prevailing vote.)

The motion is carried.

Member: I call for a division of the house.

Chair: A division of the house has been called for. All those in favor of the motion please stand and remain standing to be counted. (Those standing are counted.)

All those opposed please stand. (Those standing are counted.)

The count is 23 to 14 in favor of the motion. The motion is carried.

MOVING TO NEXT ITEM OF BUSINESS:

Chair: The next item of business on our agenda is...

[or]

Mr./Madam Secretary, what is our next item of business?

[or]

Is there any further business to be presented?

[or]

That completes our business for today. I declare this meeting adjourned.

Reports

Secretary's minutes, the Treasurer's report, and committee reports are just that, reports. They do not require a motion for acceptance and are simply received by the Chair.

The minutes of previous meetings should be read, either at the beginning of the meeting, or sent out to members previously. After reading, the Chair simply asks whether there are any corrections, then declares the minutes approved as read or corrected. No motion is necessary.

The same procedure is used for the Treasurer's report.

If committee reports contain recommendations for the board, then the person making the report should properly move for the adoption of the report at its conclusion. A second is not required, since the committee recommendation proves that more than one person is already interested in its passage.

Adoption of the report means that the group has approved and adopted the recommendations. If there is disagreement on whether the recommendations should be adopted, discussion on the motion to adopt the report should reveal the pros and cons. If necessary, use the motion "Divide the Question" to consider recommendations separately.

All reports should become part of the Secretary's records.

Nominations

A nomination is a suggestion, not a motion. Consequently, nominations do not require a second. Nominations should be taken for the highest office first and election for that office should be completed. Then those not winning the election can be nominated for succeeding offices. If a nominating committee is used, accept their report, but then the membership should

be asked for any additional nominations. A motion to close nominations requires a two-thirds vote since it is closing the privilege of offering names for the office in question.

Referral to committee

A motion to refer to a committee can be made with three levels of power for the committee:

1. To report findings back to the body.
2. To report and make recommendations to the body.
3. To have the power to act on behalf of the body.

When a committee recommendation is brought in the form of a motion, no “second” is required from the floor since the committee is made up of several persons and this shows that more than one person is already interested in passage of the motion.

How to preside

President must:

- Keep members well informed concerning:
 - Pending business
 - Vote results
 - Motion before the group
 - Any matters affecting members’ rights
- Insist on accepted parliamentary procedure
- Maintain order

If an improper motion is made, the Chair should tactfully and courteously suggest the proper motion, avoiding “You are out of order!”.

Depending on the formality and working relationship of the group, the Chair can assume general consent without asking for a vote or motion. This is often reserved for items of lesser importance for which there is little indication of a difference of opinion. The Chair should state that the item is decided by consensus unless there is an objection. Members may ask for any item to be put to a vote if they doubt there is consensus.

Meeting minutes

The following are items that should be included in meeting minutes.

- Kind of meeting
- Date
- Place
- Starting time

- Members present and absent
- Presiding officer
- Reading and approval of past minutes
- Balance of treasurer's report
- Name of member introducing motion
- Action taken on motion
- Vote if counted
- Other actions/items which affect body
- Adjournment and time
- Secretary's name and/or signature

It is not necessary to record who seconded a motion—it is sufficient to simply record that the motion was seconded. Nor is it necessary to record discussion or comments; only motions and decisions need be recorded.

Parliamentarian

It is quite acceptable for the Chair to stop the proceedings to check with a designated parliamentarian on proper procedure. If a parliamentarian is not designated, the Chair may take time to check on proper procedure or ask someone within the meeting to do the necessary research. It is better to get it right first than to try to go back and correct mistakes.

Use when prudent and necessary

Once you understand the basics of parliamentary procedure, the question remains—how much do you use? You can go all the way from not using any parliamentary procedure on the one end, such as using consensus or other methods to find agreement, to the other end, insisting on a complete and total parliamentary law for any and everything in the meeting.

Most boards or groups find a middle pathway that works best for them. One of the dictating factors will be the board's bylaws. Most sets of bylaws state that meetings will be run by Robert's Rules of Order. If your bylaws state such, and you are not following proper parliamentary procedures, your actions could be deemed null and void, or even worse, illegal. Consequently, if you are constrained by law or your board bylaws state to function by parliamentary law, you must do so.

At the same time, there is a wide variance in the degree of enforcement of the use of parliamentary rules. Usually it is best to not use more parliamentary rules and procedures than is necessary and practical for your board and/or group meetings to run smoothly and efficiently. It may not be necessary to use more than the basics of properly making and completing main motions, amendments, and a few of the other subsidiary and incidental motions as needed. At the other extreme are legislative bodies and the Congress who follow very detailed, and sometimes convoluted parliamentary rules which are often used by one faction to thwart the efforts of another.

Find the level of parliamentary law that works well for your meetings and still falls within the requirements of being legal and efficient according to your bylaws and the statutes which empower your board.

SOME OTHER COMMON MOTIONS

Question of privilege

Used for questions or issues which relate to the rights or privileges of any member. For issues affecting the entire group, the person raising the issue would say, "I rise to a question of privilege related to the assembly." These could be issues or questions related to items like heating, lighting, ventilation, disturbance or noise, punishing disorderly conduct, accuracy of reports, etc. For personal issues you would state, "I rise to a question of personal privilege." The Chair should do their best to remove any obstacles to a proper meeting and/or environment.

Point of order

This is used to correct a parliamentary error occurring in the meeting to bring the group back to the proper order of procedure. To raise a Point of Order say, "Mr/Ms Chairperson, I rise to a point of order," without waiting for recognition. After being recognized, state the error in parliamentary procedure. The Chair will rule on the point if (s)he knows the answer, check with the parliamentarian, ask for advice from other knowledgeable members, or a decision by the body.

The Chair will state, "Your point is well taken," or "Your point is not well taken," with an explanation of the reasoning for the decision.

Appeal from the decision of the Chair

If you do not feel the Chair made a proper or legal decision, you may appeal their decision. Your appeal should be based on the occurrence of improper procedure, not disagreement on issues. This motion must be made at the time of the decision. Say, "Mr/Ms Chairperson, I appeal the decision of the Chair," without being recognized. The Chair must then put their decision to a vote of the body.

Parliamentary inquiry

This motion is used to clear up a parliamentary question that needs to be answered immediately or may affect the outcome of the meeting. Start by saying, "Mr/Ms Chairperson, I rise to a parliamentary inquiry," without recognition. The Chair should provide an answer immediately if necessary, or may wait for the speaker to finish if possible. The Chair may need to check with the parliamentarian, other members, or the body to determine the proper parliamentary procedure.

To lay on the table

The object of this motion is to clear the floor for more urgent business and has the effect of delaying action on the issue to which it is applied. It should not be used to kill action on an item. The item of business should be taken up again as soon as is practical and is brought back to the floor by the motion: To Take From the Table.

To postpone to a certain time

Unlike To Lay on the Table, this motion sets a specific time when the item of business is returned to the floor for action. This motion is not in order when the time set could not be realistically used to bring the item back on the floor, such as when the assembly will not be in session or when the time set is after the action must occur.

To postpone indefinitely

The purpose of this motion is to prevent a vote on the question and to actually suppress or kill the item.

Other Types of Meeting Facilitation

There are other types of meeting facilitation besides using parliamentary procedure and Robert's Rules of Order, see page 8. These other methods of leading a meeting are usually used for other things besides legal business which can be recorded in typical minutes.

Consensus is often used by working groups that have certain tasks to perform, such as a committee or a conflict resolution process. Consensus does not mean that everyone always sees eye to eye or totally agrees on every issue, but rather those involved in the meeting are willing to give and take to find a resolution or solution that all can live with. Consensus means that everyone involved in the process will support the final solution put forth by the group and will not take action to stop or undermine that solution.

Another type of meeting facilitation which might be used is asking for **unanimous support and agreement**. If an issue is especially important, the board may not want to go ahead unless everyone is in agreement. This would require a favorable vote or comment by everyone involved in order to proceed.

If the board is not looking to conduct official business, **general discussion** may be in order. This is often used when the group is in the information gathering stage and the meeting is simply open to each person asking questions and making comments to come to greater shared understanding.

General discussion is similar to brainstorming. However, brainstorming is more generative. With this method, everyone is invited to provide any idea they might have on a subject or problem—the purpose being to get as many ideas on the table as possible without discussing the pros and cons, strengths or weakness of any of them. That is done later by other group processes which can help to group ideas, identify those that seem most practical or useful and have the most interest from group members.

PARLIAMENTARY PROCEDURE

SUMMARY OF MOTIONS

Classification	Kind	Second Required	Debatable	Amendable	Vote Required	Can Be Reconsidered	Subsidiary Motion Can Be Applied	In Order When Another Has Floor
Privileged	Fix Time to Adjourn ¹¹	Yes	No	Yes	Maj	Yes	Yes	No
	Adjourn ¹²	Yes	No	No	Maj	No	No	No
	Question of Privilege	No	No	No	None ¹⁵	No	No	Yes ¹⁶
	Recess ¹³	Yes	No	Yes ¹⁴	Maj	No	Yes ¹	No
	Call for Order of Day ¹⁷	No	No	No	¹⁸	No	No	Yes ¹⁶
Incidental	Rise to Point of order	No	No	No	None ⁴	No	No	Yes ¹⁶
	Appeal Decision of Chair	Yes	Yes ⁶	No	Maj ⁵	Yes	²²	Yes ¹⁶
	Suspend the Rules	Yes	No	No	2/3	No	No	No
	Object to Consideration of Question	No	No	No	2/3	²¹	No	No
	Divide the Question	Yes ⁷	No	Yes	Maj	No	Yes ¹	No ⁷
	Division of the House	No	No	No	⁸	No	No	Yes ¹⁶
	Parliamentary Inquiry	No	No	No	None	No	No	No
	Nominate	No	⁹	⁹	⁹	No	⁹	⁹
	Make Request Growing Out of Pending Business	No ¹⁰	No ¹⁰	No ¹⁰	¹⁰	¹⁰	No ¹⁰	Yes ¹⁰
Subsidiary	To Withdraw a Motion	No	No	No	Maj	Yes	No	Yes
	Lay on the Table	Yes	No	No	Maj	No	No	No
	Previous Question	Yes	No	No	^{2/3}	Yes	No	No
	Postpone Definitely (to a certain time)	Yes	Yes	No	Maj	Yes	Yes	No
	Limit or Extend Debate	Yes	No	No	^{2/3}	Yes	Yes	No
	Commit or Refer to Committee	Yes	Yes	Yes	Maj	Yes	Yes	No
	Amend	Yes	Yes ²	Yes	Maj	Yes	Yes	No
	Postpone Indefinitely	Yes	Yes	No	Maj	Yes	Yes ³	No
Main	Main Motion	Yes	Yes	Yes	Maj	Yes	Yes	No
Other	Take from the Table	Yes	No	No	Maj	No	No	No
	Reconsider	Yes	Yes ¹⁹	No	Maj	No	Yes	Yes
	Rescind	Yes	Yes	Yes	²⁰	No	Yes	No
	Ratify	Yes	Yes	Yes	Maj	Yes	Yes	No

1. Can be amended but can have no other subsidiary motion applied.
2. Can be debated only when the question being amended is debatable.
3. Can have only a motion calling for the previous question and motions limiting or extending time of debate applied to it.
4. Is usually decided by chair, without calling for a vote.
5. A tie vote sustains the chair and presiding officer may cast the vote that makes a tie.

6. Can not be debated if made during a division of the assembly, or when the pending question is undebatable.

7. Can not be debated when it applies to indecorum, transgression of the rules of speaking or to priority of business.
8. The question must be divided at the request of a single member, (which request can be made when another has the floor) provided the resolutions relate to different subjects which are independent of each other.
9. When a division is called for, the chair proceeds to take the vote again by rising. No vote is taken on whether a division shall be made, i.e. on whether a standing vote shall be taken.
10. To nominate, one simply rises, addresses the presiding officer, and states, "I nominate Mr. -----," and is again seated.
11. Great variation is found since several different kinds of requests are included under this one heading. Often the chair settles the question, no vote being taken.
12. Is a privileged motion only if made while another motion is pending, and in an assembly that has made no provision for meeting again on the same or next day; otherwise it is a main motion. The answers apply to the privileged motion.
13. When unqualified, is always a privileged motion except when effect would be to disband the group permanently. The answers apply to the privileged motion, not to a main motion to adjourn.
14. Is a privileged motion if made when other business is pending, otherwise is a main motion. Answers apply to the privileged motion.
15. Can be amended as to the length of time to recess. 15 -Is usually disposed by chair, without vote.
16. May interrupt if urgent enough to justify such action.
17. Is in order only when orders are not being conformed to and is then always a privileged motion.
18. Chair should proceed to order of the day or put a question as to whether the group wishes to proceed with the order. A motion to not proceed to the order requires a 2/3 vote, the same as suspending the rules.
19. Debatable when the question to be reconsidered is debatable.
20. Often requires a 2/3 vote but considerable variation is found. See Robert's Rules of Order.
21. An affirmative vote cannot be reconsidered.
22. Cannot be amended. If repeal of the appealed decision would have no affect on the consideration or action on the main question, the main question does not adhere to the appeal; its consideration is resumed as soon as the appeal is laid on the table, postponed, etc. But if the ruling affects the consideration of or action on the main question, then the main question adheres to the appeal, and when the appeal is laid on the table or postponed, the main question goes with it.

OPEN MEETINGS LAW

The Public Meetings Act: A Summary

Prepared by The Wyoming Office of the Attorney General, January 1, 2015⁷

What is the purpose of the Public Meetings Act?

Answer: The overriding principle of the Act is that government should conduct its business in an open and transparent manner.

Public access to government agencies, boards, and commissions is critical to a representative form of government. Governmental boards and commissions are essentially engaged in the **public's** business. The first duty of government is to serve the public. Holding public meetings insures that all affected people are permitted an opportunity to be heard on issues that are important to their lives.

In 1973, the Wyoming Legislature enacted the Public Meetings Act. Wyo. Stat. Ann. § 9-692.10 through -692.16 (1973). Shortly after, Attorney General Clarence Brimmer answered several questions about the new public meeting law. See Op. Wyo. Att'y Gen. 1973-17 (Aug. 3, 1973).

Although the Act has been amended since its enactment in 1973 and portions of the Brimmer opinion are no longer valid or applicable, the Act's overriding purpose requiring state government to conduct its business in an open and transparent manner has remained steadfast. Currently, the Act's statement of purpose says: "agencies of Wyoming exist to conduct public business. Certain deliberations and actions shall be taken openly as provided by this act." Wyo. Stat. Ann. § 16-4-401. The Act expressly provides that "[a]ll meetings of the **governing body of an agency** are public meetings, open to the public at all times, except as otherwise provided." Wyo. Stat. Ann. § 16-4-403(a) (emphasis added). Thus, boards, commissions, and sub-agencies within departments or agencies of government are required to comply with the Act as set forth in this handbook.

Who is subject to the Act?

Answer: Meetings of State boards and commissions are subject to the Act's requirements. Meetings of directors of departments and State stand-alone agencies are not covered under the Act.

- A. **Agency:** All meetings of the governing body of an agency are public meetings and open to the public. Wyo. Stat. Ann. § 16-4-403(a). The Act defines an agency as: "any authority, bureau, board, commission, committee, or subagency of the state, a county, a municipality or other political subdivision which is created by or pursuant to the Wyoming constitution, statute or ordinance, other than the state legislature and the judiciary[.]" Wyo. Stat. Ann. § 16-4-402(a)(ii).

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<https://library.wyo.gov/downloads/ldo/pdf/boards/2015-Public-Meetings-Act-Summary.pdf>

B. **State Boards and Commissions:** The Act applies to all multi-member state boards and commissions such as the Public Service Commission, Oil and Gas Conservation Commission, the Board of Education, and the Board of Control.

C. **Directors and Stand-Alone Agencies:** Where the law governing a particular agency vests the full responsibility and authority for the agency's decisions in a single individual (e.g., Director of the Department of Administration and Information, Insurance Commissioner, State Examiner, State Engineer), the Act does not apply, since such an individual is not a 'governing body' within the definition of the Act.

D. **Ad Hoc Advisory Committees:** Ad hoc advisory committees that have not been created by constitution or statute are not covered. An example of an ad hoc advisory committee is the gathering together of several multi-member boards and/or several agency heads for a particular purpose not considered an agency action, such as advising the Governor as to a particular problem or objective.

When does the Act apply?

Answer: Generally, the Act applies if at least a quorum of the members of a governing body meets, even informally, in order to consider matters which are within the agency's official business.

According to the Act, all governmental meetings are open to the public, and the definition of meeting is broadly defined. A meeting is "an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business." Wyo. Stat. Ann. § 16-4-402(a)(iii).

In 2012, the Wyoming Legislature defined the term "assembly." An assembly "means communicating in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously." Wyo. Stat. Ann. § 16-4-402(a)(iv). The new definition makes it clear that a meeting can include telephonic and other electronic communications if the members are able to communicate with each other at the same time. Examples might include instant messaging, video conferencing, and conference calls. If a quorum of the members of a governing body are going to participate in such communication for the purpose of discussion, deliberation, presentation of information, or taking action regarding public business, the agency must give proper notice of a meeting and allow for public attendance.

In addition to the definition of "assembly," the 2012 amendments further specify that, "[n]o meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussions contemporaneously. Communications outside a meeting, including but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of this act." Wyo. Stat. Ann. § 16-4-403(d). Thus, if the governing body of an agency wishes to conduct a meeting by electronic means, the agency must also assure that members of

the public are able to attend the meeting and discern the meeting discussions in real time. This provision also clarifies that e-mail or other forms of sequential communications cannot be used to thwart the purposes of the Act.

What are the notice requirements under the Act?

Answer: No action of a governing body of an agency is to be taken except during a public meeting **following notice of the meeting**. The Act contemplates fair and reasonable advance notice of meetings.

Under the Act, “[n]o action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is **null and void** and not merely voidable.” Wyo. Stat. Ann. § 16-4-403(a) (emphasis added). However, the day-to-day administrative activities of an agency are not subject to the Act’s notice requirements.

An agency is required to provide notice of its meetings to any person who requests notice. The request may be made for the dates and times of future meetings of the agency.

In 2012, the legislature added that “[t]he request shall be in writing and renewed annually to the agency.” Wyo. Stat. Ann. § 16-4-404(a). This change might aid agencies in keeping current their lists of people requesting notice of meetings. The notice requirements vary for each type of meeting and are set out below:

A. Regular Meetings

In the absence of a statute setting out a schedule or requirement for regular meetings, a governing body is required by ordinance, resolution, bylaws, or rule to hold regular meetings, “unless the agency’s normal business does not require regular meetings[.]” Wyo. Stat. Ann. § 16-4-404(a). Under the Act, the governing body shall provide notice of its meeting to any person who requests notice. *Id.* Governing bodies must also comply with notice requirements in other statutes, outside the Act, that require them to provide notice to certain persons.

The notice requirement may be fulfilled by mailing or e-mailing a copy of the meeting schedule or resolution setting the next meeting to whomever has made a request for notice. No particular form of notice is required as long as it specifies clearly the name of the agency holding the meeting, the specific date, time and place of the meeting, and the general or specific purpose. Again, if a particular statute or ordinance, outside the Act, mandates special notice requirements for the particular governing body or situation at hand, then those requirements must be followed.

When notice under the Act is to be given, the agency should give sufficient advance notice of the meeting to the local news media to enable media representatives to attend the meeting. The Act does not specifically require that notice be made statewide. Nevertheless, whenever possible, agencies should adopt a regular meeting schedule,

providing for an adequate number of scheduled meetings so that special meetings can be limited to the smallest number possible, and so notice of meeting schedules may be given to media representatives who normally cover the affairs of each agency or have requested notice of such meetings.

B. Special Meetings

In 2012, the legislature also clarified the type of notice required for special meetings as well as the timeframe for giving such notice.

Special meetings may be called by the presiding officer of a governing body by giving **verbal, electronic or written** notice of a meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice shall specify the time and place of the special meeting and the business to be transacted and **shall be issued at least eight (8) hours prior to the commencement of the meeting. No other business shall be considered at the special meeting.** Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting. Wyo. Stat. Ann. § 16-4-404(b) (emphasis added).

Prior to these amendments it was not entirely clear the type or how much notice an agency was required to give in order to hold a special meeting. The Attorney General's Office had typically advised simply that "reasonable" notice was required and suggested that written two week notice would be considered reasonable. These changes clarify that the notice may be verbal, electronic, or written and that the notice must be made at least eight hours prior to the meeting.

C. Recess of Meetings

A regular or special meeting may be recessed (cancelled or moved to another location) by the governing body as long as the alternate place and time are specified in the "order of recess." "A copy of the order of recess is to be conspicuously posted on or near the door of the place where the meeting or recessed meeting was held." Wyo. Stat. Ann. § 16-4-404(c).

D. Emergency Meetings

Governing bodies may hold emergency meetings on matters of "serious immediate concern to take temporary action without notice." Wyo. Stat. Ann. § 16-4-404(d). However, governing bodies shall make a reasonable effort to provide public notice. *Id.* **All actions taken at an emergency meeting are temporary. In order for actions taken at an emergency meeting to become permanent, they must be reconsidered and action taken at an open public meeting within 48 hours.** *Id.*

The 2012 legislation clarified the procedures for emergency meetings. All action taken at an emergency meeting must be reconsidered and acted upon at an open public meeting within 48 hours, “excluding weekends and holidays, unless the event constituting the emergency continues to exist after forty-eight (48) hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than thirty (30) days from the date of the emergency action.” Wyo. Stat. Ann. § 16-4-404(d).

Does the Act cover deliberations after a contested hearing?

Answer: Yes.

Because the definition of “meeting” includes deliberations, deliberations by a governing body after a contested hearing, but before a decision is rendered, are subject to the Act. Excepted from this requirement are deliberations by the governing body following personnel hearings, professional licensing hearings and other executive sessions expressly exempted under Wyo. Stat. Ann. § 16-4-405.

When can a governing body go into executive session?

Answer: A governing body may go into executive session when any of the events listed in Wyo. Stat. Ann. § 16-4-405(a) occur and a member makes a motion to go into executive session, which is seconded and the motion carries by a majority of members in attendance when the motion is made.

Wyoming statute § 16-4-405(a) provides that governing bodies may hold executive sessions in the following situations:

- (i) With the attorney general, county attorney, district attorney, city attorney, sheriff, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property, or a threat to the public's right of access;
- (ii) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The governing body may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the governing body may deliberate on its decision in executive sessions;
- (iii) On matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party;
- (iv) On matters of national security;

- (v) When the agency is a licensing agency while preparing, administering or grading examinations;
- (vi) When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;
- (vii) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;
- (viii) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;
- (ix) To consider or receive any information classified as confidential by law;
- (x) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations;
- (xi) To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law.

Wyo. Stat. Ann. § 16-4-405(a)(i)-(xi).

In 2012, the legislature added the requirement that “[a] motion to hold an executive session which specifies any of the reasons set forth in paragraphs (a)(i) through

(xi) of this section shall be sufficient notice of the issue to be considered in executive session.” Wyo. Stat. Ann. § 16-4-405(c). Prior to this addition, it was not clear that an agency had to offer any particular reason for going into executive session. This language indicates legislative intent to require agencies to do so. Thus, when going into executive session, if an agency specifies one of the reasons for which an agency may hold executive session provided by the Act, the agency will have satisfied any such notice requirement.

Does the Act require that minutes be taken?

Answer: Minutes must be taken at all meetings, regardless of whether official action has been taken.

If no action is taken, the minutes do not need to be published; however, they should be available for public examination. Wyo. Stat. Ann. § 16-4-403(c)(i). An agency is not required to record or publish minutes for day-to-day administrative activities of an agency or its officers or employees. Wyo. Stat. Ann. § 16-4-403(c)(ii).

Do governing bodies need to take minutes during executive session?

Answer: Yes.

"Minutes shall be maintained of any executive session." Wyo. Stat. Ann. § 16-4-405(b). Minutes and proceedings of executive sessions shall be confidential and produced only in response to a court order, except for portions of minutes reflecting a member's objection to the executive session. *Id.*

Are there penalties for not complying with the Act?

Answer: Yes.

In 2012, the legislature also amended the penalty provision. Prior to the 2012 amendments, a violation of the Act was a misdemeanor. The penalty provision now provides:

Any member or members of an agency who knowingly or intentionally violate the provisions of this act shall be liable for a civil penalty not to exceed seven hundred fifty dollars (\$750.00) except as provided in this subsection. Any member of the governing body of an agency who attends or remains at a meeting knowing the meeting is in violation of this act shall be liable under this subsection unless minutes were taken during the meeting and the parts thereof recording the member's objections are made public or at the next regular public meeting the member objects to the meeting where the violation occurred and asks that the objection be recorded in the minutes.

Wyo. Stat. Ann. § 16-4-408(a).

In addition to the penalties listed above, any action taken at a meeting where the Act was not followed is null and void.

APPENDIX: SAMPLES OF AGENDAS AND MINUTES

Agenda Order⁸

- Call to Order
- Roll Call
- |
- Approval of Minutes
- |
- Officer's (and others) Reports
- Committee Reports
- Unfinished Business
- New Business
- Adjourn

⁸ National Association of Counties. *The Right Way to Run a Meeting: A handy guide for county officials.*

Sample Agenda A

Mission Statement: To produce an exceptional fair and administer the year round use of the fairgrounds.

TETON COUNTY FAIR BOARD MEETING

Monday, October 8, 2007

TIME: 5:30 p.m.

PLACE: Teton County Fair Office, 305 W. Snow King Avenue

Desired Outcomes:

- RMAF To Do List
- Concert Decision

CALL TO ORDER

MINUTES

- September 10, 2007 Board Meeting Minutes Clair (5 minutes)

BILLS

- Approve October Bills Clair (5 minutes)

DISCUSSION AND/OR ACTION ITEMS

A. Friends of Teton County Fair	Junie	(5 minutes)
B. Event Cleaning Proposal/Fees	Yvonne	(15 minutes)
C. Concert	Bill	(15 minutes)
D. Motorcycle Rodeo	Clair	(10 minutes)
E. WAF	Yvonne	(5 minutes)
F. RMAF Budget & To Do List	Clair	(20 minutes)
G. Winter Use of Rodeo Arena	Yvonne	(10 minutes)
H. Next Meeting Date	Yvonne	(5 minutes)

GUESTS:

- 5:30 p.m.—Judy Moses, JH Rodeo RE: 2007 Rodeo Season Review
- 6:30 p.m.—Bruce Pollock, 103.7 The Range RE: Concert Proposal MATTERS FROM BOARD AND

STAFF

ADJOURNMENT

Sample Agenda B

PARK COUNTY TRAVEL COUNCIL MONTHLY MEETING

THURSDAY, JUNE 21, 2007

YELLOWSTONE REGIONAL MRPORT — BOARD ROOM

CODY, WY — 1:30 P.M.

1:15 P.M.

Voucher Review

AGENDA

- I. Call to Order, Sandy Newsome, Chairperson
- II. Approval of May 17, 2007 meeting minutes
- III. Administration/Financial Report-Glenn Ross
 - A. Slate of Administrative Bills/Requests for Payment
 - B. 2006 Financial Audit Report-Keri Wilson, Stine, Heiser, Buss & Assoc, P.C.
- IV. Reports to the Council
 - A. A Marketing Director -Claudia Wade
 - B. Wyoming Tourism Council -Gene Bryan
 - C. Yellowstone Regional Airport Bob Hooper
- V. New Business
 - A. Quiet Recreation/Wildlife Viewing Map & Guide — Glaudia Wade, Kenny Gasch
 - B. Sports/Event Funding Assistance Requests: Dude Ranchers Assoc. Convention, Jan. 23-27, 2008, \$900.00
 - C. PCTC Package Approval: Stay and Play Golf — Meeteetse
 - D. Best of Cody Heritage Package - Cody Trolley Tours
- VI. Old Business
 - A. Unified Media Plan Update - Please review prior to meeting
- VII. For the Good of the Order and Adjourn

Sample Minutes A

MINUTES OF THE REGULAR SESSION OF THE MEMORIAL HOSPITAL OF NATRONA COUNTY BOARD OF TRUSTEES MAY 17, 2007

I. Call Meeting to Order

Pat Thorson called the meeting to order at 7:00 a.m.

Present were Serena Cobb, Pat Thorson, Pat Freiberg, Crystal Mueller, and Dick Jay. Also present were Mike Reid, Vickie Diamond, Yvonne Wigington, Dick Williams, Steve Chadderdon and Tammy Trujillo. Also present were representatives of Larsen and Allen: Matthew Clays, Josh Wilks, Darrin McGarvey.

II. Approval of March 15, 2007 Minutes and April 19, 2007 Minutes

Pat Freiberg moved to approve the March 15, 2007 and April 19, 2007 regular meeting minutes, as amended. The motion was seconded and carried.

III. WMC Administrative Report

Vickie Diamond admitted that much time has been spent on the 5 Million Lives Campaign to incorporate best practices and to prevent harm to patients. It has been a goal to involve the Board more with the quality of the organization.

Vickie reported that patient satisfaction is up; the ER is down, however she is pleased to report that it's still above the goal mark. Dr. David Wheeler, a Pain Specialist, is now on board with the hospital three days a week. His home and practice is in Denver, Colorado, but he is on call with WMC 24/7 and other neurosurgeons back him when he's out of town.

Last week was Hospital Nurses Week. There were 88 nominations for nurses and awards were granted to several gifted nurses. Also there were 25 nominations for outstanding physicians. The two exceptional physicians recognized were Dr. Don Smith and Dr. Ron Iverson.

The Elkhorn Rehabilitation Center Groundbreaking was held on a cold day in April. There has been good progress made in the construction of the parking garage. The last of the utilities are being completed.

IV. Financial Report

Dick Jay made a motion to accept the Semiannual Lease Provisions Review. The motion was seconded and carried.

Yvonne Wigington reported that Unpaid Care Year to Date is \$21 Million. Of the unpaid care, about \$16.4 million is from bad debt and about \$5.4 million is from charity care said. These figures are a 2.3 increase up from last year. There is a new Discharge Desk in place in the ER and this program has been received well.

Mike Reid reported that Board Member, Ken Eickhoff is working closely with the WMC's Financial Committee on bad debt.

The Board wants the record to reflect that at the April 19, 2007 meeting it was discussed why WMC couldn't go to the Bond Market. The reason is that AMBAC, the Bond Insurer, wants them to have a CEO in place prior to that occurrence. A CEO will be in place by approximately January or February. Planning Sessions are on hold until the new CEO is in place. However discussions continue with Hazelton and HER. They continue to work on mechanical and electrical projects.

Crystal Mueller pointed out that there's been a 6 %increase in revenue over last year.

V. MHBOT Agenda Preparation

Questions arose as to protocol and reasons why the Commissioner's Administrative Assistants are preparing the MHBOT Agendas. Mike Reid consulted with Jon Campbell last week. The past MHBOT agreed that it would be a conflict of interest for WMC to prepare the agenda and minutes. In addition, it would be proper, per the Commission's direction that the Administrative Assistant will continue to prepare the Agenda and the minutes. Pat Thorson requested that the agendas be sent out for review at least two weeks prior to the meeting date.

VI. Adjournment

The meeting was adjourned at 7:19 a.m.

NEXT MEETING: June 21, 2007 7:00 A.M.

Respectfully submitted,

Secretary

Sample Minutes B

Superintendent
Donald Connell

FREMONT COUNTY SOLID WASTE DISPOSAL DISTRICT

P.O. Box 1400
LANDER, WY 82520
Telephone 332-7040
fax 332-6013

MEETING MINUTES OF THE

FREMONT COUNTY SOLID WASTE DISPOSAL DISTRICT BOARD

DATE: Monday, August 13, 2007
TIME: 6:00 p.m.
PLACE: Solid Waste District Office
Lander Landfill
Lander, Wyoming 82520

OPENING OF THE MEETING

The regular monthly meeting of the Solid Waste District was called to order at 6:00 p.m. by Chairman James Hedges with the following persons present.

Board Members:	James Headges, Mike McDonald, Gregg Schaub, Dr. Dale Groutage, and Richard Rodgers.
Engineer:	Howard Johnson (Jaberg-Miller Engineers)
Public Relations:	Paula McCormick and Dot Newton (McCormick Marketing)
Staff:	Superintendent Don Connell, Assistant Superintendent Ben Gonzales, and Secretary Amy Nichols
Excused:	Jerald Crews, Ralph Urbigkeit, Bob Campbell and William Wagon
Guests:	Brad Isbell (hydroGeophysics), Patrick Troxel (WDEQ/SHWD), and Deb Harris (WDEQ/SHWD)

DISTRICT BUSINESS

Hydro-Geophysics, Sand Draw – Brad Isbell (hydroGeophysics) thanked the Board for inviting him to share the data for the Sand Draw Landfill. Brad went through a power point presentation of data collected so far. Brad informed the Board he would go into a more technical explanation at the technical work session. Brad refreshed the Board on the process that is used to collect the data. Putting currents in the ground and measuring voltage potential. The resistivity levels are very low in this area. The data shows there are very subtle variations meaning tight formations probably moist clay and it should not promote fluid transport being very tight grained material. Discussion on the variation and conductivity of the wells followed.

Brad shared some preliminary results with the Board for the Lander Landfill. The data from lines 2-10 have been collected, line 11 is being collected this evening. The preliminary results show high resolution resistivity.

There was discussion on collection of the RPM data at both landfills. Patrick Troxel (WDEQ/SHWD) stated they would not pay the reimbursement for the data collection in the expansion area of Sand Draw, but may in the currently permitted area. Patrick explained to the board he would be comfortable making that decision prior to the final report as long as the current data is validated. Patrick informed the Board of his availability. Don will contact him with a meeting time. Brad was directed to go ahead with the RPM collection at both Lander and Sand Draw sites.

Brad Isbell committed to having an interim report next week for the Sand Draw site with the final report following the collection of the RPM data.

Patrick Troxel and Deb Harris of WDEQ/SHWD excused themselves from the remainder of the meeting at 7:15 pm.

Electronic Waste (e-waste) Discussion & Marketing Update—Paula McCormick (McCormick Marketing) gave the Board a review of the e-waste discussion from the July meeting. Paula then introduced Dot Newton as the one who has done research on the e-waste program. Dot Newton gave an overview of the information she has found, her opinion on public education, and a “top ten” offenders list. Dot also shared what other states are doing. During Dot’s research she found GPX, a company that could recycle the District’s e-waste for 25¢ a pound. Dot also suggested the Board come up with a position statement. Paula was asked to draft a position statement and come up with a “top ten list”.

Dot Newton excused herself from the board meeting at 8:10 pm.

Governor’s Select Committee on Tribal Relations—Don Connell informed the Board the Transfer Station Committee has been invited to meet with the Select Committee on Tribal Relations on August 20, 2007. Don explained the letter in the board packet needed to be to the committee by August 8, 2007 to inform them what the Transfer Station Committee wanted to talk about. Dr. Dale’ Groutage explained a 1/3 of the District’s budget is spent on the transfer stations. In the committee’s research they have found the income the District receives from the reservation is over a million or about a third of the District’s budget so the revenue and expenses are about even. The committee agreed to ask the Governor’s Tribal Committee to work with the District on the following issues:

1. The District needs a binding agreement with the Tribes for the same jurisdiction at the WRJR transfer stations as they have on the non-reservation transfer stations.
2. The District needs an appointed liaison from the Tribes to work on jurisdictional and financial issues.
3. The District needs to install surveillance and security systems to monitor and control disposal of illegal waste at the transfer stations. Along with the purchase of new equipment for pickup and transfer of the transfer stations.

Planning Committee Creation & Progress Report—Howard Johnson posted a timeline schedule and gave a progress report for the Integrated Solid Waste Management Plan (ISWMP). Howard informed the Board the letter of intent was mailed to the state which completed phase I.

Howard went over what needs to happen in August and September. Howard went over the billing and reimbursement process and explained the forms need to be signed by an authorized member of the Board. Howard asked the Board to set up a working group composed of 8 people. Howard went over the expectations of this group and suggested 2 board members, 1 from the Shoshoni Tribe, 1 from the Arapahoe Tribe, 1 County Commissioner, 1 from the City of Riverton, 1 from the City of Lander, and 1 from the Association of Government. This will give a good representation of Fremont County. Paula McCormik was asked to put together the basic requirements. Paula was also asked to take the minutes or bring someone to take the minutes for the working sessions and to handle the mailings. James Hedges (Chairman) appointed Dr. Dale Groutage and Mike McDonald with Richard Rodgers being the alternate. Jim also suggested the District Liaison Pat Hickerson be on the committee to represent the Commissioners. The District office was set as the meeting place.

Recycling—Don Connell reviewed the CES recycling numbers with the Board. Don pointed out the total savings to the District as of July 2007 is \$32,384.12 for this calendar year. Don brought to the Board's attention the unsafe procedure CES is using to load the 40 yard containers with the recycle material. Don suggested buying a PET Blower to help the clients load the containers in a safe manner. Don was asked to get more information on the capabilities of the blower and put it on next month's agenda.

User Fee Write Offs—Don Connell brought to the Board 2 write offs, Gary Bevers in the amount of \$16.00, and Mary Bouchard in the amount of \$8.00.

MIKE MCDONALD moved and DR DALE GROUTAGE seconded the motion to write off Gary Bevers in the amount of \$16.00 and Mary Bouchard in the amount of \$8.00. MOTION CARRIED UNANIMOUSLY.

Hudson Landfill Lease—Don Connell informed the Board the BLM Hudson Landfill Lease was due for \$25.00.

MIKE MCDONALD moved and GREGG SCHAUB seconded the motion to pay \$25.00 for the Hudson Landfill Lease. MOTION CARRIED UNANIMOUSLY.

Approval of July, 2007 Minutes—DR. DALE GROUTAGE moved and RICHARD RODGERS seconded the motion to approve the consent agenda as mailed including the meeting minutes of July 16, 2007. MOTION CARRIED UNANIMOUSLY.

Approval of July Bills—MIKE MCDONALD moved and GREGG SCHAUB seconded the motion to approve July bills to be paid (list in office). MOTION CARRIED UNANIMOUSLY

Don Connell brought up the need for himself or an available Board member to be designated in the minutes to be able to sign the reimbursement forms. Don explained the bills to the District will be on the bills list so the Board would approve the payment before the packet was put together for submittal.

DR. DALE GROUTAGE moved and MIKE MCDONALD seconded the motion to approve Don Connell to sign the reimbursement forms for the planning or the environmental monitoring grants to the State. MOTION CARRIED UNANIMOUSLY.

Don Cormell brought to the Boards attention the hydro-Geophysics check for \$59,050.00 was held at the July meeting due to them not getting the District any data on their work so far. James Hedges stated he was comfortable with signing the check this month after the presentation from them. Discussion followed. The Board agreed they were comfortable with signing the check this month for the work hydroGeophysics has completed so far.

MIKE MCDONALD moved and RICHARD RODGERS seconded the motion to adjourn the meeting at 9:20 p.m. MOTION CARRIED UNANIMOUSLY.

The next scheduled Board meeting will be held September 10, 2007 at 6:00 p.m. in the Solid Waste District Office at the Lander Landfill.

Respectfully Submitted

Secretary

APPROVED

Chairman

Sample Minutes C

Park County Board of Commissioners

August 21, 2007

Regular Meeting

Proceedings of a regular meeting of the Board of County Commissioners of Park County, Wyoming, held in Cody, Wyoming on Tuesday, August 21. Present were Commission Chair Bucky Hall, Commissioners Marie Fontaine, Bill Brewer, Tim French, Jill Shockley Siggins, Deputy County Clerk Wardi Reber and County Clerk Kelly Jensen.

Park County Library Foundation

Wally Johnson, Former Park County Library Foundation President thanked the Board of County Commissioners for their support of the new library and introduced Mary Barbee, newly elected President of the Park County Library Foundation. Barbee presented a \$100,000 check to the Commissioners, representing one-third of the Foundation's commitment to the Park County Library construction project. Commissioners asked Foundation members to develop recommended guidelines for naming opportunities for significant contributions to the library project. Foundation members also recognized Frances Clymer, Marie Schow, Jane Bell, Eve Pickering, and Alicia D'Alessandro for contributions toward the project. The Board thanked the Foundation for the \$100,000 and their commitment to the project. No action was taken.

Wyoming Library Association's Library Endowment Bill

Commissioner Fontaine made a motion, seconded by Brewer, to approve a letter of support for the Library Endowment Bill, which would allow library foundations to raise endowment funds that would be matched with state funds. Motion carried.

Personnel Action Forms—Lt. Rick Atwood

Commissioner Siggins made a motion, seconded by French, to approve Personnel Action Forms for James Keenan (effective September 1, 2007) and Jessica Campbell (effective August 23, 2007) as Detention Deputies I and advancement of Joe Torczon to Detention Sergeant (effective September 1, 2007). Motion carried.

Public Hearing Date -Size & Weight Limits for Bridges & Roads

Commissioner Fontaine made a motion, seconded by Siggins, to advertise and set Tuesday, October 16, 2007 at 2:00 p.m. for a public hearing to establish size and weight limits for Park County bridges and roads. Motion carried.

Approve Minutes

Commissioner Siggins made a motion, seconded by Fontaine, to approve the minutes from the August 14, 2007 Regular Meeting and the August 14, 2007 Work Session. Motion carried.

Special Funding Contracts

Commissioner Siggins made a motion, seconded by Brewer, to approve and authorize Chairman Hall to sign, three additional FY08 Special Funding Contracts with outside agencies. Motion carried.

Powder River Basin Resource Council/Clark Resource Council

Deb Thomas, representing Clark Resource Council and the Powder River Basin Resource Council, presented a slide show on the Clark Oil & Gas Update; Energy Efficiency & Renewable Energy Campaign, including a description of the Windsor Energy August 2006 Crosby Well 25-3 blowout. She asked Commissioners to consider backing a moratorium on all-further drilling (by Windsor Energy) until further investigation is complete and to consider a three-point opportunity to comment. No action was taken.

Cole Simple Subdivision SS-138

Assistant Planner Nikki Burnett presented the Cole Simple Subdivision SS-138, whose applicant is Suzanne Cole. It is described as a two-lot subdivision totaling approximately 7.00+/-acres for Lot 1 and 27.18+/-acres for Lot 2 from an original parcel containing 34.18 +/ -acres within the E1/2SE1/4 of Lot 56, Resurvey, T52N, R101W, 6th P.M., Park County, Wyoming in the GR-5 zoning district. The property is located at 5886 Greybull Highway, south of Hwy 14-16-20, and west of Cole Road. Commissioner Fontaine made a motion, seconded by French, to adopt RESOLUTION 2007-63, APPROVAL OF A FINAL PLAT FOR THE COLE SS-138 SIMPLE SUBDIVISION WITHIN THE E1/2SE1/4 OF LOT 56, RESURVEY, T52 N, R101W, 6TH P.M., PARK COUNTY, WYOMING. Motion carried.

Executive Session

Commissioner French made a motion, seconded by Fontaine, to go into executive session pursuant to Wyoming Statute 16-4-405(a)(ii) regarding personnel. Motion carried.

Commissioner French made a motion, seconded by Siggins, to go out of executive session and return to the regular meeting. Motion carried.

Justice Private Road Petition Report -Set Hearing Date

Assistant County Attorney Jim Davis described the process to complete the Justice Private Road Petition contested case hearing, presenting the Viewers and Appraisers report from Larry Hedderman, Bob Swander and George Margargal.

Commissioner Fontaine made a motion, seconded by Siggins, to accept the report submitted by the Viewers and Appraisers in the Scott and Marjorie Justice Private Road Petition. Motion carried. Deputy County Attorney Davis will present possible dates and times at a future meeting.

Executive Session/Confidential

Commissioner French made a motion, seconded by Brewer, to go into executive session pursuant to Wyoming Statute 16-4-405(a)(ix) to consider or receive confidential information. Motion carried.

Commissioner Fontaine made a motion, seconded by Brewer, to go out of executive session and return to the regular meeting. Motion carried.

Adjournment

There being no further business to come before the Board of County Commissioners, Commissioner Siggins made a motion, seconded by Fontaine, to adjourn the meeting. Motion carried.

Bucky Hall, Chairman
Park County Board of Commissioners

Tim A. French, Vice Chairman

Marie Fontaine, Commissioner

Bill Brewer, Commissioner

Jill Shockley Siggins, Commissioner

Attest:

Kelly Jensen, Park County Clerk

SOURCES

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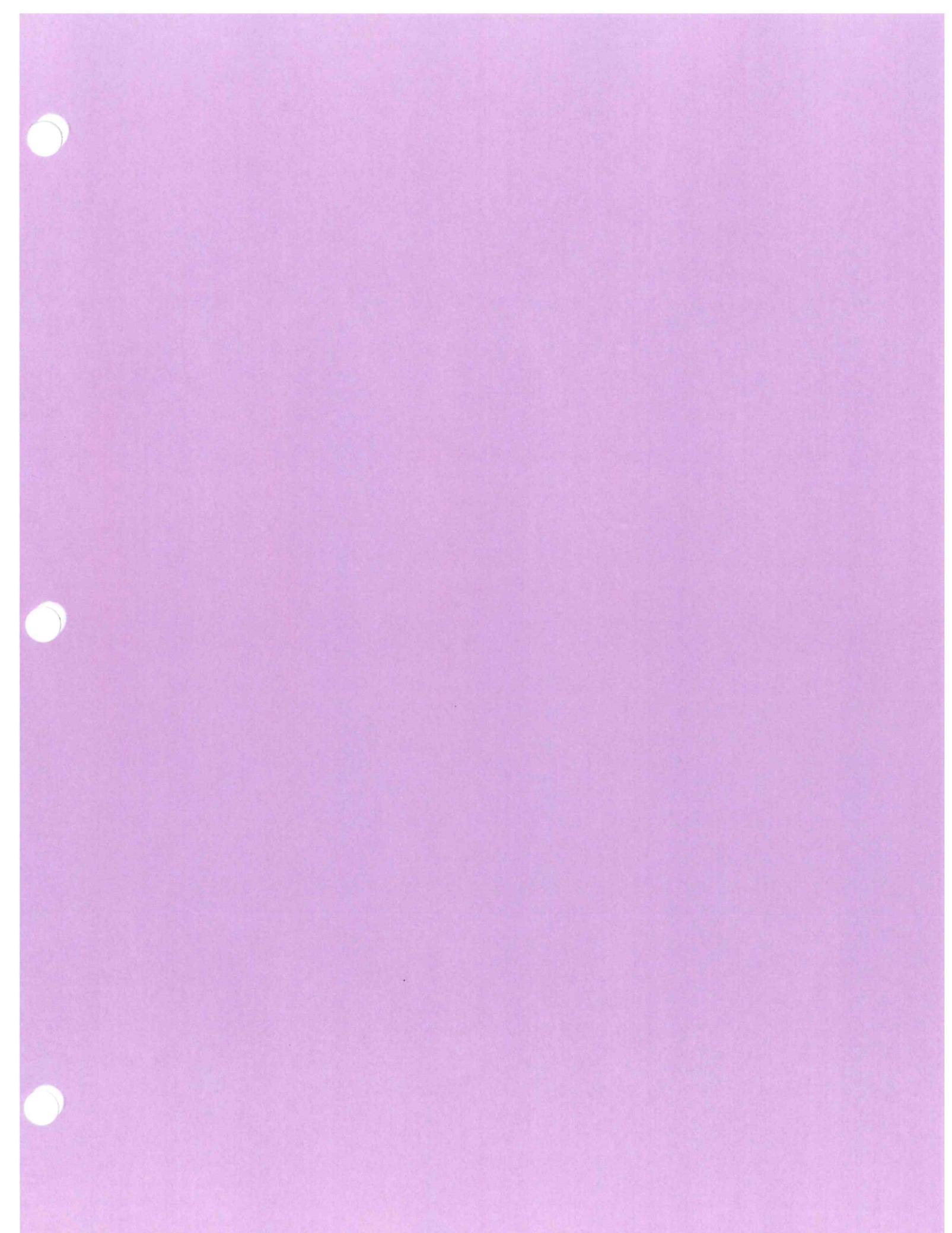
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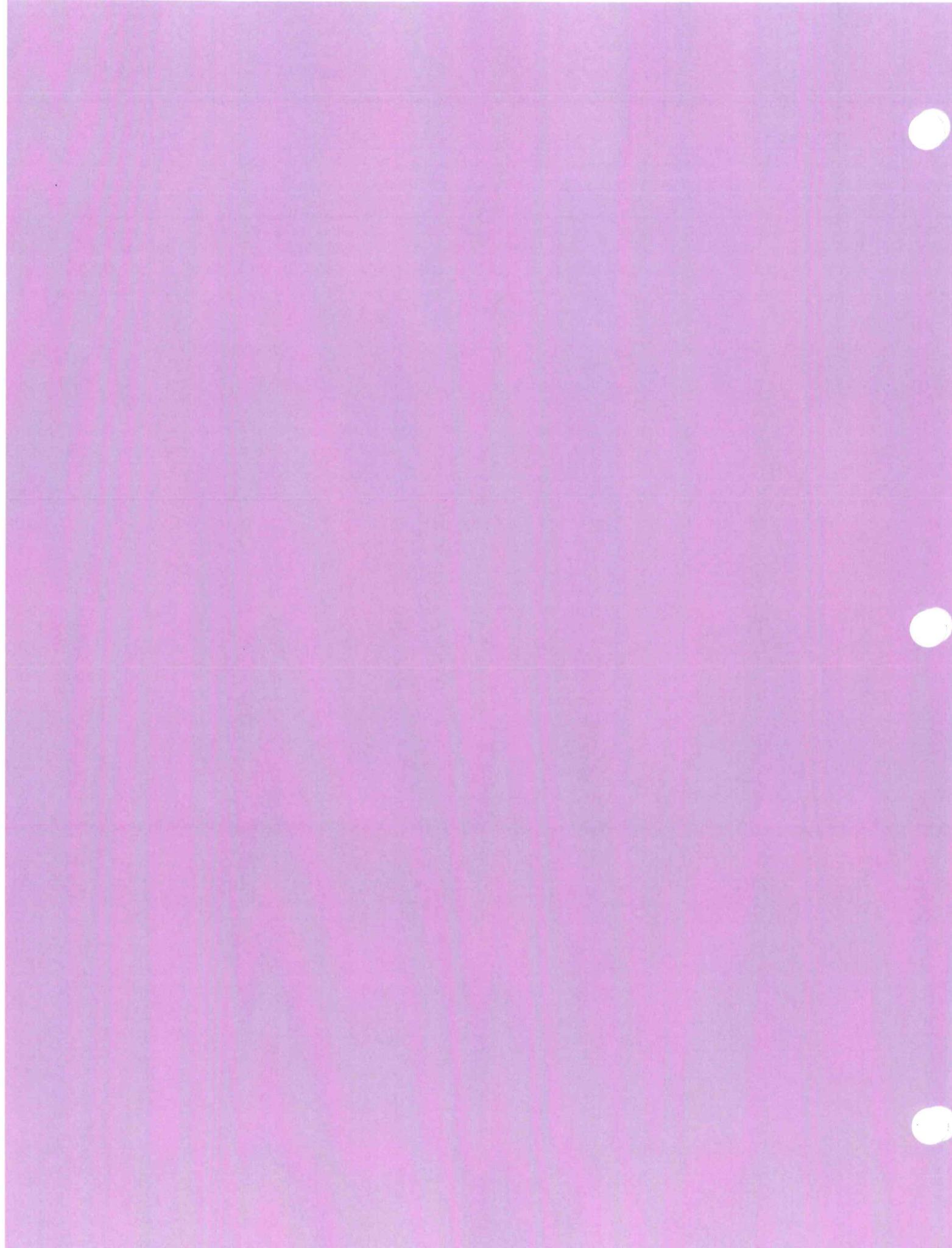
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Wyoming Special District Handbook

Public Funds Division
Wyoming Department of Audit

State of Wyoming
Revised October 2021

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SECTION 1 - INTRODUCTION

The Special District Handbook for Wyoming special purpose districts has been prepared to satisfy the need for a reference and instruction manual in compliance with W.S. 9-1-507 and W.S. 9-1-510.

A single handbook cannot incorporate the exact requirements for the numerous types of special purpose districts within state. This handbook is designed to provide a sound basic system with provisions for more sophisticated systems when needed. Districts should use only those portions of the handbook which pertain to their individual functions. Where statutory direction is given or where other regulating agencies are involved, the special district must comply as required.

This handbook is intended to be used in conjunction with the Department of Audit's Wyoming Governmental Entity Budgeting, Accounting, and Reporting Manual (Manual), which can be found on the Department of Audit's (the Department) website. The Manual contains information such as a uniform chart of accounts and accounting principles, among other information necessary to generate accurate financial information, consistent with the standards established by the Governmental Accounting Standards Board (GASB) of the Financial Accounting Foundation.

For clarification regarding the accounting matters discussed the Manual, in this handbook, or matters not addressed here, officials should consult the Wyoming Department of Audit at the following address:

Wyoming Department of Audit, Public Funds
Hathaway Building
2300 Capitol Avenue, 2nd Floor
Cheyenne, Wyoming 82002
Phone: (307) 777-7799
Email: doa-pfd-web@wyo.gov
Website: publicfunds.wyo.gov

Quick and Easy Statute Compliance

In an effort to assist district officials with some of the more common compliance requirements and for other necessary management procedures, the following short summaries may be helpful, especially for persons new to local government entities.

Banks and depositories must return cancelled checks or scanned image of the cancelled checks. Records are not complete or auditable without these documents. Copies of all bank reconciliations must be retained as permanent records [W.S. 9-1-507(a)(i), W.S. 9-2-411, W.S. 9-2-412].

Pre-signing of blank checks, whether by facsimile or an actual signature, is prohibited. Checks should be signed only after the payee name and amounts are entered. Computerized check printing should have **documented** controls insuring that cash assets are properly safeguarded [W.S. 9-1-507(a)(i)].

Pledging of deposits over \$250,000.00 in any depository must be closely monitored by the treasurer and strictly adhered to by the financial institution with the use of an approved Joint Custody Receipt [W.S. 9-4-817 through 9-4-828].

Banking arrangements, (**designation of an official depository**), should be documented at least when a new treasurer is appointed or when elections of a new governing board has occurred or when both has happened [W.S. 9-4-806 and W.S. 9-4-817].

Receipts must be written for all money received by the district, including bank interest. [W.S. 9-1-507(a)(i)].

Travel and pay advances are considered loans and are prohibited by the Wyoming Constitution, Article 16, Section 6.

Per Attorney General's opinion of January 29, 1992, **expenses for travel**, unless specifically exempted in the statutes, such as Joint Powers Boards, special districts should only reimburse actual expenses documented by receipts submitted by the official or employee.

Meals (unless part of conducting business), flowers, or gifts to employees are considered donations and as such are prohibited [Wyoming Constitution, Article 16, Section 6].

Minutes of a meeting are required to be recorded. All minutes where action is taken by the governing body must be published. The minutes should be signed by two officials of the special district. It is preferred the chairman sign the minutes to accept the approval and the treasurer sign to attest publishing the minutes [W.S. 16-4-403, W.S. 16-12-304].

All bills presented for approval for payment (even if payment is denied) should be entered as part of the minutes [W.S. 9-1-507(a)(i), W.S. 16-4-403].

Budgets must be amended before “over-expenditures” are approved for payment and the amendment process is the same as for the original budget approval process [Wyoming Constitution Article 16, Section 7; W.S. 16-4-109 through W.S. 16-4-125(c), W.S. 16-12-407].

Transfers of budget appropriations (between departments) should be documented and approved via board meeting minutes [W.S. 16-4-112, W.S. 16-12-409].

Emergency Expenditures –If the governing body determines an emergency exists and the expenditure of money in excess of the general fund budget is necessary, it may make the expenditures from available funds as reasonably necessary to meet the emergency. Notice of the declaration of emergency and the amount expended shall be provided in accordance with W.S. 16-4-404. Also, refer to W.S. 16-4-404(d) regarding emergency meetings to properly amend the budget prior to spending over the appropriated amount [W.S. 16-4-114, W.S. 16-12-411].

Transfers of money between bank accounts are not revenue or expense and should not be recorded in the journals or ledgers as such [W.S. 9-1-507(a)(i), W.S. 16-4-120, and W.S. 16-4-125].

Conflict of Interest statutes would prohibit any of the governing body members from voting on any issue that would, in any way, benefit them personally [W.S. 6-5-106 and W.S. 16-6-118].

Surety Bonds for special district treasurers and any other public officer having the custody of moneys must be bonded [W.S. 38-2-101].

Vouchers with a fully itemized statement must be used by all special districts for approving payment of expenditures. The wording on the vouchers must contain the phrase “certified under penalty of perjury” [Wyoming Constitution Article 16, Section 7].

Contract Labor persons need to have a contract on file (see an attorney for appropriate contract format). If amounts paid in total for a calendar year equal or exceed \$600, this must be reported to the IRS on Form 1099.

The only **retirement plan** permitted for political subdivisions is the Wyoming Retirement System [W.S. 9-3-427].

Statement of Investment Policy: All special districts must have on file a “Statement of Investment Policy” [W.S. 9-4-831(h)]. Investments that are allowed under state law are also detailed in W.S. 9-4-831.

Mutual funds are not authorized. Mutual funds are a pool money from the investors and use that money to buy other securities, usually stocks and bonds. The investor in a mutual fund is buying the rough equivalent of stock in a private company. Investment in private companies by governmental entities is prohibited by Article 16, Section 6, of the Wyoming Constitution.

All public officials, public employees, and public member must abide by **Government Ethics** as prescribed in the Ethics and Disclosure Act [W.S. 9-13-101 through 9-13-109].

SECTION 2 - FISCAL RESPONSIBILITIES

Fiscal Responsibilities

The overall fiscal responsibility and accountability of a special purpose district rests with its governing body. While specific fiscal responsibilities may be given by law to specific elected or appointed officials, the governing body, through their powers to appoint, review, and prescribe rules and regulations are responsible for the overall district operations.

Generally, the state formation statutes provide a district with its mission and give it specific direction in fulfilling that mission. These statute references are provided at the end of this section. There are other statutes a district must also abide by, some of which are listed below:

1. Director of the Wyoming Department of Audit W.S. 9-1-500 et al.
2. Facsimile Signatures W.S. 16-2-102
3. Uniform Municipal Fiscal Procedures act W.S. 16-4-100 et al.
4. Fiscal Year for Governmental Entities W.S. 16-4-125
5. Public Records W.S. 16-4-200 et al. and W.S. 16-12-303
6. Public Meetings W.S. 16-4-400 et al. and W.S. 16-12-304
7. Public Funds W.S. 9-4-800 et al.
8. Special Districts W.S. Title 16, Chapter 12
9. Special Districts General Provision W.S. 16-12-200 et al.
10. Special Districts Administration of Finances W.S. 16-12-400 et al.
11. Special District Elections Act of 1994 W.S. Title 22, Chapter 29
12. Wyoming Constitution

Funding Source by Type

Types of Districts	Officials – Elected or Appointed	Authority to Issue Bonds?	Funding Sources	Statute Reference
Airport JPB	Appointed by joining entities	Yes	Various, including all powers inherent to the joined entities	W.S. 16-1-101
BOCES	Elected by board of Trustees – coop entities	No	Cooperating entity support, up to $\frac{1}{2}$ mill levy unapproved, up to additional 2 mills voter approved	W.S. 21-20-101
Cemetery	Elected trustees	No	Up to 3 mills	W.S. 35-8-301
Conservation	Elected officials	No	Up to 1 mill with voter approval	W.S. 11-16-101
Downtown Development	Directors appointed by governing body	Yes, through municipality	Up to 30 mills with approval of property owners & municipality; revenue bonds	W.S. 15-9-201
Drainage	Elected commissioners	Yes	Assessment approved by District Court	W.S. 41-9-101
Fire	Elected directors	Yes	Up to 3 mills	W.S. 35-9-201
Hospital	Elected trustees	Yes	Up to 3 mills, up to additional 3 mills with voter approval	W.S. 35-2-401
Housing Authority	Commissioners appointed by participating municipality and/or county	No	May accept federal assistance	W.S. 15-10-101
Improvement and Services	Elected directors	Yes	For emergency medical services, up to 2 mills and up to additional 2 mills with directors and electors approval	W.S. 18-12-101
Irrigation	Elected commissioners	Yes	Assessment approved by District Court	W.S. 41-7-101
Joint Powers Board	Appointed by Governing Bodies	Yes	Various, including all powers inherent to joining entity types	W.S. 16-1-101
Lodging Tax – JPB	Appointed by each governmental entity	No	Up to 2% sales tax. Approved by electors	W.S. 39-15-204
Museum	Elected trustees	Yes	Up to 1 mill	W.S. 18-10-201
Predatory Management	Elected (1 possible director appt)	No	Check off fee on brand inspection at sale	W.S. 11-6-201
Recreation – City, Town, County	Appointed trustee by governing body	Yes, if JPB	County Commissioners may levy funds	W.S. 18-9-201
Recreation –	Appointed	Yes, if JPB	Up to 1 mill approved by CC	W.S. 18-9-201

School district	trustee by governing body			
Resort District	Elected directors	Yes	Up to 3 mills; board of directors assessment; special sales tax approved by electors	W.S. 18-16-101
Rural Health	Elected trustees	Yes	Up to 2 mills, additional 2 mills with voter approval	W.S. 35-2-701
Sanitary and Improvement	Elected trustees	Yes	Up to 1 mill	W.S. 35-3-101
Senior Citizens	Elected trustees	No	Up to 2 mills	W.S. 18-15-101
Solid Waste Disposal	Appointed by county commissioners	No	Up to 3 mills approved by electors	W.S. 18-11-101
Water and Sewer	Elected directors	Yes	Up to 8 mills	W.S. 41-10-101
Water Conservancy	Elected directors	Yes	Board of directors assessment	W.S. 41-3-701
Watershed Improvement	Elected directors	Yes	Board of Directors assessment	W.S. 41-8-101
Weed and Pest	Appointed by county commissioners	No	Up to 1 mill approved by county commissioners, up to an additional 1 mill for “special management program”	W.S. 11-5-101

This is not a complete list. If there are specific questions about how the district needs to comply with statutes, contact the Department of Audit. For any questions regarding elections contact the district's County Clerk.

SECTION 3 - DEPOSITORIES

W.S. 9-4-817 provides that public funds are to be kept on deposit at an official depository, unless they are invested elsewhere. Official depositories are defined as:

- a. Banks incorporated under the law of this state;
- b. National banks;
- c. Savings and loan associations incorporated under the law of this state; and
- d. Federal savings and loan associations and federal savings banks.

Many savings and loan associations have become savings banks. This change is not a reason to disqualify them as depositories.

Note: Credit unions are not authorized official depositories. Only institutions designated by the Board of deposits qualify as depositories for public monies [W.S. 9-4-803 and W.S. 9-4-817]. This list of approved depositories can be found on the Wyoming State Treasurer's Website.

Note: This section of the manual discusses regular deposits. The Investments section identifies certificates of deposit and savings certificates as investments. Regular deposits are defined as checking accounts (either regular, Negotiable Order of Withdrawal (NOW) or money market) and savings accounts.

Depositories must be designated as such by the governing body. This designation, and the related documentation, should be **renewed at least when a new clerk is appointed, when elections of a new governing board has occurred, or when both has happened** [W.S. 9-4-806, W.S. 9-4-817, and W.S. 9-4-808]. This is to ensure there is always a current agreement between the governing body and the board of the designated depositories. It also serves to ensure the governing body confirms the designated depository is licensed with the State of Wyoming as required by W.S. 9-4-817. Banks can frequently change ownership and the agreement must be with valid owners. The insurance provided by the FDIC can be called into question when there is not a current understanding between both parties.

Finally, all deposits at an approved depository **must be fully insured** by the Federal Deposit Insurance Corporation (FDIC) or collateralized by the depository's pledge of approved assets (i.e., assets listed in the statutes and accepted by the governing body). Surety bonds are also allowed as security for funds on deposit over the FDIC insurance amounts [W.S. 9-4-820(b) and W.S. 9-4-831].

FDIC insurance has the following limits and provisions:

- a. The insurance limits are per custodian per depository. The treasurer of the special district is the custodian;
- b. There is \$250,000 of insurance on **demand accounts**. Demand accounts are checking accounts which do not earn interest; and
- c. There is a second \$250,000 on the total amount in the interest-bearing accounts. To determine how much the special district has in this type of

combine the amounts in NOW accounts, money market accounts, regular savings accounts, and certificates of deposit.

Insurance coverage by the FDIC is subject to change. The special district must be aware of the current levels of FDIC insurance coverage for both interest and non-interest bearing accounts. If the coverage changes, the entity needs to ensure the financial institution appropriately adjusts the level of collateralization so any deposit amounts over the FDIC coverage is adequately collateralized.

Documenting the Depository Relationship

Application to Serve as Depository: The first step in documenting the depository relationship is to obtain an application from the depository [W.S. 9-4-818]. The application can be as simple as a letter from the depository's board of directors asking to serve as such. W.S. 9-4-802 requires applications for state deposits to be accompanied by a sworn statement of the depository's financial condition. Special Districts may choose to impose a similar requirement, although there is no such provision in the statutes. The application could include an assurance the depository will pledge collateral, as required and as listed in W.S. 9-4-821, for deposits in excess of FDIC insurance limits.

Designation by the Governing Body: W.S. 9-4-818 also requires the governing body to act upon an application to serve as depository as soon after its receipt as possible. Action is simply the acceptance or rejection of the application, as reflected in the minutes of the governing body. If an application is accepted, the depository is notified to provide the governing body with its board's resolution to serve as such.

Resolution by the Depository's Board of Directors: After the governing body notifies the depository its application has been accepted, its board of directors shall furnish the special district treasurer with a resolution in "substantially" (to quote the statute) the form specified in W.S. 9-4-806 (presented in Appendix A, Illustration 1). This resolution must be made within 30 days of notification of the institution's designation as an approved depository.

Bidding for Funds: In essence, there are two issues to be addressed when an approved depository bids for public funds deposits: the interest rate and the collateral (if needed). The request for bids from the treasurer should indicate the amount being made available for bid and (particularly in the case of certificates of deposit) the term of the deposit. A depository needs this information to determine what securities it should pledge to match the maturity of the deposit. Often depositories will propose collateral securities not currently in their portfolio. However, if they are the successful bidder, they will obtain the necessary securities and will be ready to pledge them at the time the deposit is made.

Collateral: W.S. 9-4-821(b) clearly states the collateral a depository plans to pledge to secure a public funds deposit is subject to the approval of the governing body. In other words, a special district does not have to accept the collateral offered by the depository, even though it is on the list of approved collateral presented in W.S. 9-4-821(a).

Since the governing body has to approve collateral, there is a potential delay while the treasurer determines whether the collateral is acceptable to the governing body. To overcome this potential

problem, the governing body could require depositories to list the types of securities they intend to pledge, but not specific securities identified by the Committee on Uniform Securities Identification Procedures (CUSIP) number, in their application. Then, if the governing body accepts the application, they will approve the proposed types of collateral at the same time.

Another method would be for the governing body to develop its own list of approved collateral securities. The governing body can use the list in two ways. They can give the list to the treasurer, who then knows what securities the governing body has approved. Or, they can give it to the applying depositories, who must state in their applications they will pledge only those types of collateral on the approved list. Either way, the treasurer does not have to delay a deposit pending collateral approval by the governing body.

W.S. 9-4-804 and W.S. 9-4-805 discuss the use of surety bonds, purchased by the bank to secure the public funds deposits. A letter of credit issued from any Federal Home Loan Bank is approved collateral for security of public funds. W.S. 9-4-821 can be referenced for a specific type of security and for current changes to the listing by the legislature.

Deposits: The statutes make only one restriction with regard to the actual deposit of public funds. Never deposit funds which are not fully protected by either FDIC insurance or appropriately pledged collateral. W.S. 9-4-817(c) states all deposits must be fully insured or collateralized. In other words, the treasurer cannot deposit funds if they are not properly protected.

Form of Pledging Collateral; Joint Custody Receipts: Under the provisions of W.S. 9-4-808, collateral pledged by a depository may be received and held by the public funds depositor. However, the depositor is liable for any loss of collateral, both principal value and accrued interest.

For this reason, this form of custody is not used. Instead, collateral may be placed with a third party, which serves as custodian. Approved custodians, as described in W.S. 9-4-825, are any bank (other than the depository bank) chartered by the State of Wyoming, any national bank (other than the depository bank) authorized to do business in the State, any Federal Reserve Bank or branch thereof, or any bank which is a member of the Federal Reserve System. The public funds treasurer and the depository must agree on the selection of a custodian.

When collateral is placed with a custodian, that bank issues a joint custody receipt, which may be one of two forms. The first acceptable form is the joint custody trust receipt of the Federal Reserve Bank of Kansas City or its branches. If a bank, other than the Federal Reserve Bank (and its branches), serves as custodian, that custodian must issue a joint custody receipt in the form specified by W.S. 9-4-827(b). The Department has developed a form that satisfies the requirements of that statute (presented in Appendix A, Illustration 2). However, individual banks may print their own forms, which are acceptable IF they contain all of the provisions presented in this illustration.

The joint custody agreement is executed by the custodian, the depository, and the treasurer. It should contain the following provisions, as detailed in W.S. 9-4-828:

1. The custodian will collect the earnings from the pledged collateral and credit them to the account of the depository, unless otherwise ordered by the treasurer;

2. The custodian will cash in matured collateral and hold the proceeds subject to the joint order of the treasurer and the depository;
3. The custodian is not responsible for the quality of the pledged collateral;
4. The custodian is not required to exercise any more care in protecting the collateral than it does in safeguarding its own securities;
5. The custodian will deliver the securities to the treasurer if it receives a verified certificate from the state banking commissioner that the depository bank has failed or refused to pay all or a portion of the deposit due the treasurer.

SECTION 4 – INVESTMENTS

Investment Policy Requirements

Per W.S. 9-4-831(h), “every” political subdivision shall have on file a “**Statement of Investment Policy.**” It is to be as restrictive as the statutes, with respect to the types of investments authorized and may be more restrictive. A smaller district without excess funds could have a Statement of Investment Policy that states, “*All available cash will be kept on deposit at the bank and no other investment is to be allowed,*” but it must be in writing and kept on file with other permanent records.

As this statutory reference continues in W.S. 9-4-831(j), it requires the state treasurer and the state auditor shall: “**conduct voluntary education programs** for persons elected or appointed for the first time to any office or as an employee of any political subdivision where the duties of that office or position of employment include taking actions related to investment of public funds and shall also hold annual voluntary continuing education programs for persons continuing to hold those offices and positions of employment.”

These statutory requirements must be met by each political subdivision to insure excess funds to be properly managed. In order for a person with little knowledge of “investments” to have some basis for understanding, the following general information is presented in this handbook. Please direct all investment questions in particular to the State Auditor’s Office at (307) 777-7831 or to the State Treasurer’s Office at (307) 777-7408.

Investment Philosophy

Two factors normally come into play when a special district develops an investment philosophy or strategy. The first factor is the list of eligible investments as provided in W.S. 9-4-831. The other factor is the special district’s needs. Investments should be selected from the list of eligible investments to meet the needs of the investor.

Eligible Securities

Once the needs have been defined, the investor can select from the investment securities listed in W.S. 9-4-831. The statute lists a number of specific investment items. New packaging and marketing tactics by investment companies will result in opportunities that do not appear, by name, in the statute.

For these reasons, the Department presents the following summary of the more commonly used items listed in the statute. This is not comprehensive. There are many other investment opportunities listed in the statute.

- a. **Certificates of Deposit (CDs)** – There are two considerations here. If the CD is issued by a bank, the bank must be authorized to do business in Wyoming. Authorization means the bank has either a state or national bank charter with an office in Wyoming. If the CD is issued by a savings and loan association (also known as a savings bank), there is no in-state

restriction, other than credit unions. However, in either case, the CD must be either fully insured by the Federal Deposit Insurance Corporation (FDIC) or be adequately collateralized.

- b. Treasury Bills, Notes and Bonds – The basic difference between these securities is their maturity. Bills mature in five years or less; notes in five to ten years; and bonds in more than ten years. Treasury instruments are direct obligations of the U.S. government. This category also includes stripped principal or interest obligation of such issuances. These bills, notes, or bonds must be issued by the United States Treasury or any other obligation guaranteed as to principal and interest by the United States.
- c. Mortgage Obligations – Investments may include obligations of or fully guaranteed by the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Federal Home Loan Bank, Federal Farm Credit Bank and Federal Home Loan Mortgage Corporation. All federal agency securities shall be direct issuances of federal agencies or instrumentalities.
- d. In a commingled fund of eligible securities listed in this section if the securities are held through a trust department of a bank authorized to do business in this state or through a trust company authorized to do business in this state. Be sure to see W.S. 9-4-831(a)(viii) for limitations on this option.

Two common funds were established for the purpose of allowing Wyoming governmental entities to pool their investment funds to obtain the highest investment yield, while attempting to maintain liquidity and preserve capital. Its portfolio consists solely of investments permitted by Wyoming statutes. They are as follows.

1. The Wyoming Government Investment Fund (WGIF) is a type of commingled fund used solely by Wyoming public entities.
2. The Wyoming State Treasurer's Asset Reserve (WYOSTAR) is authorized by W.S. 9-1-416 for local governments to place funds with the State Treasurer. Additional information regarding this program may be obtained from the State Treasurer's Office at (307) 777-7408.

Often, a securities dealer develops an investment package that may be attractive to a treasurer. When this happens, the treasurer should contact the State Treasurer's Office, at the number above, to seek guidance regarding the package's compliance with the statutes. A treasurer should not make any investment until the governing body approves and the treasurer has determined the proposed security complies with Wyoming law.

Needs

To determine needs, the investor must consider three primary issues:

- a. **Cash Flows** – When will the special district need the money the treasurer is about to invest to meet other obligations? If the money will be needed in three months, the investment should mature in three months. If, on other hand, the money will not be needed for 15 years, the investment will not have to mature until then. In short, make sure the maturity date of the investment matches the need for the money.
- b. **Return** – What is an acceptable rate of return (interest rate)? Risk influences rate of return. The greater the risk of loss, the greater the rate of return. However, special districts are limited by law to a list of low risk (and often lower return) investments.
- c. **Market Risk vs. Inherent Risk** – There are two types of risk, market risk and inherent risk. Market risk refers to the change in market value, from day to day, of any given security. Inherent risk addresses the potential the issuer of the security may not be able to redeem it (i.e., defaults). Virtually all investments are subject to market risk. Most securities authorized for investment of public funds have very low inherent risk correlating with a generally lower rate of return.

Other Considerations

Some treasurers have asked whether they may use the services of a brokerage house such as Merrill Lynch. There is nothing in the statutes that would prohibit a government entity from using these professionals. However, W.S. 9-4-817 states “To the extent they are not otherwise invested, the monies collected and held by a treasurer … shall be deposited in banks which qualify as depositories for public monies …” The statute has a number of other stipulations regarding designation by the governing body and insurance and collateralization of accounts. It is important to note that **brokerage houses are not considered depositories**. They cannot maintain an investment account for a governmental entity to help facilitate transactions. The special district must have another type of payment system, such as wire transfer, in order to effect transactions with a brokerage house.

Further, governmental entities **cannot invest in mutual funds**. Mutual funds should be thought of as private corporations that own qualifying securities (such as treasury notes). The investor in a mutual fund is buying the rough equivalent of stock in that private company. Investment in private companies by governmental entities is prohibited by Article 16, Section 6, of the Wyoming Constitution. A governmental unit must have an identifiable ownership interest in qualifying investments. This concept is key to the acceptability of certain investment programs available in the state. The WYOSTAR and WGIF programs, discussed earlier in this section, are structured in such a way to meet this ownership requirement. There may be other programs developed by brokerage companies that will also qualify. Questions regarding those programs should be directed to the State Treasurer’s or the State Auditor’s offices for guidance per W.S. 9-4-831(j).

SECTION 5 – PAYROLL

To remain in compliance with the State of Wyoming and the Internal Revenue Service (IRS), entities must complete and file a number of reports at various intervals throughout the year. Failure to make timely deposits for payroll tax liabilities and failure to report can be costly in penalties and interest to a special district. Several of the more common reports required to be filed are listed below. Because forms and specifics change, refer to the current instructions for each form in the time period when they are to be filed.

Employer's Quarterly Federal Tax Return (IRS Form 941)

This report is filed quarterly with the regional office in Ogden, UT. In most cases, it is filed electronically. It reports, in summary totals, the wages, salaries, Federal Income Tax withheld, and the FICA withheld from each employee paycheck. The employer's share of FICA is separated by Social Security and Medicare and is also included on this report. This report is due the last day of the month, after the end of the quarter (i.e., July 31, October 31, January 31, and April 30).

At the end of each quarter, the entity must prepare a reconciliation between the amount of payroll deposits in the bank and the IRS Form 941. In addition, there are schedules for how often payroll deposits must be made. These schedules are found in the payroll liabilities instructions of IRS Form 941.

If the IRS returns the submitted Form 941 for corrections related to the payment or withholding of Social Security Taxes (FICA) and states a Section 218 agreement is not on file, it will be necessary to speak with the Wyoming State Retirement System. They are able to amend the agreement and resolve the problem.

Wage and Tax Statement (IRS Form W-2)

These are the familiar forms that every employee receives at year end, reporting the amounts earned and withheld for taxes and any other tax generating information requested by the IRS. They are computer matched by the IRS and Social Security to the Form 941 discussed above. Therefore, it is very important this form, the deposits, and the Form 941 all agree at year-end.

The cover document for transmittal of the individual W-2s is the Form W-3. The total FICA withheld, the total Federal Income Tax withheld and the total wages and salaries must equal the summation of the corresponding items of the quarterly 941 reports. Any exceptions usually require a time consuming, sometimes penalty generating, explanation.

Employment Eligibility Verification (USCIS Form I-9)

Employees (including governing body members and elected officials) must complete a Form I-9 to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired after November 6, 1986, to work in the United States. There are three sections to the form and employers may be fined if the form is not complete. Employers are responsible for retaining completed forms. Newly hired employees must complete and sign Section

1 no later than the first day of employment. Employers must verify and may retain a copy of the identification used to verify identity, as required by the instructions of the Form I-9.

Employee's Withholding Allowance Certificate (IRS Form W-4)

Employees must complete this form so the employer can withhold the correct federal income tax from the employee's pay. This form must be on file. Employees should complete a new form after a life event which would affect the withholding amount (i.e. marriage, divorce, new dependent).

Miscellaneous Income (IRS Form 1099)

Some special districts may hire a person to work on a contract basis. In these situations, the IRS has regulations to determine if the person technically is considered contract labor, rather than an employee. Employers must strictly adhere to these regulations; otherwise the person may be considered an employee, not contract labor. Having a contract labor person switched to an employee can result in additional payroll costs that are now due and most likely, penalties and interest on unpaid payroll liabilities. Be sure to know the current IRS rules and regulations in regards to contracted labor, including how much earnings have to be reported on a Form 1099 at year-end.

Workers' Compensation

This program provides insurance coverage for injuries received while the employee is working. Not all workers are required by the State of Wyoming to be covered by the insurance, but the type of work performed does determine the classification for insurance purposes. Reports and payments are submitted monthly. Information is available from the Department of Workforce Services, Workers Compensation Division, 5221 Yellowstone Road, Cheyenne, WY 82002. Phone: (307) 777-6763.

Unemployment Compensation

This coverage is paid by each employer and provides employees with some income if they should lose their job through no fault of their own. Reporting is on a quarterly basis. Information is available from the Department of Workforce Services, Unemployment Tax Division, P.O. Box 2760, Casper, WY 82602. Phone: (307) 235-3264.

Retirement Plan

The only retirement plan that is legally available to special district employees is participation in the Wyoming Retirement System [W.S. 9-3-427]. Payments into the plan are made on a monthly basis. Current information on the plan is available from their office at 6101 Yellowstone Road, Suite 500, Cheyenne, WY 82002. Phone (307) 777-7691.

Deferred Compensation

This is similar to a 401k plan except it is for government and non-profit employees. Compensation can be set aside for retirement, invested, and tax-deferred until it is taken out. For more information, contact Wyoming Deferred Compensation, 6101 Yellowstone Road, Cheyenne, WY 82002. Phone: (307) 777-7691.

SECTION 6 –MINUTES OF GOVERNING BODY PROCEEDINGS

The minutes of the governing body proceedings are the fundamental communication between the governing body and the assessment (or tax) payers. With these users in mind, the Department of Audit created a suggested meeting minutes' format.

To make the minutes easier to read, they should be prepared using topic and sub-topic headings. The importance of the topics lies not in the order in which they were discussed but rather in the subject matter. As such, proceedings may or may not be transacted in the order in which they are presented in the suggested format. Further, the topic and sub-topic headings listed below, should only be shown if they were discussed during the meeting.

For information regarding statutory requirements for minutes please refer to W.S. 16-4-202, W.S. 16-4-401 through 408, and W.S. 16-12-304

Suggested Meeting Minutes Format

1. Minutes of (Governing Body) Proceedings

2. Members Present, Date and Time of Meeting, and Location

The first paragraph should state:

- a. Names of the members of the governing body who are present or absent.
- b. Date and time of the meeting.
- c. Location where such meeting was held.

3. Approval of Prior Meeting Minutes

The second paragraph should contain the approval of the minutes of the previous meeting. The president or chairman of the board and the treasurer should both sign the minutes, once approved by the governing body.

4. Bids for Approval

Each bid item considered should be shown as a subtopic, such as car, truck, mowing machine, etc. Under each subtopic the name and amount bid by each bidder should be shown. The action of the governing body should be shown (contract awarded, tabled, or all bids rejected). If any bids are rejected, detailed reasons for the rejection should be stated. If the contract is awarded to a bidder other than the lowest bidder, the reasons for the choice should be clearly stated.

Items on which bids were opened and listed at a previous meeting only need to show the action taken by the governing body under the respective subtopic heading.

5. Claims Approved and Rejected

Each claim approved should be listed showing the date of the claim, the claimant, the goods or services provided and the amount. All claims rejected should be shown as above followed by the reasons for rejection.

6. Resolutions

A subtopic heading briefly stating the subject of each resolution should appear prior to the description of the action taken.

7. Other Agenda Matters and Action Taken

Each agenda item, projects, reports, etc., should have a topic heading preceding the description of each matter discussed by the governing body. Motions made and whether the matter is approved or disapproved by vote should be included with the agenda item.

8. Approval of Adjournment

The last paragraph of the minutes should include the approval for and time of adjournment.

SECTION 7 – RECORDS MANAGEMENT

General

Each special district is required by law to retain its public documents for the periods of time as set forth in the records retention schedules approved by the State Records Committee [W.S. 9-2-411 and W.S. 9-2-412]. The approved schedules are compiled for use by applicable governmental agencies.

The Wyoming State Archives, a part of the Wyoming State Parks and Cultural Resources, can provide copies of records retention schedules applicable to districts. These schedules are guidelines for destroying or permanently preserving specific records. Compliance with these guidelines (i.e., the retention schedules) protects the governing body and the designated records officer from complaints of misconduct when records are retained or destroyed in accordance with them.

The retention schedules identify types of records that are obsolete and eligible for destruction. Thus, following their provisions can reduce the need to spend scarce resources for storage equipment, space, and human resources needed to maintain the records [W.S. 9-2-401 and W.S. 9-2-410].

Confidential Records

Records containing confidential information should be properly destroyed by burning or shredding, with the process witnessed by the records management officer.

Permanent Records

Records scheduled as permanent should not be destroyed, even if they are scanned or the information they contain is entered into a computer system. The Wyoming State Archives is available to assist a district concerning any plan that would affect permanent records. If storage conditions or space is a problem, records can be transferred to the Wyoming State Archives. Such transfers will not break the legal chain of custody.

Microfilm Systems

By law, any agency adopting a microfilm system shall consult with the Wyoming State Archives. Approval of the process must be obtained if permanent records are being filmed. Agencies are required by law to comply with microfilm standards established by the Wyoming State Archives. Standards can be obtained by writing the Wyoming State Archives [W.S. 9-2-406 and W.S. 9-2-413].

Electronic Records

Digital files should be deleted from the folders. Be sure to empty the desktop “trash” or “waste basket.” For floppy disks and back-up tapes, it is recommended a physical destruction method be used (e.g. burning or shredding).

Additional Information

When requesting publications or have any questions, please contact:

Wyoming State Archives
State Parks and Cultural Resources
Barrett Building
2301 Central Avenue
Cheyenne, WY 82002
Phone: (307) 777-7826

SECTION 8 – REPORTING REQUIREMENTS

Wyoming State Statute has many important time sensitive requirements throughout the year. The following checklist includes many of those important due dates for which special districts must meet in regards to budgets, taxes, and financial reporting. It is important to note the items in this checklist may not include all time sensitive requirements. Please refer to the Legislature of the State of Wyoming's website for all State Statutes and Constitution.

Refer to the [Wyoming Governmental Entity Budgeting, Accounting, and Reporting Manual](#) for additional budget requirements regarding the preparation, adoption, and execution of the annual budgetary process.

Checklist 1 – Special District Reporting Calendar and Checklist

Dates	Function in Budget Preparation and Filing	Completed?
May 1	All departments should submit budget requests to the budget officer no later than this date.	
May 15	On or before this date, the budget officer should prepare a tentative budget for each fund and file the budget with the governing body.	
June 1	Beginning 2018, each special district in this state, no matter how formed, except districts created by and subject to administration by the courts, is required to report to the department and to the county clerk of the county where the special district is located its proposed budget for the next fiscal year. The report shall be made not later than June 1 of each year [W.S. 9-1-507(a)(viii)].	
	If a proposed budget is not provided to the county clerk as required by W.S. 9-1-507(a), the board of county commissioners may not approve funding of the special district mill levy [W.S.18-3-504(d)].	
Provide notice of hearing date	In the absence of a statutory requirement, the governing body of an agency shall provide by ordinance, resolution, bylaws or rule for holding regular meetings unless the agency's normal business does not require regular meetings in which case the agency shall provide notice of its next meeting to any person who requests notice. [W.S. 16-4-404].	
No later than the third Thursday in July	Hearings for special district budgets shall be conducted not later than the third Thursday in July. The governing board of any special district may choose to hold the budget hearing in conjunction with the county budget hearings and so advertise. Copies of hearings publications shall be furnished to the Department of Audit [W.S. 16-12-406(c)].	

Within 3 days AFTER the budget hearing	Within three (3) business days of the conclusion of the public hearing under W.S. 16-12-406, the governing body of each special district or other specified entity shall adopt the budget. Certified copies of the adopted budget shall be on file in the office of the special district or other specified entity and made available for public inspection pursuant to W.S. 16-12-303 [W.S. 16-12-408].	
	The final budget must be provided to the county clerk for posting to the county's website [W.S. 18-3-504(d)].	
July 31	The adopted budget shall be filed with the department of audit and county clerk on behalf of the county commissioners no later than July 31. The adopted budget shall be forwarded by the county clerk to the county assessor and county commissioners before mill levies are set [W.S. 16-12-408].	
	The tax levy to be imposed shall be certified by the county commissioners on or before this date [W.S. 39-13-104(k)].	
September 30	Complete and submit online to the Department of Audit, the required Survey of Local Government Finances (F-32 or F-66(WY-4)), no later than September 30. After September 30, the report is DELINQUENT [W.S. 9-1-507(a)(vii)].	
October 31	Complete and submit to the Department of Audit any additional oversight paperwork required by the Department of Audit, Public Fund's Rules with the exception of CPA audit reports and CPA review reports.	
December 31	CPA audit reports and CPA review reports as required by the Department of Audit, Public Fund's Rules, if applicable.	

Legal Filing and Auditing Requirements

Financial Reporting

Special districts have to report their financial condition in order to provide meaningful information regarding their activities to their taxpayers. In addition, it is important to gather this financial data for third parties who have an interest in how and where public funds are spent, such as the Census Bureau, the Department of Audit, State Loan and Investment Board, and others. Further, based on the financial information provided by special districts, decisions are made about the amount of public funds “at risk”. Depending on the risk level, an “oversight process” may be activated.

1. Survey of Local Government Finances (F-32 or F-66(WY-4))

Under the authority of W.S. 9-1-507(a)(vii) and all the Department of Audit, Public Fund Division's Rules on file at the Secretary of State's Office, **all special districts are required** to submit online the Survey of Local Government Finances (Form F-32 or F-66(WY-4)) no later than **September 30th of each year** with the Department, even if the district provides a CPA audit

report. The form is not only used by the Department, but also by the U.S. Census Bureau (Census Bureau) to develop comparative financial information for all special districts. It is also used for any special reporting to the legislature when requested.

The forms are designed in cooperation with the Census Bureau and are intended to be a simplified financial report. The financial information is not intended to be presented in conformity with generally accepted accounting principles (GAAP). However, the personnel completing the form should follow the instructions very carefully to insure uniformity with responses from other districts.

Since the Department of Audit and the Census Bureau use this data to make meaningful comparative analyses, the reports must be accurate and filed in a timely manner (no later than September 30th of each year) with the Department. If the personnel completing this form have any questions regarding this form, they should contact the Department of Audit's Public Funds Division, Local Government Programs.

Filing and Publishing of F-32 or F-66(WY-4) – Under the provisions of W.S. 9-1-510(b), a copy of this report shall be filed with the Department within three (3) months after the end of each district's fiscal year (i.e., September 30th). The director of the Department of Audit under W.S. 9-1-507(j)(ii) shall certify to the board of county commissioners and to the special district by October 5th of each year any special district in the county, no matter how formed, which has failed to submit their report.

If, by November 30 of that same year, the district has failed to submit the report, the director of the Department of Audit shall file notice with the county commissioners, the county treasurer and the county clerk. The county commissioners shall place a public notice in a newspaper of general circulation in the county indicating the special district is in danger of being dissolved due to failure to comply with the legal reporting requirements. The county commissioners shall assess the special district the cost of the public notice. The county treasurer shall withhold any further distribution of money to the district until the Department certifies to the county treasurer that the district has complied with all reporting requirements. If the special district fails to file the required report on or before December 30 of that same year, the county commissioners shall seek to dissolve the special district in accordance with W.S. 22-29-401 et seq.

2. Additional Oversight Requirements

Based on the revenues received or expenditures made during the fiscal year under review, a special district may be required to submit additional oversight paperwork to the Department, based on W.S. 9-1-507(a)(iii)(A-D). The level of risk assessment for each entity shall be determined each fiscal year. Any and all applicable oversight paperwork is due to the Department no later than October 31st of each year, with the exception of CPA Audit and CPA Review reports. CPA Audit and CPA Review reports are due no later than December 31st of each year.

The levels, based on the total annual revenue or expenditures, whichever is greater.

Table 1

Additional Oversight Procedures Per Level of Risk Assessment		
Level of Risk Assessment	Total Revenues or Expenditures	Additional Oversight Required
Any Level	Over \$750,000 in Federal Funds	<input checked="" type="checkbox"/> Single Audit
Level A	Over \$1,000,000	<input checked="" type="checkbox"/> Annual Report Summary <input checked="" type="checkbox"/> CPA Audit
Level B	\$500,000 to \$999,999.99	<input checked="" type="checkbox"/> Annual Report Summary <input checked="" type="checkbox"/> CPA Review
Level C	\$100,000 to \$499,999.99	<input checked="" type="checkbox"/> Annual Report Summary <input checked="" type="checkbox"/> Self-Audit <input checked="" type="checkbox"/> Internal Control Evaluation <input checked="" type="checkbox"/> Proof of Cash
Level D	\$25,000.01 to \$99,999.99	<input checked="" type="checkbox"/> Annual Report Summary <input checked="" type="checkbox"/> Proof of Cash
Level E	\$25,000 or less	<input checked="" type="checkbox"/> Annual Report Summary

A. Single Audit

Any entity expending \$750,000 or more in federal financial assistance for the fiscal years beginning on or after December 26, 2014 must have an independent single audit. In order to determine if an entity has expended \$750,000 or more in federal assistance, the entity should contact its grant manager. The federal assistance is usually, but not always, in the form of recreation grants, Community Development Block Grants (CDBG), Job Training Partnership Act (JTPA) funding, and Environmental Protection Agency (EPA) grants for water and wastewater. The federal Single Audit Act of 1984, as amended imposes this requirement and the related rules are presented in the Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Single audits should be submitted to the Federal Audit Clearinghouse no later than nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. No State Statutes provide for the Department of Audit to contract for and withhold state funds to pay for such an audit; however, the federal granting agencies would most likely refuse to make further grants to a community that does not satisfy this audit requirement. In the most extreme instances, the federal government could require the return of grant monies already expended by the recipient.

B. CPA Audit

CPA audit must be in accordance with Government Auditing Standards as required by W.S. 9-1-507(c). The audits are to be conducted in accordance with generally accepted auditing standards (GAAS), as promulgated by the Auditing Standards Board (ASB), a division of the

American Institute of Certified Public Accountants (AICPA) and generally accepted governmental auditing standards (GAGAS) (also known as Yellow Book), as produced by the Government Accountability Office (GAO) [W.S. 9-1-507(c)].

Cash basis financial statements, rather than accrual basis, may also be prepared by a CPA and accepted by the Department of Audit if the opinion is appropriately modified. Questions on financial statements may be directed to the Public Funds Division at the Department of Audit. The CPA selected to complete the audit should be experienced in doing governmental audits.

Refer to the Wyoming Governmental Entity Budgeting, Accounting, and Reporting Manual for the required financial statements, for which formats are set forth in Governmental Accounting and Financial Reporting Standards, published by the GASB.

C. CPA Review

CPA review is a lower level of service than a CPA audit. Because a CPA review is substantially less intensive in scope than an audit, the CPA can only express limited assurance there are no material modifications that should be made to the financial statements for them to be in conformity with the applicable financial reporting framework.

D. Self-Audit

A self-audit is performed by any official not involved in the daily transactions of the entity or by an independent third party. An independent third party is a person having a basic understanding of the purpose of the reporting entity and the nature of its business, with sufficient knowledge of bookkeeping or accounting to understand the financial transactions of the entity, but who does not have authority to issue or sign checks or warrants of the entity. Suggested self-audit procedures are available in Section 9 of this handbook and are meant to verify the correctness of transaction recording and to provide management with reasonable assurance assets are adequately safeguarded.

E. Internal Control Evaluation

An internal control evaluation, which shall be completed by officials, as it relates to the audit and review procedures, means and includes:

1. A documented analysis of the procedures established by the reporting entity to assure that financial transactions are properly recorded.
2. Tests of the system sufficient to determine whether the system, and compliance with its procedures, provides reasonable assurance that the entity's assets are safeguarded and that liabilities are accounted for; to test that public funds are used in accordance with laws, regulations, and policies; that resources are safeguarded against waste, loss, or misuse; and that reliable data are obtained, maintained, and fairly disclosed in reports.
3. A written summary of deficiencies in internal control significant in context to the audit objectives discovered and corrective measures, which should be implemented.

4. For the internal control self-evaluation of those entities not required to have a CPA audit or review, the Internal Control Evaluation Worksheet as provided by the Department and updated on an annual basis, may be used in fulfillment of this procedure.

F. Proof of Cash

A proof of cash is similar to a bank reconciliation, except more extensive and detailed. It is used to verify the “books of the entity” are in agreement with the cash transactions which have been recorded by the bank. This procedure shall be performed by an independent third party as defined in section D listed above.

G. Annual Report Summary

Is a checklist which requires certification by two authorized representatives of the entity. The checklist shall contain a certification statement. The authorized representatives shall verify under oath the information contained in the census report submitted online to the Department of Audit is a true, accurate, and complete presentation of the financial activities of the reporting entity.

A CPA audit or review may be done in place of any of the lesser procedures. Please submit to the Department of Audit an electronic copy of any audit or review report.

Note: The Annual Report Summary, Proof of Cash, and Self-Audit, including the Internal Control Evaluation, are available on the Public Funds’ website. Even if the Department does not contact the entity to submit the appropriate follow-up paperwork, the entity is still solely responsible for its completion and submission to the Department, no later than October 31st.

Note: Per W.S. 9-1-507 (e), Irrigation and Drainage District may request the Director of the Department of Audit (Director) to waive the oversight requirements listed above. Irrigation and Drainage Districts must comply with the requirements, as shown in the Wyoming Statutes for all financial procedures, for their districts. Each district must then submit the required proof of compliance to the Department along with a written request for a waiver. Proof of compliance includes, but is not limited to, a court certified copy of the district's receipts and disbursements, as well as a copy of the annual budget with the court authorized assessments for the year following the year for which the waiver is requested. Additional information will be required by the Director based on Table 1 levels listed above. Please contact the Public Funds Division of the Department of Audit for further guidance.

SECTION 9 – SUGGESTED SELF-AUDIT PROCEDURES

A self-audit may help a governing body discover potential issues, which then may lead to the body hiring a CPA to perform additional procedures. Types of services a CPA may provide are described in Section 11 of this handbook. A governing body may include these testing procedures to facilitate an independent third person's performance of a self-audit. In addition to these tests, the governing body should perform an internal control self-assessment. Refer to the Internal Control Section 10 of this handbook for further internal control explanation.

The following are types of testing relating to higher risk items (cash, investments, and capital assets).

1. Cash Receipts

A. Assessments and Property Taxes – A governing body can perform an analytical review of the entity's revenue (receipt) reports, since these revenue amounts are fairly well established and relatively stable year over year. The entity's revenue reports should present the budgeted current year, actual current year, and prior year actual balances. The reports should show each type of tax or assessment fee separately, so offsetting variations will not give misleading results.

Every significant fluctuation should be investigated and supported by explanation and documentation. Fluctuations without reasonable explanations should be researched further, as it could be a sign of fraud. The governing body should develop its own definition of "significant."

Investigative procedures may include one or more of the following:

- a. Directly contact tax or fee payers, asking whether there has been some sort of change which explains the variance.
- b. Consider changes in economic conditions that might impact the variance.
- c. Compare receipts per bank statements with receipts recorded in the receipts journal, for possible unrecorded items or items posted to the wrong revenue account.

B. Grant and Loan Proceeds are subject to large variations from year to year, depending on the number, size, and activity of the related projects. As a result, comparisons to prior years are meaningless. Possible audit procedures include:

- a. Develop a list of projects being funded (in whole or in part) by grant and loan proceeds. The list should identify receipts by individual grant or loan number.
- b. Confirm (by letter or telephone) the amount remitted by the grantor/lender.
- c. Compare amounts received with reimbursement requests submitted to the grantor or lender. The governing body may also trace information on the reimbursement requests to the underlying invoices and payments (a procedure which will be discussed in greater detail in the disbursements portion of this section).

C. Interest and Other Investment Income relate directly to the underlying investments.

The most common test is one for reasonableness. Multiply the total amount invested by the average rate of return (interest rate). If the result does not agree, within reason, with actual revenues, the variance must be investigated. Possible procedures include:

- a. Have the treasurer (who is charged by statute to make the investments authorized by the governing body) prepare a list of investments, showing amount, rate of return, date of acquisition, and dates of earnings distributions.
- b. Confirm the information on this list with the issuers of the investments.
- c. Compare the information on this list to actual receipts and deposits of earnings.

D. Utilities Revenues – Like taxes and licenses, utility revenues are usually consistent from year-to-year. The analytical review (reasonableness test), as described above in the Assessments and Property Taxes section, can be applied to the utility revenues, as well. The most likely reason for change is a rate change ordered by the governing body. Then, it is a simple matter of comparing the rate change to the revenue change (in percentage terms).

However, utility receipts are also the most susceptible to loss, simply because of the large volume of transactions. Because of this problem, occasionally, the governing body should consider applying the following procedures:

- a. Randomly select a number of utility customer account files for inspection. Be sure to select files for all categories of customers.
- b. Inspect the files for correctly calculated and recorded changes.
- c. Make sure payments are credited to the file and are deposited in the bank. Trace backward from the customer record, to receipt, to the bank deposit record.
- d. Consider confirming with customers the amount of their balances. This procedure becomes especially important in the case of delinquent accounts.
- e. Require a monthly report of delinquent utility accounts.

E. Other Revenue – Most other types of revenue a district receives have certain attributes in common with at least one of the revenue types described above. The governing body should perform a similar analysis of this revenue and apply the appropriate procedures to determine the reason for any unusual variances.

As a result of the analysis presented above, the governing body has also given itself some assurance receipts are properly classified within the cash receipts journal. If they are satisfied the journal is reasonably correct, statements taken from that journal should also be reasonably correct.

2. Cash Disbursements

State law requires the governing body to do a certain amount of disbursement auditing as a

matter of regular routine. Wyoming Constitution, Article 16, section 7 stipulates that “no bills, claims, ... shall be audited, allowed or paid until a full itemized statement in writing, certified to under penalty of perjury, shall be filed with the officer or officers whose duty it may be to audit

the same.” It is implicit that the governing body must make certain a claim is certified before they approve the payment. Thus, the governing body must review and determine the amount allowed on each claim for payment.

A. Reviewing Presented Claims – In most cases, the governing body reviews a list of claims compiled by the treasurer and approves the list for payment. This review should include the governing body inspecting the actual bills to make certain they are properly certified and agree with the claim list. The governing body should decide on the best method for their district to perform such a review. For instance, rather than each governing member reviewing each claim, a sample of claims may be reviewed. Another option may be one governing member review all or a sample of claims at a time. If the governing body chose this method, the governing members performing the review would rotate. When reviewing claims, the objective is to become satisfied a claim is valid and appropriate. To achieve this objective, a reviewer should apply the following questions to each claim:

- a. Is the claimant known? If the claimant is not known, independently confirm its existence by referring to the internet. Do not rely upon the address printed on the bill.
- b. Is the governing body aware the special district is conducting business with this claimant?
- c. Is there any proof the product or service was received by the special district?
- d. Is the bill mathematically correct? Do the quantities multiplied by the unit prices compute correctly? Does the total sum correctly? *Note: Do not assume a bill is correct just because a computer prepared it. While computers rarely make computational mistakes, formulas could have been entered into the system incorrectly.*
- e. Does the correct bill total agree with the amount on the claims list submitted to the governing body?
- f. In the case of payroll checks, does the gross amount agree with the employee's authorized pay rate?
- g. Is the claim certified under penalty of perjury?

The member or members conducting this review before each meeting may then make a “committee report” to the governing body stating they reviewed the list of claims to be paid, and the claims satisfied the tests listed above. The rest of the governing body can review the list, ask questions they might have, and the entire list can be approved for payment.

Note: Under no circumstances, should any payment ever be made without prior approval by the governing body (except a petty cash disbursement). For boards that meet only once monthly, payment timing can create a problem. To avoid late payment penalties, some utility bills could be pre-authorized by the board and paid before the whole board can approve the bills in a regular meeting. These bills should be reviewed by at least one board member before payment, even if they have been authorized as a “prepaid” by the board as a whole. The board chairman should also request that the actual bill be presented, with the check for his signature, for these bills. Also, no authorized check signer should ever sign a check before it has been fully completed with the name

B. Reviewing Correctness of Payments Made – In addition to testing for the propriety of the bills, as described by the review procedures above, governing body members need to review the correctness of the payments (paid amounts). The following procedures address that need:

- a. Select items from the list of approved bills and inspect the canceled checks on the bank statement which paid them, to make sure the payee and amount agree, and there is no indication either of these entries show any signs of alteration. (This test makes sure the payments are made in accordance with official authorization.)
- b. Select a sample of canceled checks from the bank statements and locate the items they paid on the list of approved bills. (This test looks for unauthorized disbursements.)
- c. Inspect canceled checks for authorized signatures, either the board chairman or president, the treasurer or his designated substitute. (This also tests for unauthorized disbursements.)
- d. Decide whether the expenditure is charged to the correct account and fund. (This test is to evaluate the reliability of the cash disbursements journal. Remember: The budget is the district's legal authorization to expend funds; thus one way to disguise unauthorized expenditures is to charge them to accounts with budget surpluses.)

As a result of the analyses presented above, the governing body has also given itself some assurance disbursements are properly classified within the cash disbursements journal. If they are satisfied the journal is reasonably correct, statements taken from that journal should also be reasonably correct.

3. Cash and Investments

Cash and investments are, by their nature, the assets most easily misappropriated or lost. For this reason, the governing body must make certain tests to verify the existence of these assets.

Note: The tests presented below are valid only if the receipts and disbursements tests presented above have also been applied. The tests presented below are designed to determine if all cash and investments are accounted for, not whether all money received was deposited or all money disbursed was done so legitimately.

A. Review Bank Reconciliations

Obtain the bank reconciliations from the treasurer and perform the following tests. Please note the reconciled balance of a bank account, which is called the book balance, should agree with the balance on general ledger. If it does not, an error has occurred. The error must be located and corrected prior to approving the reconciliation. See Proof of Cash section below for guidance.

- a. Inspect the bank statement for any signs of alteration.
- b. Compare the ending balance on the bank statement to the bank balance used in

- c. Examine the reconciliation for any deposits in transit. Deposits in transit are deposits showing in the receipt journal which do not appear on the bank statement, since they were recently deposited. If there are any such items, ask the treasurer for an explanation.

In the following month's review, ensure the deposits in transit from the prior month cleared the bank statement in the following month.

- d. Review the list of outstanding checks. Outstanding checks are checks that have been issued per the cash disbursements journal but have not been withdrawn from the bank as of month's end. In the following month, ensure the bank statement shows the debit (withdrawal) of the outstanding checks. If an outstanding check has not been withdrawn from the bank in the following month, the governing body should contact the payee to resolve the issue.
- e. Inspect the reconciliation for any other reconciling items and determine their nature, explanation, and appropriateness.
- f. Once the reconciliation has been reviewed and found to be mathematically correct, make sure each item on the statement has supporting documents (canceled checks, other charges, credits, or deposits). Performing this review helps to limit any unauthorized disbursements or transfers to another account.

B. Proof of Cash

The most common way of locating an error in an operating account is through the use of a proof of cash. Use this analysis and the bank reconciliation to identify any errors in the journals and ledgers. The basic formula is as follows:

$$\begin{array}{rcl} & \text{Beginning reconciled cash} & \\ + & \text{Adjusted cash receipts} & \\ - & \text{Adjusted disbursements} & \\ = & \text{Ending reconciled cash} & \end{array}$$

The key to working with the proof of cash is determining the correct amounts for adjusted receipts and disbursements. The idea here is to reconcile total receipts or disbursements per the bank statement to the related journal.

a. Formula for Adjusted Receipts:

$$\begin{array}{rcl} & \text{Receipts (e.g., deposits) per current bank statement} & \\ + & \text{Deposits in transit per the current month's bank reconciliation} & \\ - & \text{Deposits in transit per the prior month's bank reconciliation} & \\ +/- & \text{Other reconciling bank items} & \\ = & \text{Receipts per the receipts journal} & \end{array}$$

b. Formula for Adjusted Disbursements:

$$\begin{array}{rcl} & \text{Disbursements (e.g. checks clearing) per current bank statement} & \\ + & \text{Outstanding checks per current month's bank reconciliation} & \\ - & \text{Outstanding checks per prior month's bank reconciliation} & \\ +/- & \text{Other reconciling disbursement items} & \\ = & \text{Disbursements per the disbursement journal} & \end{array}$$

Usually, the “other reconciling items” shown in these formulas have not been recorded in the receipts or disbursements journal. These items must now be recorded in the appropriate journals and posted to the general ledger.

C. Investments

The treasurer should maintain a listing of investments as described in the “Interest and Other Investment Income” portion of the Cash Receipts section. The governing body should use that list as a starting point to do the following procedures:

- a. Inspect the original, not copies of, investment documents to determine if the investment really exists.
- b. Inquire of the issuer whether the district actually owns the listed investment.
- c. Perform an analysis similar to the proof of cash (above) to determine changes in the investment portfolio. Trace (i.e. follow the cash portion of the transactions) all changes to the appropriate journals. If an investment is cashed in, there should be a deposit to the bank account. If one is acquired, there should be a check recorded in the disbursements journal.

D. Inventories

Inventories for districts usually refers to supplies used in public utilities operations that have a significant dollar value, such as water meters, or goods for resale such as the Weed and Pest Districts maintain. However, the audit procedures presented below can be applied to any inventory type item.

The important consideration when testing inventory is the potential loss to the district. For instance, inventories with small dollar values probably are not worth the time or effort to audit, as compared to inventories with larger (material) balances. As such, the governing body must determine which inventories represent significant investments to the district.

The basic objective when testing inventories is to determine whether inventories are susceptible to unauthorized use. The following procedures can help meet this objective.

- a. Perform a physical count of all inventory items.
- b. Determine what records (reports) are prepared for receipt (purchase) and issuance (sale) of inventory items.
- c. Using the receiving and issuing reports, perform a test to determine whether the inventory is reasonable based on the supporting documentation. To do this, use the following formula:

$$\begin{array}{r} \text{Beginning inventory} \\ + \text{Inventory received} \\ - \text{Inventory issued} \\ \hline = \text{Ending inventory} \end{array}$$

If the “Ending inventory” balance does not agree to the physical count, the inventory balance must be updated to agree to the physical count and the variance investigated.

E. Property and Equipment

Unauthorized use or dispositions are the two primary concerns with property and equipment. The following procedures are intended to monitor the district’s capital assets through proper internal controls over their usage:

- a. Create a policy that tags or otherwise places identifying marks on all of the district’s equipment. This policy is particularly critical to any asset that could be converted to private purpose and has a significant value, usually such things as office equipment and hand tools.
- b. During inspection visits to various operational sites, look for the tags or marks on the district’s assets.
- c. Generate and routinely update a capital asset register. A capital asset register is a listing of all items with a dollar value in excess of some minimum amount, which have useful lives in excess of one year. It is the governing body’s responsibility to determine and document the minimum amount used for the asset register. The register should include a description, tag or identifying number, cost, date of acquisition, and location where it is held.
- d. Periodically, perform an existence test. Select items on register and locate them to make sure they exist and are still functional. If the asset is no longer functional, it may have to be written off of the books.
- e. Periodically, perform a completeness test. Before looking at the register, identify the district’s property. Once identified, agree the asset to the capital assets register. If the asset is not listed, the register is not complete and the total assets are understated. Therefore, appropriate adjustments must be made to properly account for the district’s capital assets.
- f. Any asset purchased with a federal grant must be documented as such on the accounting records and on the tag or identifying mark on that asset.

SECTION 10 – INTERNAL CONTROLS

Any type of audit may be performed in conjunction with an internal control evaluation. Proper internal controls provide reasonable assurance assets are adequately safeguarded. If a special district does not have an external auditor perform a review of the internal controls, the governing body should perform such a self-assessment of the internal controls and implement internal controls where necessary to reasonably safeguard the entity's assets.

Accounting responsibilities, procedures, and policies should be designed to help prevent:

- ⠁ Misstatement of account balances because errors (both intentional and unintentional) go undetected.
- ⠁ Misappropriation of cash and other resources of the governmental entity.

These objectives are pursued through a sound internal control structure which is carefully established and meticulously followed by accounting personnel. Such an internal control structure may also tend to promote operational efficiency.

COSO Framework

For a governmental entity to achieve sound internal controls surrounding their financial statements, it is recommended to use The Committee of Sponsoring Organizations of the Treadway Commission (COSO)'s *Internal Control – Integrated Framework* for guidance. This framework is recognized as a leading framework for designing, implementing, and conducting internal control and assessing the effectiveness of internal control.

The COSO Framework defines internal control as follows:

“Internal control is a process, affected by an entity’s board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance.”

Further, the COSO Framework states internal control consists of five integrated components. These components are as follows:

1. The **control environment** sets the tone of the organization, generally flowing as an attitude from the entity's management (governing body). When this is communicated to everyone in the organization, it becomes the foundation for all of the other components.
2. **Risk Assessment** refers to any of the risks to the entity, associated with external as well as internal sources. Looking at special districts, all of the risks are not easily or readily apparent, but financial risk can range from funding sources which dry up, costly Environmental Protection Agency (EPA) regulations, to lawsuits, and misappropriations of funds.
3. **Control activities** are the policies and procedures that help ensure managements' directives are carried out. They include approvals for purchases,

monitoring for compliance with laws and regulations, security of assets, and segregation of duties. The activities occur at all levels of the entity.

4. **Communication and information** are the ways and means used by management and the organization in achieving their objectives, in carrying out their responsibilities, and in understanding each of their roles and how it relates to others. Communication needs to flow upward, across, and externally, as well as downward from management.
5. **Monitoring** is the last component of internal control and it is a process that assesses the quality of the system over time. This can be best accomplished through two methods – **activity monitoring** and **evaluation**. When a government body approves the bills at council meetings that is activity monitoring. Completing an internal control self-assessment is part of the second method.

Professional Internal Control Guidance

For more information on the COSO Framework, refer to the *Internal Control – Integrated Framework* from the Committee of Sponsoring Organizations of the Treadway Commission, available from the COSO's website or the American Institute of CPAs (AICPA).

For guidance on establishing an internal control structure, refer to the Government Accountability Office's Standards for Internal Control in Federal Government or The Green Book.

Internal Control Self-Assessment

Performing a self-assessment and following the COSO Framework to create, apply, and monitor internal controls will help to create an environment where the objectives of preventing and detecting a misstatement of account balances because errors (both intentional and unintentional) do not go undetected and cash and other resources are less likely to be misappropriated.

When performing the internal audit self-assessment, the objective is to identify areas of weakness within a governmental entity's internal control structure. Based on the identified weaknesses and the related risk level of each weakness, an entity can create appropriate internal controls to reasonably prevent or detect a misstatement or misappropriation of assets.

As the objective is to identify weaknesses within the entity, as a whole, it is suggested to have all officials and related boards and councils involved in performing the self-assessment. Further, if the governmental entity uses an accountant, consult with them on this self-assessment. They are in a good position to evaluate the entity's operation and offer suggestions.

Having these parties involved will help the members of the entity have a comprehensive understanding of every role's responsibilities. With this understanding, identifying weaknesses and any related controls, or lack thereof, will be more effective and efficient.

Examples of Internal Controls

- i Proper authorization of transactions and activities.
- i Segregation of duties to reduce the opportunities to allow any person to be in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. A sound segregation of duties entails assigning different people the responsibilities of authorizing transactions, recording and reconciling transactions, and maintaining custody of assets.
- i Design and use of adequate documents and records to help ensure proper recording of transactions and events, such as monitoring the use of pre-numbered checks.
- i Adequate safeguards over access to and use of assets and records, such as secured facilities and authorization for access to computer programs and data files.
- i Independent checks on performance and proper valuation of recorded amounts, such as clerical checks, reconciliations, comparisons of assets with recorded accountability, computer-programmed controls, management review of reports that summarize the detail of account balances, and user review of computer-generated reports.

Note: Often, the fiscal staff is too small, they alone, cannot have an adequate internal control environment. In these instances, the governing body must become actively involved in the day-to-day financial activities. They must provide the checks and balances needed to properly safeguard the district's assets.

SECTION 11 – CPA SERVICES

Certified Public Accountants (CPAs)

CPAs are bound by professional standards to perform an adequate level of testing, investigation, and analytical procedures to support their expressed level of assurance. As such, officials often turn to CPAs when they become aware of a known or suspected problem.

Governing officials may find (suspected) problems by performing a self-audit. A few indicators of a problem are as follows:

- a. Incorrect record-keeping, such as the books and records not balancing.
- b. Inadequate explanations for journal entries.
- c. Assets are not properly accounted for.
- d. Inadequate safeguards on assets.

In addition, even if no problems or suspected problems are apparent, when a treasurer plans to leave the entity, the Department recommends, at a minimum, the special district request for services (or an audit) from a CPA. Having a professional accountant review or audit the financials will help to ensure the records are materially stated and in proper condition for the new treasurer.

Hiring a CPA

Once the governing body agrees to hire a CPA, the CPA will determine the procedures to perform and the amount for which they will charge the special district. The type of performed procedures and the related charges can be different for each entity, depending on the size of the entity, the type of transactions they perform, the quantity of transactions performed, and even the treasurer's level of knowledge and experience. In addition, the type of procedures performed will depend on the areas of concern found within the entity. The following are a few common concerns:

- 1. The books do not balance to the cash.
- 2. The records are not complete.
- 3. The payroll records do not reconcile with other reports or records.
- 4. Entity officials have not regularly reviewed any cumulative reports of the entity's activities.
- 5. Budget to actual comparisons have not been performed by the treasurer or provided to officials.
- 6. Segregation of duties is not strong (e.g., only one person has been involved in the record keeping and collection of funds).

Other CPA services

An audit normally expresses a positive (unqualified) opinion on the financial statements. Wyoming governmental units must have audits performed in conformity with Generally Accepted Governmental Auditing Standards (GAGAS). Even though the district may not be required to have an audit, there are several other services a Certified Public Accountant can provide. Some of these are as follows:

1. **Compilation** – A compilation constitutes presenting in the form of financial statements, information that is the representation of the district without undertaking to express any assurance on the statements. **The Department of Audit does not accept this level of service for any of the required oversight procedures.**
2. **Review** – A review consists of the CPA performing inquiry and analytical procedures that provide the CPA with a reasonable basis for expressing limited assurance there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles.
3. **Special Reports** – A special district may also engage a CPA to apply **agreed-upon procedures** to one or more specified elements, accounts, or items of a financial statement. For example, the district may wish to have the CPA report on the cash balances or on the cash receipts and disbursements for a year. The district may also engage a CPA to report on only certain types of revenue or expenses. This type of engagement provides a great deal of flexibility due to the fact the district only receives a report for those items they select. In many cases, this may result in significant **cost savings** over an audit in accordance with generally accepted governmental auditing standards.

NOTE: For further information on reporting and evaluating the accounting records for the district, please see the section on INTERNAL CONTROL EVALUATION. Someone who is independent of the district with basic accounting skills may use the procedures described in the section AUDIT PROCEDURES, to give the district officials some idea of the quality of their accounting system.

Completion of the Internal Control Document found on the Department of Audit's website, may indicate the district would want or should have someone outside the governmental unit to evaluate the district's Internal Control System or audit the district's records. The Department of Audit recommends using an auditor who has had governmental auditing experience.

Types of audits

Auditing serves a number of purposes, depending on the type of audit performed. Financial audits focus on the correctness of recorded transactions and financial statement information. Compliance auditing tests transactions and activities for compliance with laws and regulations. Performance auditing has historically focused on economy, efficiency, and achievement of program objectives.

1. **Financial auditing** involves inspecting documentation supporting individual transactions and account balances to determine whether the transactions are appropriate and the balances are correct. The underlying purpose of such audits is to provide reasonable assurance, but not absolute assurance, the financial statements are presented fairly, in all material respects, and give a true and fair view in accordance with the financial reporting framework.
2. **Compliance auditing** can also be performed in conjunction with a financial audit. As the auditors review individual transactions and the related supporting documentation, not only do they determine if the transaction was recorded in

amount, but also to determine if the transaction was permissible under applicable laws and regulations.

3. **Performance auditing** refers to an independent examination of a program, function, operation or the management systems, and procedures of a governmental entity to assess whether the entity is achieving economy, efficiency, and effectiveness in the employment of available resources.

SECTION 12 - FEDERAL FINANCIAL ASSISTANCE

Federal Financial Assistance

Wyoming Special Districts receiving funds from the federal government are required to properly account for the expenditures of these funds. That includes compliance with all federal regulations applicable to the grants, meeting the requirements of contracts and grant agreements, and use of the funds for only those purposes for which they were granted. One of the requirements is that total expenditures of \$750,000 or more of federal money in a fiscal year generates the need for an independent CPA audit report done in accordance with the provisions of the Single Audit Act of 1984 (as amended in 1996), and the requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Local governments that spend less than \$750,000 a year of federal financial assistance shall be exempt from compliance with the Single Audit Act and other federal audit requirements.

The auditor's report, according to the Uniform Guidance, is to contain a schedule of federal award expenditures. The schedule includes expenditures for each federal financial assistance program, including the Catalog of Federal Domestic Assistance (CFDA) Number when assigned. Therefore, the records maintained by the district must be adequate to provide the required expenditure information by federal program for inclusion in the audit report.

Districts receiving federal assistance must know and understand how the provisions of federal regulations impact the accounting and management of that assistance. In addition to specific requirements contained in the federal award contract or awarding documents, as a minimum, district management must be knowledgeable of the following federal regulation and how their requirements affect the district's individual federal awards.

Single Audit Act of 1984 (and amendments of 1996)

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance)

2 CFR Part 200, Appendix XI Compliance Supplement

OMB Circular A-133 “Audits of States, Local Governments and Non-Profit Organizations”

OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments”

OMB Circular A-102 “Grants and Cooperative Agreements with State and Local Governments” (the Common Rule)

The codification of the Common Rule by federal agency from which the district has received federal assistance

Drug Free Workplace Act of 1988

Federal Funding Accountability and Transparency Act (FFATA) of 2006 (as amended)

Copies of the Single Audit Act and the OMB Circulars mentioned in this document are available from the Office of Management and Budget at <http://www.whitehouse.gov/omb/>. The other Acts can be obtained through internet queries. Please call the Department of Audit for any additional guidance needed on this section.

APPENDIX A – DOCUMENTATION OF DEPOSITORYIES**Illustration 1 – Resolution by the Board of Directors of an Approved Depository**

WHEREAS, it is necessary for (name of designated depository) to properly secure the political division or subdivision for all monies deposited in the bank by the Treasurer of the political division or subdivision, hereinafter call the Treasurer; and

WHEREAS, no deposits will be made in the bank by the Treasurer unless the deposit is properly secured, and the giving of proper security is one of the considerations for receiving the deposits; and

WHEREAS, the Treasurer may, when furnished proper security, carry a maximum credit balance with the bank of _____ dollars; and

WHEREAS, the treasurer is willing to receive securities designated by laws of Wyoming as legal collateral security as security for the deposit;

NOW, THEREFORE, BE IT RESOLVED by the board of directors of the depository bank that any two of the following named persons, officers of the bank, are authorized and empowered to pledge to the Treasurer of the state of political subdivision securities of this bank which are legal for collateral security for deposit of public funds, and which the Treasurer is willing to accept as collateral security, and in amounts and at the time the Treasurer and bank officers agree upon:

(Bank Officer's Name)

(Title)

BE IT FURTHER RESOLVED that this authority given to the officers of the bank named herein to furnish collateral security to the Treasurer shall be continuing and shall be binding upon the bank until the authority given to the bank officers named herein is revoked or superseded by another resolution of this Board of Directors, verified copy of which shall be delivered by a representative of the bank to the Treasurer or mailed to the Treasurer by registered mail. The right given the officers named herein to pledge security as collateral also includes the right to give additional collateral security and to withdraw such collateral as the Treasurer is willing to surrender and the right to substitute one piece or lot of collateral for another, provided the Treasurer is willing to make such exchanges or substitution.

BE IT FURTHER RESOLVED that the bank officers named herein are fully authorized and empowered to execute in the name of the bank such collateral pledge agreement in favor of the Treasurer as the Treasurer requires, and any collateral pledge agreement executed or any act done by the bank officers named herein under the authority of this resolution shall be as binding and effective upon this bank as though authorized by specific Resolution of the Board of Directors of this Bank.

Illustration 2 – Joint Custody Receipt

(This document is to be executed in triplicate. One copy for the Public Entity, One Copy for the Depository Bank, and One Copy for the Custodian Bank. This form shall be used for Joint Custody Receipts other than those of the Federal Reserve.)

Receipt Date: _____

Receipt Number: _____

_____| hereinafter called the custodian, has
(Custodian Bank Name and Address)
received to be held in safekeeping subject to the joint order of _____
(Public Entity)
Hereinafter called the public entity and _____ hereinafter called
(Depository Bank)
the depository bank the following described securities:

<u>Security Description</u>	<u>Interest Rate</u>	<u>Par Value</u>
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The custodian will detach as they mature and enter for collection the coupons from the securities (as applicable) and the proceeds when collected will be credited to the account of the depository bank unless otherwise ordered by the public entity treasurer.

The custodian will enter matured principal for collection and hold the proceeds when collected subject to the joint order of the public entity treasurer and depository bank.

It is understood by the public entity treasurer and the depository bank that the custodian assumes no responsibility for the nonpayment of interest or principal nor for the validity, genuineness or enforceability of any of the securities deposited in safekeeping hereunder nor makes any representation or warranties expressed or implied, as to the value or worth thereof, nor for the giving of notice of maturity, calls for redemption or the exercise of any rights, priorities, privileges of exchange or conversion or for the timely presentation of maturing principal or interest of any securities deposited under this agreement.

The custodian assumes no responsibility with respect to the safekeeping and condition of deposited property beyond the care and custody it gives its own securities held on its own premises. Any and all forms of protective insurance are to be furnished by the public entity treasurer and depository bank at their option and expense. The custodian is not required to furnish any form of protective insurance.

The custodian shall deliver the securities to the public entity treasurer upon the sole order of the public entity treasurer when supported by a verified certificate of the state banking commissioner certifying under seal that the depository bank has failed or refused to pay all or a portion of the deposit due the public entity treasurer by the depository bank and that under the terms of the pledge agreement executed

by the depository bank the public entity treasurer is entitled to delivery of the securities described in this receipt or the proceeds thereof. Otherwise, the securities shall be delivered only upon the written joint order and instructions of the public entity treasurer and depository bank.

Name, signature, and title of Authorized Person of custodian bank

Name: _____

Signature: _____

Title: _____

RELEASE

This receipt is hereby surrendered and the custodian is authorized to release the above securities and make disposition as follows:

Name: _____
(Depository Bank)

Name: _____
(Public Entity Treasurer)

Title: _____

Title: _____

Date: _____

Date: _____

NOTE: The securities shall be delivered only upon the written joint order and instructions of the public entity treasurer and depository bank. In the case of a bank failure, the securities shall be delivered on the sole order of the public entity treasurer when supported by a verified certificate of the state banking commissioner certifying under seal that the depository bank has failed.

APPENDIX B: INTERNAL CONTROL SELF-ASSESSMENT

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
PREPARED BY THE OFFICIALS OF THE DISTRICT OF _____ on (date) _____.				
I. CONTROL ENVIRONMENT				
<u>Budgets and Planning</u>				
1. Are responsibilities for budget preparation segregated?				129-131
a. Budget preparation _____				
b. Adoption _____				
c. Execution _____				
d. Reporting _____				
2. Are budgets prepared for every significant activity regardless of whether the preparer thinks they are required by law?				
3. Is the type of budgeting performed (traditional, program, performance) the same as the accounting system?				
4. Is the budget prepared in sufficient detail to provide a meaningful tool used to monitor subsequent performance?				
5. Are interfund and interdepartmental transfers included in the budget?				
<u>Adoption</u>				
6. Is citizen input obtained through budget hearings?				
7. Are estimated revenues and appropriations recorded in the accounting records for later comparison to actual amounts realized or incurred?				
8. Are budgets that have been approved by grantors, for using with grant activity, recorded in the accounting system?				
9. Are budgets and hearings published as per Wyoming				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
Statutes?				
<u>Execution</u>				
10. Have procedures been adopted and communicated establishing authority for transfers between budget categories?				
11. If expenditures are to exceed budgeted expenditures, then do accounting personnel submit budget amendment requests before the issuance of a purchase order or expenditure commitment?				
12. Are budget amendments processed and approved in the same manner as the original budget?				
<u>Reporting</u>				
13. Are actual expenditures compared to budget with reasonable frequency and on a timely basis? (usually monthly)				
14. Does the governing body request explanations for significant variations from budget?				
<u>Conflicts of Interest</u>				
15. Does a formal policy regarding conflicts of interest exist?				
16. Are written representations required from appropriate personnel as to compliance with accounting policies and procedures and ethics policies?				
17. Are loans of any kind to officials and employees prohibited? (see Accounting Handbook Introduction)				
<u>Monitoring</u>				
18. Are the adequacy and effectiveness of the internal control structure policies and procedures periodically evaluated?				
19. Are measures implemented to correct weaknesses when found?				
II. ACCOUNTING SYSTEM				

INTERNAL CONTROL SELF-ASSESSMENT		YES	NO	N/A	Other Explanation
<u>General</u>					
1. Does the entity have adequate written statements and explanations of its accounting policies and procedures for the following?					
a. Chart of accounts					
b. Computer system documentation					
c. General ledger documentation					
d. Transaction approval and authorization					
e. Bad debt write off procedure					
f. Closing journal entries/procedures					
<i>(If the processes and policies within the Wyoming Governmental Entity Budgeting, Accounting, and Reporting Manual (Manual) are adopted, the accounting manual would serve this purpose.)</i>					
2. Are accounting manuals updated as necessary?					
3. Do procedures exist to ensure that only authorized persons can alter or establish a new accounting policy or procedure?					
4. Are the principal accounting, treasury, and custody functions segregated?					
5. Are the responsibilities for maintaining the general ledger segregated from those for maintaining subsidiary ledgers? As well as segregated from those for custody of assets?					
6. Are records maintained in a secure facility such as fire-resistant locked cabinets in limited access areas, with alarms and detection devices?					
7. If records are maintained in a secure facility, does the facility have alarms or detection devices?					
8. Is insurance coverage reviewed and adjusted on a yearly basis? Are equipment, programs, and data files covered					

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
by insurance?				
9. Are journal entries properly approved, adequately explained, and in accordance with management's authorization?				
10. Are all journal entries reviewed, approved, and supported by adequate descriptions or documentation?				
11. Were gifts or donations provided (except for "necessary support of the poor"), or support for any political activity by use of public funds?				
<u>Computerized Data Processing</u>				
12. Is the data processing system documented such that the organization could continue to operate if important data processing employees leave?				
<u>Financial Reporting</u>				
13. Do procedures exist providing reasonable assurance that all data required to be included in legal, as well as public reports, are properly disclosed?				
14. Are financial reports reviewed and approved by the governing body before public release?				
15. Are there procedures to ensure that all requirements for filing of financial reports are met?				
III. CASH				
<u>Receipts</u>				
1. Are collection and deposit preparation functions segregated from those for recording cash receipts and general ledger entries?				
2. Are responsibilities for cash receipts functions segregated				
a. From those for cash disbursements?				
b. From those for voucher preparation?				

INTERNAL CONTROL SELF-ASSESSMENT		YES	NO	N/A	Other Explanation
	c. From those for bank reconciliations?				
	d. From those for journal entry process?				
	e. From those for accounts receivable utility and assessments posting?				
3.	Are all receipts deposited on a timely basis (preferably daily and at the end of each month)?				
4.	Are the same controls for receipt requirements and deposits maintained and enforced in all collection locations?				
5.	Are receipts and bank deposits compared and balanced daily?				
6.	Is a restrictive endorsement placed on each incoming check upon receipt?				
7.	Are receipts written for every payment of money to the entity?				
8.	Are "not sufficient funds" checks delivered to someone independent of processing and recording of cash receipts? Are they monitored to make sure that they are clear?				
9.	Are receipts pre-numbered and recorded consecutively in the Receipts Journal? Are the originals of "voids" retained?				
10.	Do facilities exist for protecting undeposited receipts?				
11.	Do controls exist providing reasonable assurances that restricted revenues are expended only for restricted purposes (e.g., deposited to separate bank accounts)?				
12.	Are the deposits made complete and intact with no cash being withheld?				
<u>Disbursements</u>					
13.	Are claims only paid after "the claim is certified under penalty of perjury by the vendor or by an authorized person employed by the entity receiving the items or for				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
whom the services were rendered," per Wyoming Constitution, Article 16, Section 7?				
14. Are bills paid only from original invoices (not statements)?				
15. Does control exist over warrant or check-signing machines as to signature plates and usage?				
16. Are the facsimile signatures registered with the Secretary of State? Is the facsimile signature plate in custody of the person whose signature it is, when not in use?				
17. Are procedures provided for immediate notification to banks when check signers leave the unit or are no longer authorized to sign?				
18. Are invoices and vouchers furnished to check signer at the time of signing? Are invoices supporting documents cancelled or marked "Paid" to prevent reuse?				
19. Is the drawing of warrants or checks to "cash or bearer" always prohibited?				
20. Are unused checks and voided checks adequately secured?				
21. Does anyone ever sign blank checks?				
<u>Bank Accounts</u>				
22. Are signature cards and depository agreements reviewed and updated at least yearly?				
23. Are there adequate controls and security over petty cash?				
24. Are separate bank accounts maintained for each fund legally required to be segregated?				
25. Are bank transfers reviewed each month and the transactions authorized/approved by the governing body?				
26. Are check number sequences checked for completeness in the bill approval or check signing process with all checks used in sequence and accounted for?				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
27. Has any member of the governing body reviewed an unopened bank statement (for each bank account) at least once this year? (Check for unauthorized vendors, unauthorized transfers, and authorized payer signatures.)				
28. Do procedures exist for steps essential to an effective 2nd person financial statement reconciliation, such as:				
a. Comparison of warrants or checks in appropriate detail with disbursements records?				
b. Examination of signature and endorsement, at least on a test basis?				
c. Accounting for numerical sequence of warrants/checks used?				
d. Comparison of book balances used in reconciliations with general ledger accounts?				
e. Comparison of deposit amounts and dates with cash receipts entries?				
f. Footing of cash books?				
29. Are all reconciliations and investigations of unusual reconciling items reviewed and approved by an official who is not responsible for receipts and disbursements? Is there evidence of the review and approval by signing on the reconciliation?				
30. Are checks outstanding for a considerable time periodically reviewed for propriety?				
31. Has the Unclaimed Property – Annual Reporting been completed and timely filed?				
<i>Investments</i>				
32. Are custodial responsibilities for documents evidencing ownership assigned to an official who has no accounting duties?				
33. Are investment policy guidelines consistent with Wyoming Statutes, formally established, and periodically				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
reviewed?				
34. Are competitive bids sought for bank certificate purchases?				
35. Are individuals with access to safe deposit boxes bonded?				
36. Are periodic comparisons made between income received and the amount specified by the terms of the security?				
37. Does the governing body receive a monthly detailed report of the securities and certificates of deposit held? (These should include the original bank or investment statements)				
<i>Accounts Receivable</i>				
38. Are aggregate collections on accounts receivable reconciled against posting to individual receivable accounts?				
39. Are totals of individual accounts receivable balanced to a GL Control account each month, by someone other than the accounts receivable clerk, and records maintained of the reconciliation?				
IV. GRANTS				
1. Is responsibility for monitoring grant activities properly fixed? The Compliance Monitor is _____.				
2. Do procedures exist to monitor compliance with:				
a. Financial reporting requirements?				
b. Use of funds and other conditions in accordance with grant terms?				
c. Timely billing of amounts due under grants?				
3. Is all grant activity/financial transactions, separated from the accounting for local funds, or as required by the grant agreement?				
4. Are grant revenues and disbursements processed under the same degree of controls applicable to the entity's other				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
transactions or under more stringent control standards?				
5. Are procedures in place that ensures that all General Requirements, as well as all Specific Compliance Requirements are being met, according to rules established by OMB Circular A-133 for all Federal Grants?				
6. Has the district reviewed all State Land and Investment Board rules and regulations, when receiving any SLIB money?				
7. When applicable, do sub-grantee agreements contain the same compliance requirements as the primary grantee's agreement and are they being monitored for compliance, by the primary grantee?				
V. CAPITAL ASSETS				
1. Is a separate capital project's budget prepared?				
2. Do procedures exist for approving decisions regarding financing alternatives and accounting principles, practices, and methods?				
3. Are grant-funded acquisitions subject to the same controls as internally funded acquisitions?				
4. Are project cost records established and maintained for capital expenditures and repair projects?				
5. Are detailed property records maintained for all significant self-constructed, donated, purchased, or leased assets?				
6. Is the accountability for each asset established?				
7. Do procedures exist for periodic inventory of documents evidencing property rights (for example: deeds, leases, etc.)?				
8. Do physical safeguards over all assets exist?				
9. Are detailed property records periodically compared with existing assets and differences investigated and resolved?				
10. Is equipment properly identified by metal numbered tags,				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
engraved ID #s, or other means of positive identification?				
11. Are all items purchased with Federal funding so identified on the item and in the property records?				
12. Do procedures exist for the proper disposition of assets in compliance with State and Federal laws?				
13. Has the governing body established a policy which governs depreciation rates, capitalization of assets, and determines leasing policies?				
VI. PURCHASING				
1. Are responsibilities for the requisitioning, purchasing, and receiving functions segregated from the invoice processing, accounts payable, and general ledger functions?				
2. Are responsibilities for the disbursement preparation and disbursement approval functions segregated from those for recording cash disbursements and general ledger entries?				
3. Are responsibilities for the disbursement approval function segregated from those for the disbursement preparation function?				
4. Are policies regarding conflicts of interest and business practice policies established, documented, and distributed?				
5. Are procedures modified when funds disbursed under grant or loan agreements and related regulations impose requirements that differ from the organization's normal policies?				
6. Do approval procedures and bidding procedures exist for purchase order and contract issuance?				
7. If construction contracts are to be awarded, are bid and performance bonds considered and used?				
8. Is a record of suppliers who have not met quality or other performance standards by the purchasing department maintained?				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
9. Are invoices (vouchers) reviewed and approved by a senior employee for completeness of supporting documents and required clerical checking?				
10. If an invoice is received from a supplier not previously dealt with, are steps taken to ascertain that the supplier actually exists?				
11. Is responsibility fixed for seeing that all cash discounts are taken and if applicable, that exemptions from sales, federal excise, and other taxes are claimed?				
VII. PAYROLL AND PERSONNEL				
1. Are all changes in employment (additions and terminations), salary and wage rates, and payroll deductions properly authorized, approved, and documented?				
2. Are appropriate payroll records maintained for accumulated employee benefits (sick leave, vacations, and retirement)?				
3. Do written personnel policies exist?				
4. Are controls established to ensure that payroll costs charged to grants are in compliance with grant agreements?				
5. Are hours worked, overtime hours, compensatory time, and other special benefits reviewed and approved by the employee's supervisor?				
6. Are time cards or other time reports reviewed for completeness and approved by the employee's supervisor?				
7. Do procedures exist for authorizing, approving, and recording vacations, holidays, and sick leave?				
8. Is a separate, imprest-basis, payroll bank account maintained?				
9. Are payroll checks periodically distributed by the internal auditors (or others) to ascertain that employees exist for all				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
checks prepared?				
10. Are accrued liabilities for unpaid employee compensation and benefit costs properly recorded or disclosed?				
11. Are employer payroll liabilities being paid on a regular basis and are reports being timely filed?				
VIII. GENERAL PROCEDURES				
1. Is there a formal plan of organization for the unit of government under which reporting responsibilities are clearly defined and reasonably aligned?				
2. Is the principal accounting officer over accounting records and accounting employees supervising at all locations?				
3. Are employees in positions of trust bonded in amounts required by statutes or organization policy?				
4. Are written accounting, policy, and procedural manuals distributed to appropriate personnel?				
5. Do procedures exist to ensure that financial reports are prepared on a consistent basis?				
6. Are the adequacy and effectiveness of the internal accounting controls related to the organization's transaction systems (procurement, revenues and receivables, etc.) periodically evaluated?				
7. Has a drug-awareness policy been adopted by the governing body?				
8. Has a continuing procedure for drug-awareness been implemented and followed up on for all employees?				
9. Does the governmental entity have a written plan addressing the provisions of the Americans with Disabilities Act?				
10. Has someone in the organization been designated as the ADA Coordinator?				
11. Have any sexual harassment issues been brought to the				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
attention of anyone in the entity's organization?				
12. If yes to question #11, has the district's attorney been informed of all the details disclosed?				
IX. INFORMATION TECHNOLOGY (IT) CONTROLS				
1. Does the entity have written IT policies and procedures manual?				
Physical Security				
2. How is physical access to the computer system controlled?				
3. How is access to the above location monitored (are there sign-in sheets, video surveillance, etc.)?				
Logical Security				
4. Are usernames and passwords required to access the network? If so, answer the following questions.				
a. Is there a required format for passwords and what is it?				
b. Is the format enforced?				
c. Are passwords required to be changed regularly?				
d. Is this enforced?				
e. Are users locked out after a number of failed login attempts?				
f. Are users logged off after a short period of inactivity?				
5. Does each computer user have a unique username and password that is restricted only to their use?				
6. Are there procedures for adding, modifying, and deleting users promptly?				
7. Are there firewalls in place to protect email and applications accessible via the internet?				
Disaster Recovery				

INTERNAL CONTROL SELF-ASSESSMENT	YES	NO	N/A	Other Explanation
8. Is there a formal disaster recovery plan?				
9. If so, is the disaster recovery plan reviewed in a timely manner?				
10. Are IT systems backed up?				
11. Are backups of IT systems performed timely? (Ideally IT systems should be backed up daily.)				
12. Are backups stored on-site?				
13. Are backups stored off-site?				
14. Is access to the backups restricted?				
15. In case of power failure, does the entity have a procedure to restore data?				
16. In the event of an emergency when critical personnel are unavailable (sick or vacation) are there procedures or personnel in place to handle IT issues?				
17. Is there a maintenance schedule for computer equipment?				

After completing this document, while thinking of the actual process used by the positions (people) involved, review all "NO" answers. There may be steps which taken now will mitigate the weakness shown by the "NO" answer. For example, by just changing one step in the process, such as assigning another employee or governing body member as an approval sign-off person into the process, it will be able to establish a control. Awareness of the problem is certainly the first step towards resolution.

The Department of Audit, Public Funds Division may be contacted at (307) 777-7799 regarding techniques useful in resolving weak internal control systems.

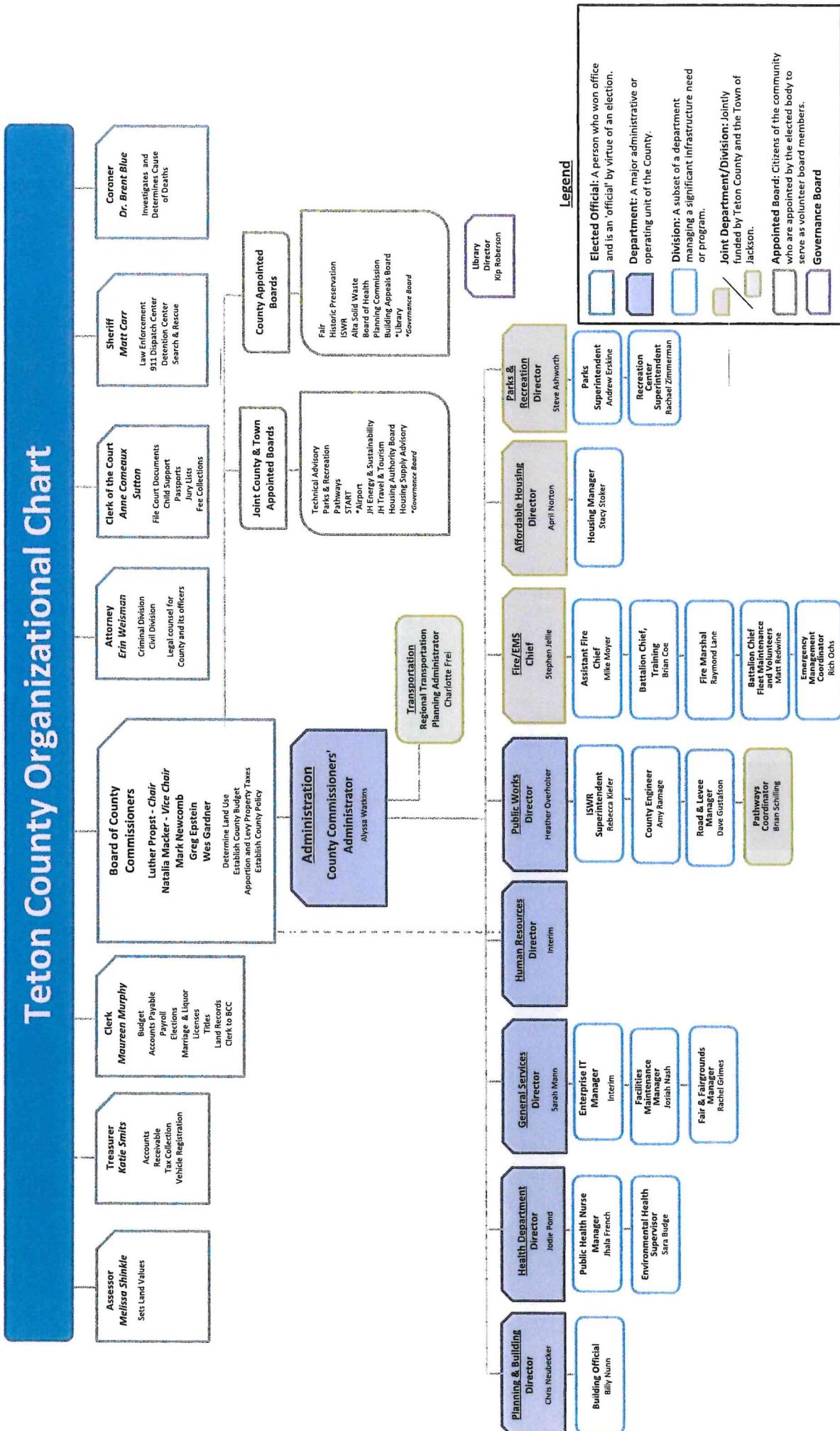


TETON COUNTY

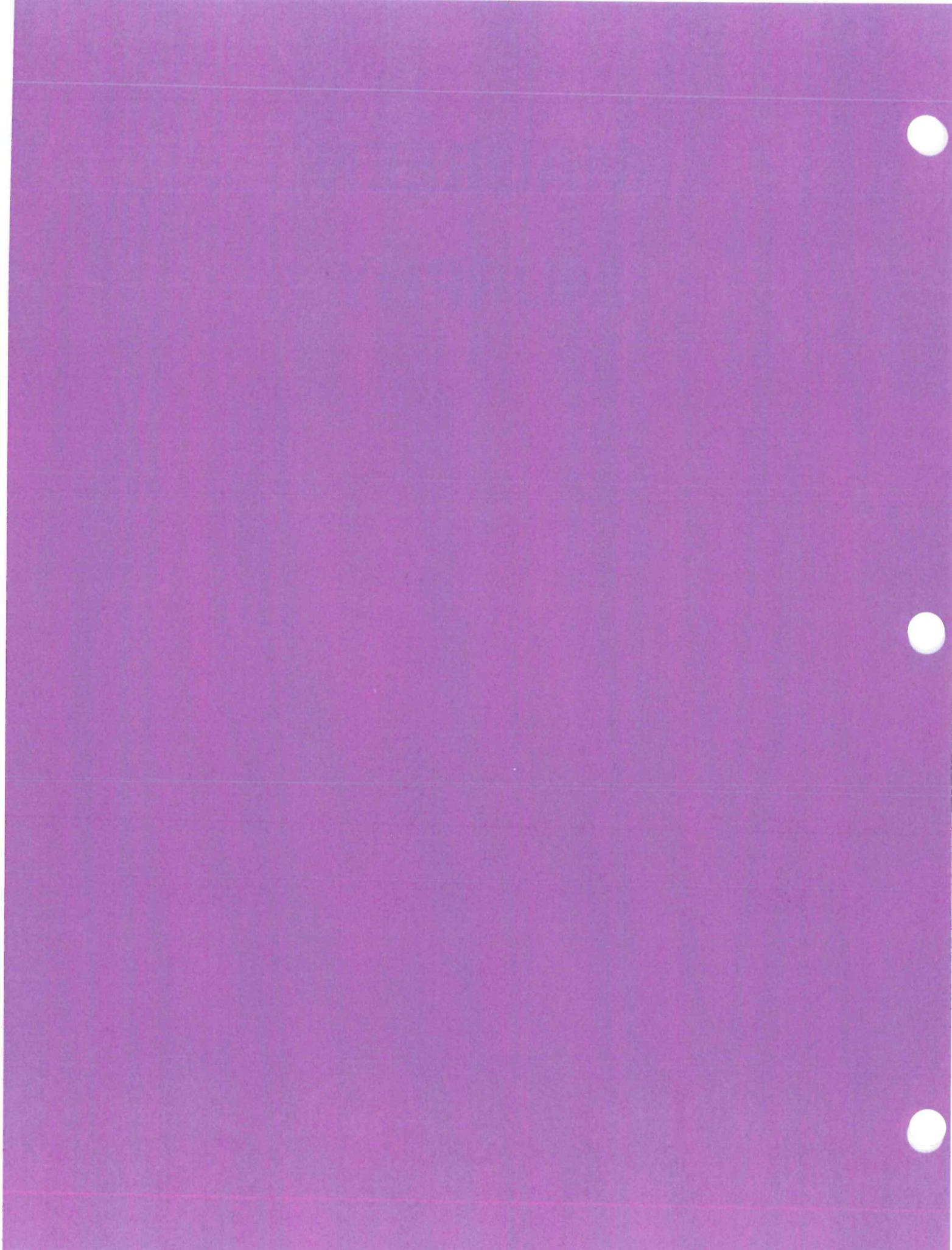
ORGANIZATIONAL

CHART

Teton County Organizational Chart



**MAUREEN
MURPHY**



WY Dept of Audit
Fiduciary Responsibility for Elected
Officers & Appointed Boards
Training

Teton County, Wyoming



1

FISCAL RESPONSIBILITIES
Teton County, Wyoming



Understanding of Board and Council Election Processes

- School Boards, Service & Improvement District Boards, Cemetery Boards, Conservation District Boards and Weed & Pest Boards are elected.
 - In Teton County, the majority of Special Districts run their own election.
- County Board members and term expirations are on the County website.
- Applications for County-appointed Board positions can be found in the Clerk's Office
 - The Town Council appoints for Town appointed Boards
 - Town Council and Board of County Commissioners appoint for the Joint-Appointed Boards

2

MEETING MINUTES
Teton County, Wyoming



Minutes

- Minutes are required to be taken at all administrative meetings regardless of whether official action has been taken.
- If no action is taken, the minutes do not need to be published. However, they do need to be available for public examination.
- The entire proceedings of all regular and special meetings must be published in a newspaper published in the County, if any, and post the minutes on the County's website. The County Clerk of each County shall furnish the paper with a copy of the proceedings within the time called for in Wyo Stat §18-3-516(a)
- Agencies are not required to post or publish any day-to-day administrative activities of an agency or its officers or employees



Board retreats - do min need
to be kept. - Yes

3

RECORDS MANAGEMENT
Teton County, Wyoming



State Retention Schedules

All public records are required by law to be retained for the periods of time as set in the records retention schedules approved by the State Records Committee. They shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed in accordance with Wyoming Statutes §9-2-405 through §9-2-410.

- Contact the Records Management Unit of the Wyoming Dept of State Parks & Cultural Resources who have created record retention programs for Wyoming public records and on information describing how long to keep specific documents at (307) 777-7826.

Public Records Requests

In Teton County, the Clerk is the person that is the chosen recipient for all Public Records Requests.

- Wyoming Statutes §16-4-200 et al and §16-12-303

4

REPORTING REQUIREMENTS
Teton County, Wyoming



Census Reports

By September 30th of the year, all districts must complete and submit online to the Department of Audit the required Survey of Local Government Finances (F-32 or F-66(WY-4)). If it is not submitted, it is DELINQUENT and taxes will not be distributed to the District.

Follow Up Paperwork

Please visit the Special District Handbook for the complete calendar or <https://audit.wyo.gov/public-funds/forms> for all forms.

Budget Submissions for Special Districts

Preliminary & final budgets must be submitted to the WY Dept of Audit and the County. The final budget must be submitted electronically no later than July 31st of each year.

5

PAYROLL
Teton County, Wyoming



How to Determine Contract Labor versus Employee

Contract Labor: Persons need to have a contract on file. If amount paid in total for a calendar year is equal to or exceeds \$600, this must be reported to the IRS on Form 1099.

Federal Reporting

Employer's Quarterly Federal Tax Return (IRS Form 941) – Summary totals, wages, salaries, Federal Income Tax withheld and FICA from each employee.

Wage & Tax Statement (IRS Form W-2) – The employee receives this form at year end with the amounts earned and withheld for taxes.

Employment Eligibility Verification (USCIS Form I-9) – Employees must complete a Form I-9 to document verification of the identity and employment authorization of each new employee.

Employee's Withholding Allowance Certificate (IRS Form W-4) – Employees must complete this form so the employer can withhold the correct federal income tax from the employee's pay.

Other: Workers' Compensation, Unemployment Compensation, Retirement, Deferred Comp

6



PAYROLL
Teton County, Wyoming

Town & County Elected Officers

All maximum wages paid to Town & County Elected Officials are set by statute. A resolution is created every four years by the municipality or the County to set the pay.

Informational Resources

irs.gov: Workforce Services, Wyoming Special District Handbook



GRANTS
Teton County, Wyoming

GRANTS

- All applications for grants shall be approved by the Board at a regular public meeting, with proper public advertisement that such grant application will be considered
- All Boards are encouraged to explore and compete for all possible funding sources that have a community benefit
- All grant applications awards, contracts or other documents must be filed and maintained by the County Clerk. It is important that all grants funded by the federal government, or which include federal funds include the Catalog of Federal Domestic Assistance (CFDA) number.
- The grantee board is "solely responsible for compliance with all performance requirements of the grants and for providing all necessary information for financial compliance testing."
- Consequently, board members should be aware of the specific compliance guidelines as highlighted in the grant contracts and agreements and regularly inquire of management regarding the status of grant compliance.



GRANTS
Teton County, Wyoming

GRANTS

- **Reporting Requirements**
 - If total expenditures of \$750,000 or more of federal money in a fiscal year generates the need for an independent CPA audit report done in accordance with the provisions of the Single Audit Act of 1984 and the requirements of Title 2 US Code of Federal Regulations (CFR) Part 200, Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Local governments that spend less than \$750,000 a year of federal financial assistance shall be exempt from compliance with the Single Audit Act and other federal audit requirements
- **Accounting for Grants**
 - Districts receiving federal assistance must know and understand how the provisions of federal regulations impact the accounting and management of that assistance.

FIDUCIARY RESPONSIBILITY FOR APPOINTED BOARDS
Teton County, Wyoming



RESOURCES

There are abundant resources available to board members, if questions arise.

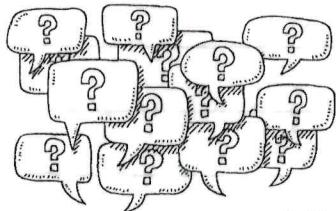
Katie Smits	County Treasurer	(307) 732-8417	ksmits@tetoncountywy.gov
Maureen Murphy	County Clerk	(307) 733-4430	mmurphy@tetoncountywy.gov
Melissa Shinkle	County Assessor	(307) 733-4960	mshinkle@tetoncountywy.gov
Alyssa Watkins	County Commission Administrator	(307) 733-8094	awatkins@tetoncountywy.gov
Keith Gingery	County Civil Attorney	(307) 733-4012	kgingery@tetoncountywy.gov

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FIDUCIARY RESPONSIBILITY FOR APPOINTED BOARDS
Teton County, Wyoming

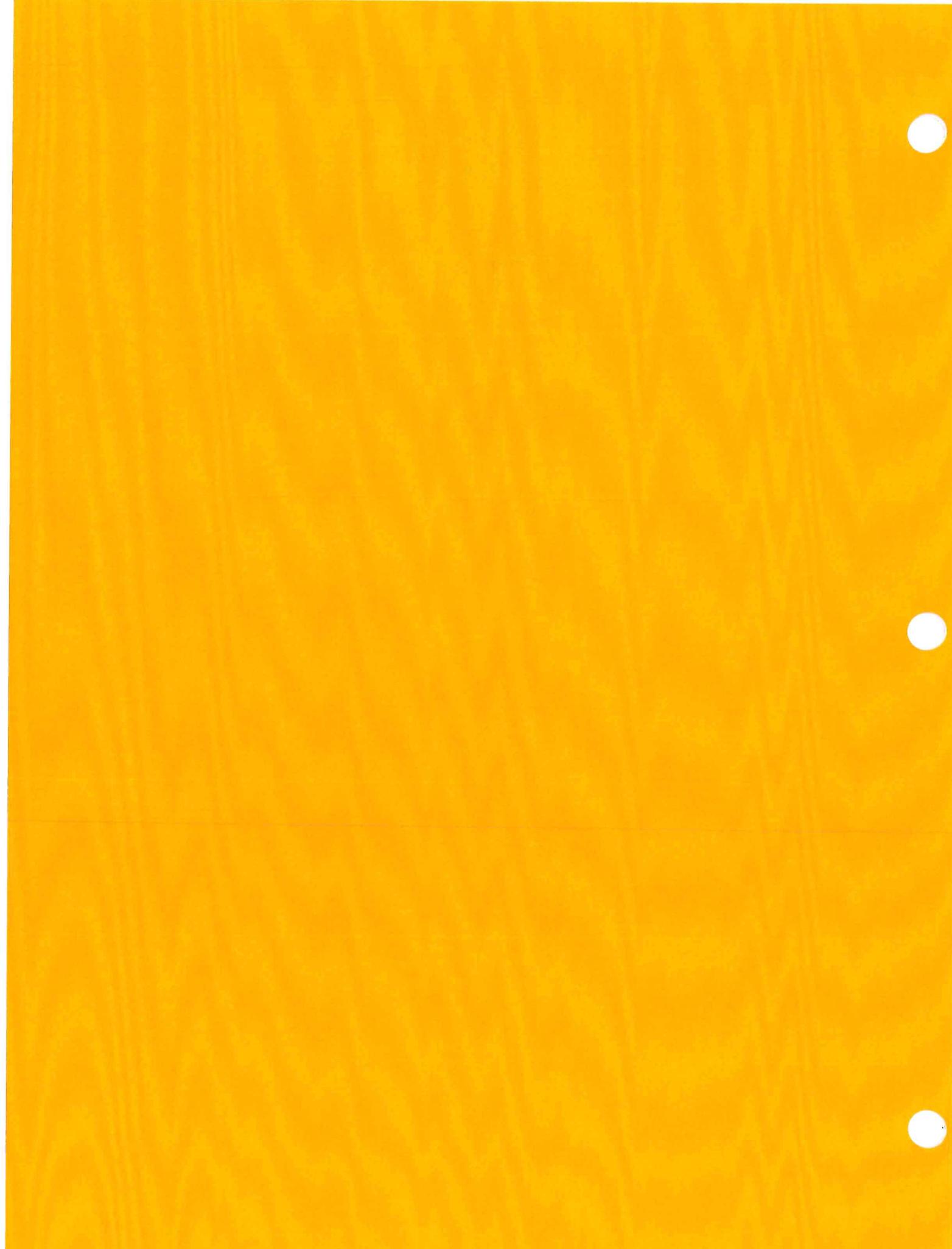


Questions?



11

**KATIE
SMITS**





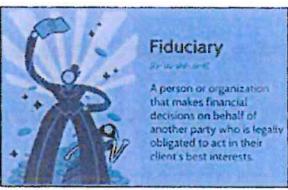
Wyoming Department of Audit --Fiduciary Responsibility for Board Members and Public Officers--

Presented by Katie Smits
Teton County Treasurer

1

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming 

WHAT IS A FIDUCIARY
By participating on a board, a fiduciary responsibility is expected.


A person or organization that makes financial decisions on behalf of another party who is legally obligated to act in their client's best interests.

FIDUCIARY = TRUST

- The fiduciary has an obligation to carry out the responsibilities with the utmost degree of good faith, honesty, integrity, loyalty and undivided service of the board."

2

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming 

Fiscal Responsibilities

Treasurer Responsibilities:

- A Treasurer of a Board or an elected County Treasurer **MUST** prepare accurate accounting of the monthly financial status including balances, a record of income and expenses, and any other financial reports, as needed.
 - Records should be up to date and open to the public at any time
 - Handbook teaches that they must maintain appropriate records to show "financial accountability (asset inventories, cash flow statements, balance sheets and monthly treasurer's reports)"
- Also included is paying bills on time, making timely deposits, provide info for annual audits, etc
 - See pages 23-25 of the Wyoming Special District Handbook

Bookkeeper Responsibilities:

- Some boards hire bookkeepers as opposed to the Treasurer of the Board to perform these duties

3

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

Depositories

- Organizations **MUST Designate Depositories**
 - Depositor must be designated/approved by the governing body
 - Should be renewed when new Clerk is appointed, when elections of a new board have occurred, or when both have happened
- Depositories must be:
 - Banks incorporated
 - National Banks
 - Savings and Loan Associations
 - Federal Savings and Loan Associations
- All Deposits should be **FULLY INSURED** by FDIC or collateralized
 - The limit is \$250k for all monies in non-interest-bearing accounts
 - An added \$250k for all monies in interest-bearing accounts
 - If the organization is over these limits - the excess money must be collateralized!!

4

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

Depositories continued

- Simple way to get a depository approved
 - Create a relationship with the institution
 - Get interest rate info, fee schedules, etc.
 - Some bank may not want your money
 - Present depository to the governing body
- Get signed resolution
- Get collateral information - what will be pledged on your behalf if over \$250k?
- See pages 9-12 and Appendix A of the Wyoming Special District Handbook

5

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

Investment Policies

- Organizations **MUST** have a *Statement of Investment Policy*
 - Simply write up a resolution and get it approved by the governing body (same as depositaries) Could be as simple as: "All available cash will be kept on deposit at the bank and no other investment is to be allowed."
 - What are your organization's cash flow needs?
 - Many different investing options to consider
 - Savings, CD's, Wyoming Investment Pools, bonds, etc.

6

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

TETON COUNTY
WYOMING

Reporting Requirements

- Does your organization have a yearly External Audit?
 - If so, your finances and internal controls will be evaluated
 - Special Districts **MUST** report annually to the DOA and have an external audit
 - See pages 22-27 in the Wyoming Special District Handbook

September 30	Complete and submit online to the Department of Audit, the required Survey of Local Government Finances (F-32 or F-68/WY-4), no later than September 30. After September 30, the report is DELINQUENT [W.S. 0-1-507(a)(viii)]
October 31	Complete and submit to the Department of Audit any additional oversight paperwork required by the Department of Audit, Public Fund's Rules with the exception of CPA audit reports and CPA review reports.
December 31	CPA audit reports and CPA review reports as required by the Department of Audit, Public Fund's Rules, if applicable.

Checklist 1 from page 23 in Handbook

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Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

TETON COUNTY
WYOMING

Reporting Requirements continued

- If your organization doesn't need an annual audit
 - It **MUST** do an Annual Report Summary, Self-Audit, Internal Control Evaluation, and or Proof of Cash Statement
 - Due by October 31st each year
 - All of this is done through the Department of Audit
 - DOA website Public Funds Division->Self Audit, Internal Control Evaluation, and a Proof of Cash (for each bank account)
 - See pages 22-34 in the Wyoming Special District Handbook - Sections 8 and 9

Total Revenues or Expenditures	Report(s) due to DOA
Level C \$100,000 to \$400,999.99	<ul style="list-style-type: none"> • Annual Report Summary • Self-Audit • Internal Control Evaluation • Proof of Cash
Level D \$25,000.01 to \$99,999.99	<ul style="list-style-type: none"> • Annual Report Summary • Proof of Cash
Level E \$25,000 or less	<ul style="list-style-type: none"> • Annual Report Summary

Table 1 from page 23 in Handbook

8

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

TETON COUNTY
WYOMING

Internal Controls

Five Components:

- Control Environment – sets the tone of the organization
- Risk Assessment – what are the risks of your entity?
- Control Activities – organizations need policies and procedures for cash handling, investments, A/R, A/P, and payroll
 - Does your organization have segregation of duties?
- Communication and Information – how is your organization communicating within itself and does everyone understand their duties and what the duties are of others?
- Monitoring – Activity Monitoring and Evaluation – how is the organization assessing itself?
 - See pages 25-28, pages 33-37, and Appendix B of the Wyoming Special District Handbook

Note: Often the fiscal staff is too small they alone cannot have an adequate internal control environment. In these instances the governing body must become actively involved in the day-to-day financial activities. They must provide the checks and balances needed to properly safeguard the district's assets.

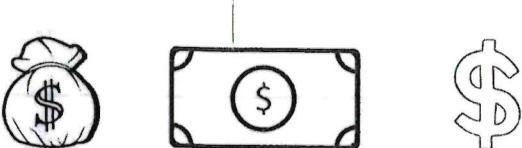
9

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

Common Teton County Policies

Deposits – All monies received must be deposited when either:
the amount on hand equals \$750 or every third business day, whichever occurs first.

Segregation of duties – Every County Department that handles cash is responsible for establishing and maintaining a written policy which addresses segregation of duties, posting procedures, deposit procedures, petty cash controls, and reconciliation procedures and they must be submitted to the County Treasurer for approval.



10

Fiduciary Responsibility for Board Members and Public Officers
Teton County, Wyoming

Treasurers of Special Districts

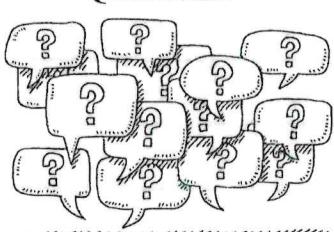
- All Special Districts that levy taxes to be collected by the County Treasurer shall have a surety bond for the Special District Treasurer on file at the County Treasurer Office. The bond amount is to be determined by the Special District Board.
- All Special District taxes collected are disbursed via electronic deposit on the 2nd Monday of the following month.

The County Treasurer shall be notified of any changes in the Special District Treasurer position and a new bond is required.

11

FIDUCIARY RESPONSIBILITY FOR APPOINTED BOARDS
Teton County, Wyoming

Questions?



12

MARY

MARTIN

YRAM

YRAM

Building Better Boards
Public Officer Training



1



Welcome

Luther Propst
Commission Chair

2



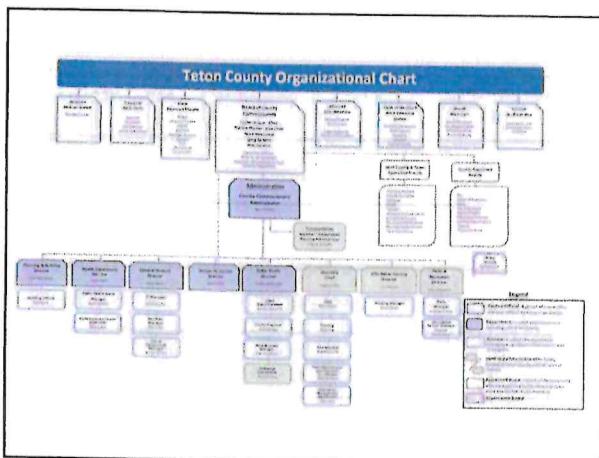
County Organizational Chart

Alyssa Watkins
Commissioner Administrator

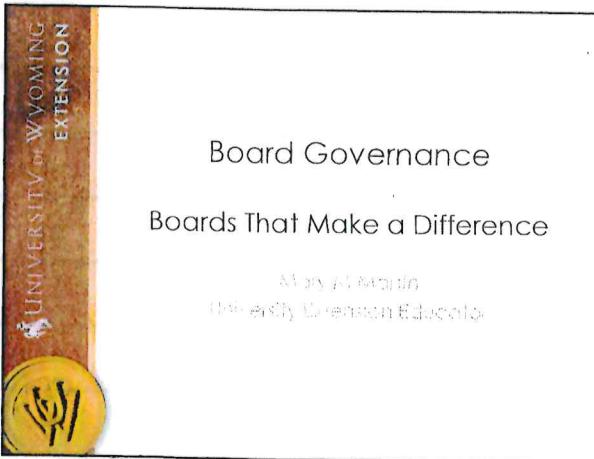
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4



5



6

Boards that Make A Difference

- Advance the common good with uncommonly good work



UNIVERSITY OF WYOMING EXTENSION

7

- Duty of Care
- Duty of Loyalty
- Duty of Good Faith



"Make sure everything's done ethically.
Within reason, of course."

UNIVERSITY OF WYOMING EXTENSION

8

Officers---the Chair



Presides at
meetings



Creates purposeful
agenda



Serves as board
contact to public



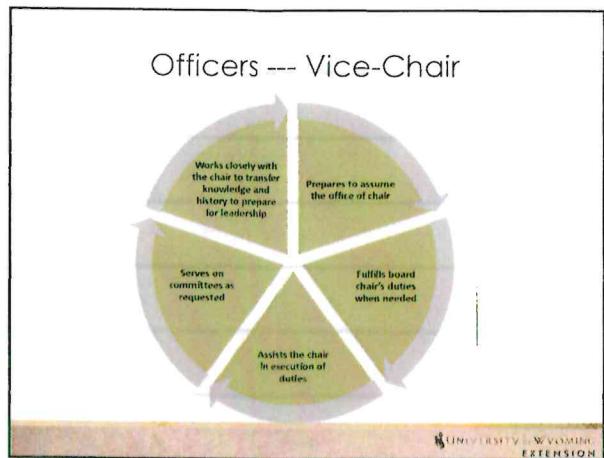
Sets goals and
objectives with
board and ensures
they are met



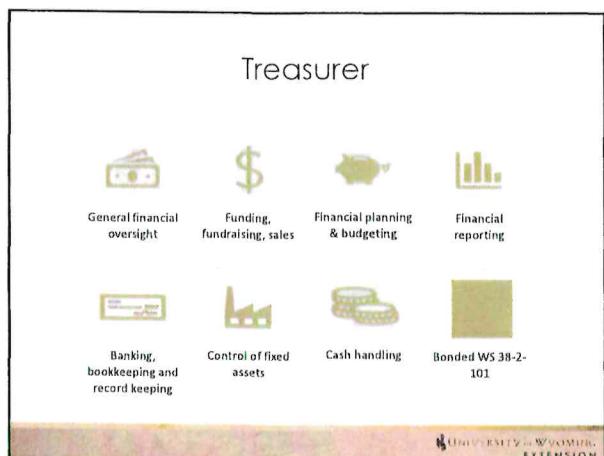
Ensures compliance
with
county/state/federal

UNIVERSITY OF WYOMING EXTENSION

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The Board Responsibility Matrix

► The board as the governors or trustees –the decision makers of the organization	► The board as advisors and leaders of the organization

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Responsibilities

► In its governance role, the board fulfills its responsibilities by acting as a collective body	

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Objectives

► Governance To ensure that the organization fulfills its legal and financial responsibilities and fulfills its responsibilities to the community	► Management To ensure that the organization's work is accomplished and to represent the organization to the community

UNIVERSITY OF WYOMING EXTENSION

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1. Safeguard assets
2. Keep it legal
3. Make decisions for future
4. Accountability and reputation
5. Get help when you need it
6. Plan for arrival and departure of individual board members

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Wyoming Department of Audit

Appendix B: Internal Control Self-Assessment

APPENDIX B: INTERNAL CONTROL SELF-ASSESSMENT				
INTERNAL CONTROL SELF-ASSESSMENT		YES	NO	NOT APPLICABLE
GENERAL ENVIRONMENT				
1. Mission and Vision Statement				
2. Policies and Procedures				
3. Organizational Structure				
4. Financial Resources				
5. Human Resources				
6. Technology				
7. Stakeholders				
8. Risk Management				
9. Internal Control Environment				
10. External Control Environment				
11. Ethical Environment				
12. Compliance Environment				
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338. Internal Control Environment				
3				

Planning a Meeting

- What is the purpose?
 - Expectations for outcomes



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Frequency of Meetings



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Extension

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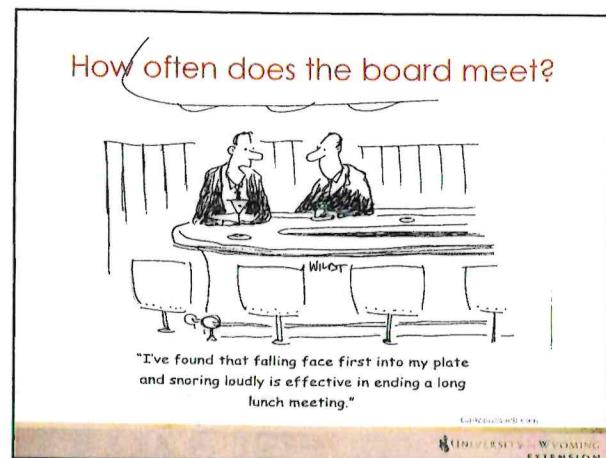
How long should the meeting last?



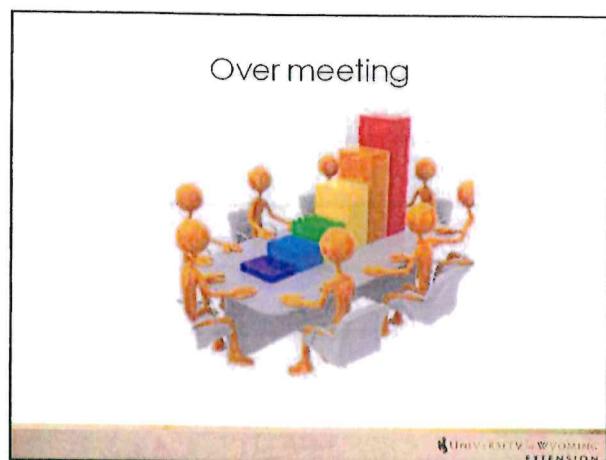
University of Wyoming
Extension

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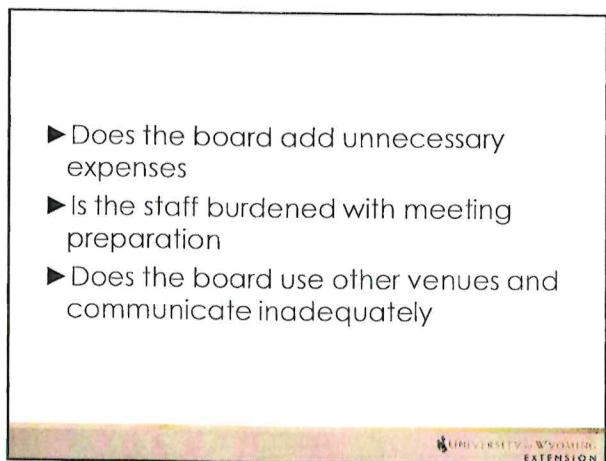
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The meeting room



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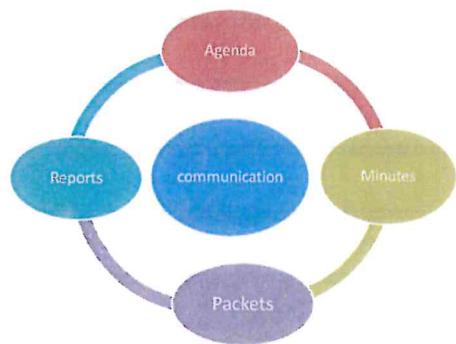
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Boardroom Cause and Effect

- If the board considers hierarchy important
- If informality drives the meeting
- If boredom has set in
- If the chair is not able to control the proceedings
- If board members fidget and seem irritated

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Characteristics of good board information

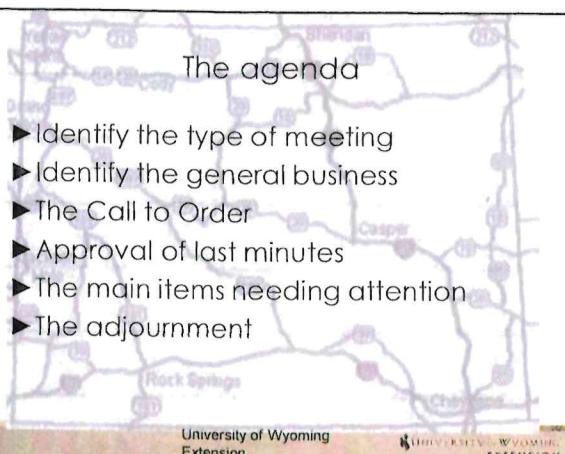
- ▶ Concise
- ▶ Meaningful
- ▶ Timely
- ▶ Relevant to Responsibilities
- ▶ Best Available
- ▶ Context
- ▶ Graphic Presentation

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The agenda

- ▶ Identify the type of meeting
- ▶ Identify the general business
- ▶ The Call to Order
- ▶ Approval of last minutes
- ▶ The main items needing attention
- ▶ The adjournment



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The agenda

- ▶ Time allotted for each item
- ▶ Outcome expected
- ▶ Future focused
- ▶ Mission moments

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A cardinal agenda mistake



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Consent Agendas

- Allow the board to group standard, regular and routine items under one heading and pass that "package" with one vote.

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Standard Consent Agendas Include

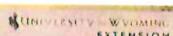
- committee and director reports
- approval of the minutes from the last meeting
- any routine documents that simply need to get recorded in the minutes, and
- other items that have previously gone through deliberation and simply need the final seal of approval from the board

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Board Packets

- A main tool to prepare members for meeting
 - Meeting agenda
 - Copies of committee reports
 - The operational report from chief executive
 - Minutes from the last meeting
 - Any support and background information on the main business items
 - Helpful data and articles to familiarize members with purpose of meeting
 - Dashboard report



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Suggested Minutes Format

W.S. 16-4-202, W.S. 16-4-401 through 408, and W.S. 16-12-304

- Minutes of (name of org) Proceedings
- Members Present, Date and Time of Meeting and Location and Presider
- Approval of Prior Meeting Minutes
- Bids for Approval
- Claims Approved and Rejected
- Resolutions
- Other Agenda Matters and Actions Taken motions made and by whom; brief account of any debate; voting results; names of abstainers and dissenters
- Approval of Adjournment



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The Minutes

- Taken by a competent person
- In a format that delivers readable and understandable information
- Must be taken at all meetings and published unless no action is taken even then should be available for public examination. Wyo. Stat. Ann. § 16-4-403(c)(i)..

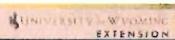


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Minutes Book

- A chronological record of all decisions and new or amended policies, when board members and officers were elected and who was present at each meeting and how he or she voted on a specific issue.
- Record retention schedules- The Wyoming State Archives, can provide copies of records retention schedules applicable to districts. [W.S. 9-2-411 and W.S. 9-2-412].

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Meeting Structure

- Start and end on time



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Electing a devils advocate

- The role of always asking the questions that nobody else wants to ask or to purposefully contradict presented arguments.



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Majority Rule

- ▶ Majority of the board members present (after a quorum is determined) must agree before a vote is carried
- ▶ Meeting procedures should distinguish between normal and extraordinary decisions

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The split vote

- ▶ Should the chair vote?
- ▶ Power struggles and cliques
- ▶ Private agendas
- ▶ Choosing not to vote



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Meeting participation

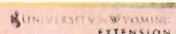
- ▶ Board service comes with a caveat of personal liability which involves prudent and independent decision making
- ▶ When a person accepts a position on a board, the number one obligation is to come to meetings

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Executive Session

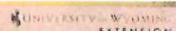
- Contact your board attorney prior
- An executive session is an exclusive meeting of the whole board behind closed doors—no staff, guests, often no directors



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Board Chair

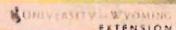
- agenda fits the meeting
- meeting runs smoothly
- members are assuming their roles and responsibilities
- facilitates the proceedings and discussion
- guards dignity during the debate
- ensure that the objectives of the agenda are achieved
- communication with director
- contact and representative of full board



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Director

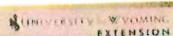
- Key figure in ensuring that the board is well equipped to make the best possible decisions and govern the organization with commitment



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Director

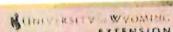
- ▶ Prepares agenda along with Chair
- ▶ Provides an invaluable perspective and background clarity to issues
- ▶ Ensures that logistics for the meeting are executed
- ▶ Coordinates the production and distribution of board packets
- ▶ Accountable to the whole board
- ▶ Implements boards directives



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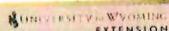
- ▶ Boards
 - Organizational oversight and policy setting
 - Monitoring
 - Holds Director accountable

- ▶ Director
 - Responsibility for managing operations and resources
 - Provides board tools and information to govern exceptionally



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Staff



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49

Civility in the board room indicates that board members understand and accept the idea that differing opinions are to be treasured, welcomed and encouraged



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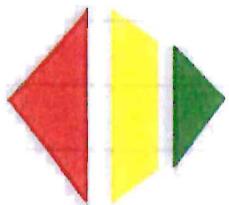
A cartoon illustration of a boardroom meeting. Five people are seated around a long conference table, facing a man standing behind a podium in the center. The man behind the podium is gesturing with his hands while speaking. The people at the table are looking towards him. The background features a world map on the wall.

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Q & A

Disorderly Discussion

Open Narrow Close



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Exceptional Boards

- ▶ Constructive Partnerships
- ▶ Compliance with Integrity
- ▶ Mission Driven
- ▶ Sustaining Resources
- ▶ Strategic Thinking
- ▶ Results-Oriented
- ▶ Culture of Inquiry
- ▶ Intentional Board Practices
- ▶ Independent Mindedness
- ▶ Continuous Learning
- ▶ Ethos of Transparency
- ▶ Revitalization

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Mary M. Martin
Community Development Educator
mmmartin@uwyo.edu
307-733-3087



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Fiduciary Responsibility

Mo Murphy, County Clerk
Katie Smits, County Treasurer

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Ethics and Open Meeting Law

Keith Gingery, County Attorney

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Parliamentary Procedure

Keith Gingery
County Attorney

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Bid Requirements

Alyssa Watkins
Commissioner Administrator

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BID REQUIREMENTS

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Title 2, Teton County Rules and Regulations

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Chapter 1 –
Purposes
and Policies

2

2-1-1 PURPOSES AND POLICIES

a. The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public procurement by Teton County, Wyoming, to maximize the purchasing value of public funds in procuring infrastructure construction and maintenance, goods, services and to provide safeguards for maintaining a procurement system of quality and integrity.

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Chapter 2 –
Procurement of Goods
and Services

2

2-2-1 PROCUREMENT UP TO \$ 7500 (TOTAL TO PAY)

a. Goods or services that are included in the annual budget and valued below \$7500 may be purchased or solicited without a bid process.

2-2-2 PROCUREMENT \$ 7500 UP TO \$35,000 (TOTAL TO PAY)

a. Goods or services that are included in the annual budget and valued between \$ 7500 and \$35,000 shall be purchased or contracted through a competitive informal bid, competitive formal bid, or request for proposal.

2-2-3 PROCUREMENT OVER \$35,000 (TOTAL TO PAY)

a. Goods or services that are included in the annual budget and valued over \$35,000 shall be purchased or contracted through a competitive formal bid, or request for proposal process.

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Chapter 3 –
Procurement of
Professional Services

3

2-3-1 PROFESSIONAL SERVICES

a. When the anticipated contract will exceed \$ 7500, Teton County will publicly announce all requirements for Professional Services (examples include but not limited to: Architectural, Engineering, and Consulting Services) and negotiate contracts for services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

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Chapter 4 – Procurement of Construction, Major Maintenance , or Renovation

2-4-1 CONSTRUCTION SERVICES

- When the anticipated contract is under \$7500, a bid process is recommended but not required, when the anticipated contract is between \$7500 and \$35,000, an informal bid process shall be followed, and when the anticipated contract will exceed \$35,000, Teton County will complete competitive formal bidding. This is applicable for all construction related contracts to include but not limited to alteration, construction, demolition, enlargement, improvement, major maintenance, reconstruction, renovation, routine operation, routine repair, and routine maintenance of infrastructure facilities, public building, public structure, public facility, or public system for Teton County.

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Remaining Chapters

- Chapter 5 – Administrative
 - Speaks to contract requirements and approval, environmentally preferable purchasing, change orders, cancellation of solicitations, pre-qualification of bidders, insurance, and vendor or supplier suspension
- Chapter 6 – Ethics
 - Sets policy and general standards and includes rules related to conflicts of interest and gratuities and kickbacks
- Chapter 7 - Definitions

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<https://tetoncountywy.gov/231/County-Prosecuting-Attorney>

Left-side panel – Title 2-Procurement

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State of Wyoming Purchasing and Bid Information

<https://ai.wyo.gov/divisions/general-services/purchasing>

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DEPARTMENT OF ADMINISTRATION AND INFORMATION PROCUREMENT SECTION PURCHASING PROCEDURES MANUAL

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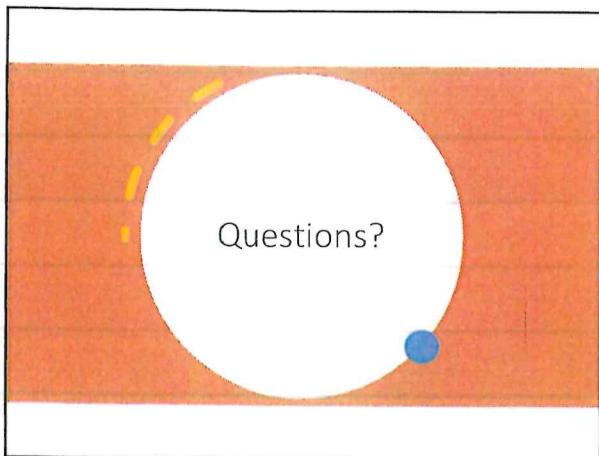
SECTION 1: PROCUREMENT	1
SECTION 1a: PROCUREMENT OF \$10,000.00 TOTAL TO PURCHASE	1
SECTION 1b: PROCUREMENT \$1,500.00 TO \$15,000.00 TOTAL TO PURCHASE	1
SECTION 1c: PROCUREMENT OF \$15,000.00 TO \$100,000.00 TOTAL TO PURCHASE	1
SECTION 1d: PAYMENT VOUCHERS	10
SECTION 1e: PURCHASE ORDER (PO) FOR PURCHASE OF MATERIALS, EQUIPMENT OR SERVICES	12
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<https://drive.google.com/file/d/1jS6y1PX7SYxsCCA5ntwrloC5BHuXU91v/view>

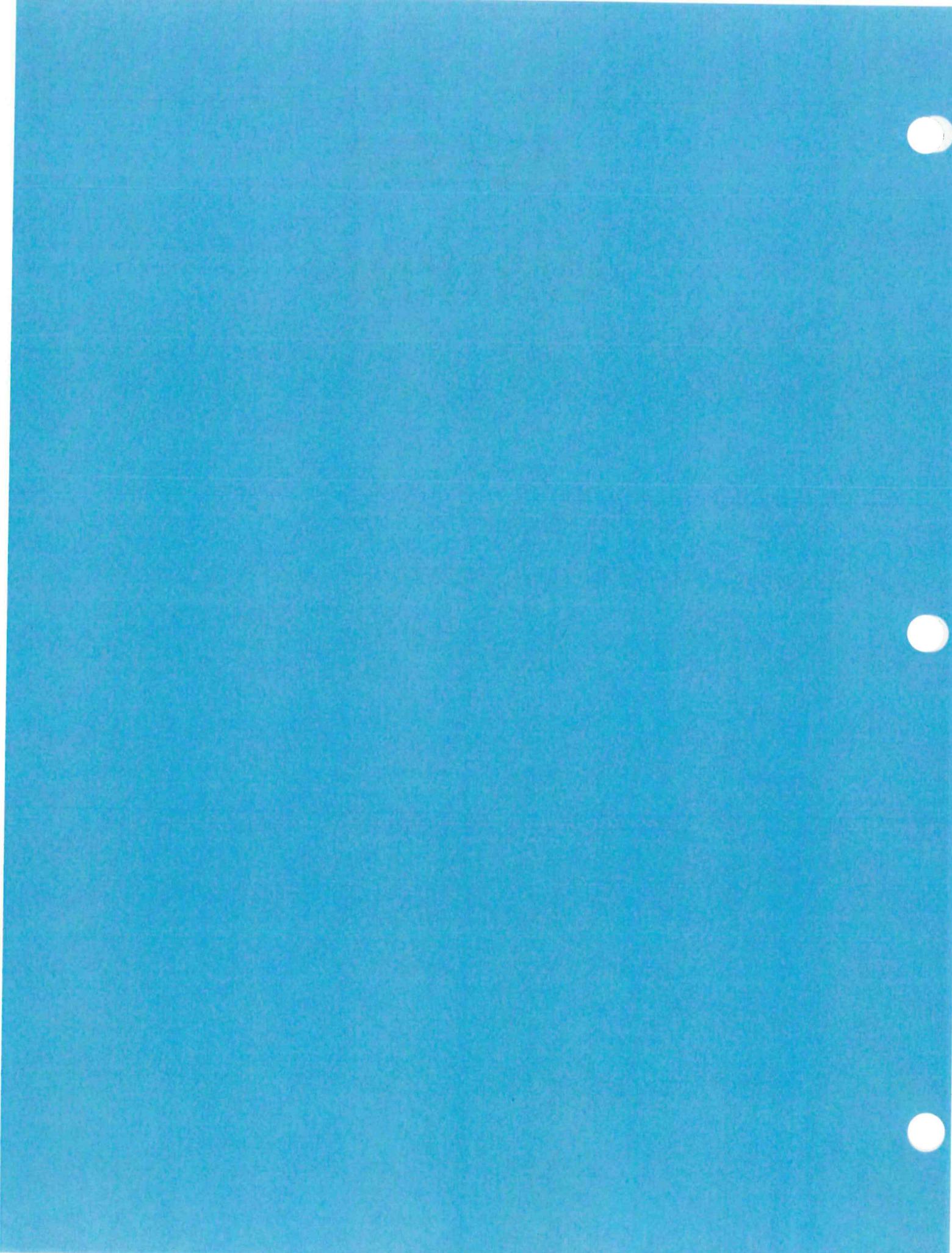
State of Wyoming
Purchasing Policies and Procedures Manual
Administration and Information - General Services Division - Procurement Section
December 2022 Edition

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**ALYSSA
WATKINS**





Bid Requirements

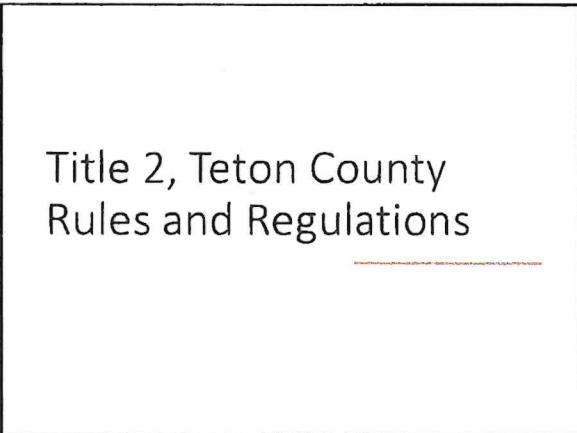
Alyssa Watkins
Commissioner Administrator

1



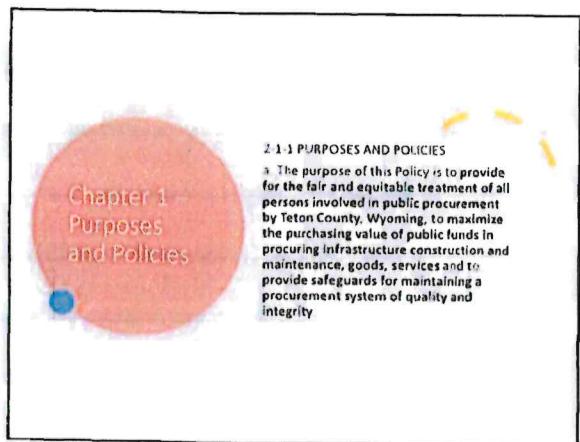
BID REQUIREMENTS

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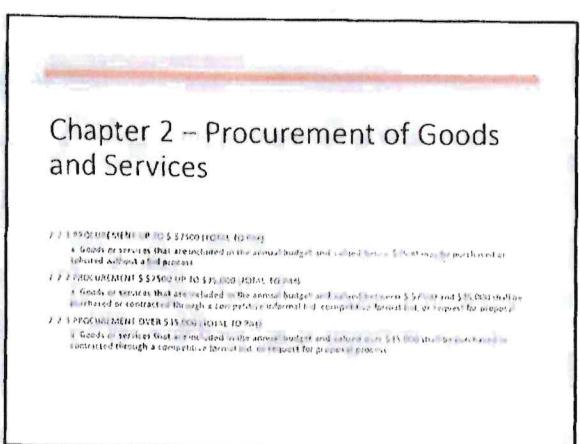


Title 2, Teton County Rules and Regulations

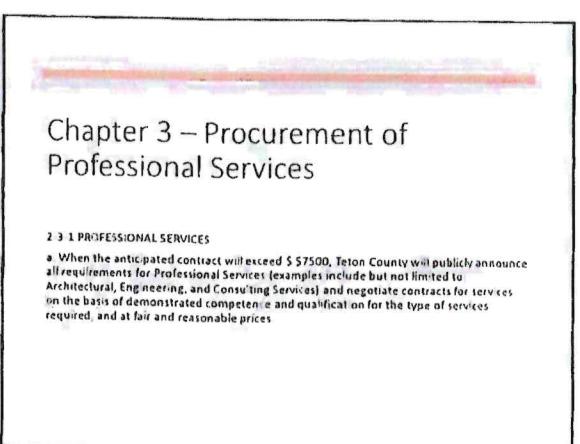
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Chapter 4 -- Procurement of Construction, Major Maintenance , or Renovation

2-4-1 CONSTRUCTION SERVICES

a. When the anticipated contract is under \$ 57500, a bid process is recommended but not required, when the anticipated contract is between \$ 57500 and \$15,000, an informal bid process shall be followed, and when the anticipated contract will exceed \$15,000, Teton County will complete competitive formal bidding. This is applicable for all construction related contracts to include but not limited to alteration, construction, demolition, enlargement, improvement, major maintenance, reconstruction, renovation, routine operation, routine repair, and routine maintenance of infrastructure facilities, public building, public structure, public facility, or public system for Teton County.

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Remaining Chapters

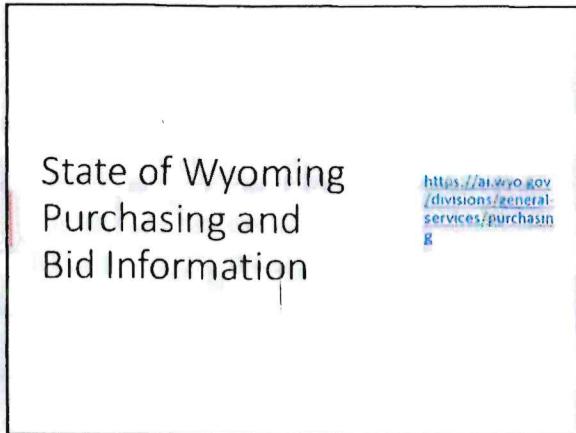
- * Chapter 5 - Administration
 - * Speaks to contract requirements and approval, environmentally preferable purchasing, change orders, cancellation of contracts, pre-qualification of bidders, insurance, and vendor or supplier suspension
- * Chapter 6 - Ethics
 - * Sets policy and general standards and includes rules related to conflicts of interest and gratuities and kickbacks
- * Chapter 7 - Definitions

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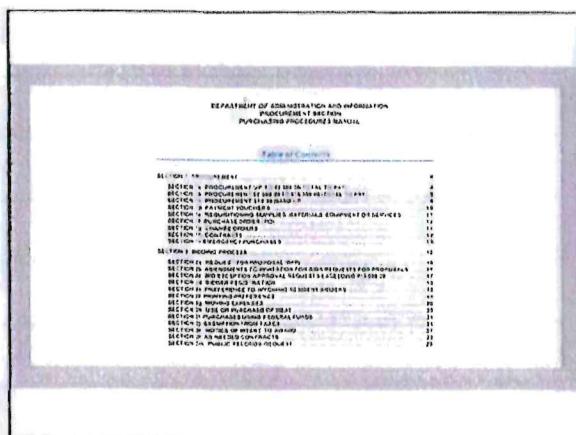
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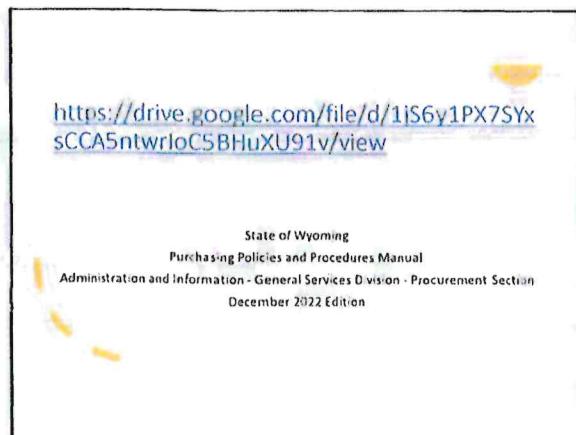
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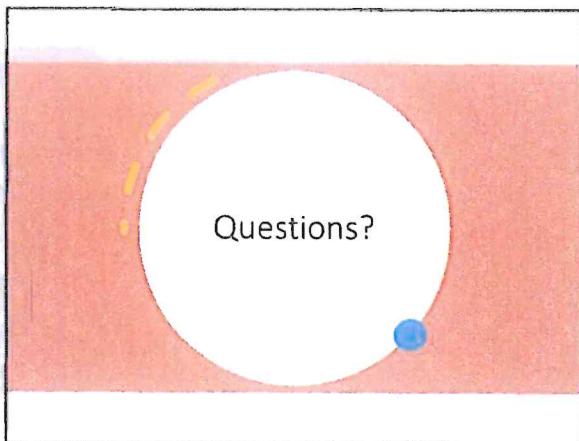
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TITLE 2

PROCUREMENT

THE HISTORICAL
SOCIETY OF PENNSYLVANIA

TITLE 2

PROCUREMENT

ADOPTED AND APPROVED ON DECEMBER 4, 2018

BY THE TETON COUNTY BOARD OF COUNTY
COMMISSIONERS

Amended- January 24, 2023

CHAPTER 1 – PURPOSES AND POLICIES

2-1-1 PURPOSES AND POLICIES

- a. The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public procurement by Teton County, Wyoming; to maximize the purchasing value of public funds in procuring infrastructure construction and maintenance, goods, services and to provide safeguards for maintaining a procurement system of quality and integrity.

2-1-2 REQUIREMENT OF GOOD FAITH

- a. This Policy requires all parties involved in the negotiation, performance, or administration of Teton County contracts to act in good faith.

2-1-3 APPLICATION

- a. This policy applies only to contracts for goods and services and the design, construction, routine operation, routine repair, and routine maintenance of infrastructure and facilities solicited or entered into after the effective date of this Policy unless the parties agree to its application to a contract solicited or entered into prior to the effective date. It shall apply irrespective of the source of funds. Nothing in this Policy promulgated hereunder shall prevent Teton County from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

2-1-4 EFFECTIVE DATE

- a. The Policy shall become effective on January 1, 2019.

2-1-5 DEFINITIONS

- a. The words defined in Section 7 shall have the meanings set forth below whenever they appear in this Policy, unless;
 - i. the context in which they are used clearly requires a different meaning; or
 - ii. a different definition is prescribed for a particular section.

2-1-6 PUBLIC ACCESS TO PROCUREMENT INFORMATION

- a. Procurement information shall be a public record to the extent provided in W.S. §16-4-202 and shall be available to the public as provided in such statute.

2-1-7 AUTHORIZATION FOR THE USE OF ELECTRONIC TRANSMISSIONS

- a. The use of electronic media, including acceptance of electronic signatures, is authorized consistent with Wyoming's applicable statutory, regulatory or other guidance for use of such media so long as such guidance provides for:
 - i. Appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
 - ii. Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.
- b. Selection and implementation of electronic media, such as an online bidding system, will be determined by the Director of General Services.

CHAPTER 2 – PROCUREMENT OF GOODS AND SERVICES- EXCLUDING ARCHITECTURAL, ENGINEERING AND CONSULTING SERVICES

2-2-1 PROCUREMENT UP TO \$ \$7500 (TOTAL TO PAY)

- a. Goods or services that are included in the annual budget and valued below \$7500 may be purchased or solicited without a bid process.
- b. **Procedure.**
 - i. An informal process may be used at the discretion of the Department Director or Elected Official by soliciting a minimum of three bids, and may be by written invitation, telephone, or email inquiry.
 - ii. Should the Department Director or Elected Official determine written specifications are needed, the Invitation to Bid Form – Goods, Services form shall be used.
 - iii. Purchases or services below \$ \$7500 which have approved funding in the current fiscal year's budget do not require Board of County Commissioners approval, unless a written contract is required as part of the transaction, and then approval and signature by the Board of County Commissioners shall be obtained.
 - iv. Purchases of any type of Information Technology related items (Hardware or Software) must adhere to section 2-2-7.
 - v. Bids sheets should be retained for one year.
- c. **Award.** Award shall be made to the responsible bidder whose response conforms to the solicitation and is determined to be the lowest and most responsible.

2-2-2 PROCUREMENT \$ \$7500 UP TO \$35,000 (TOTAL TO PAY)

- a. Goods or services that are included in the annual budget and valued between \$ \$7500 and \$35,000 shall be purchased or contracted through a competitive informal bid, competitive formal bid, or request for proposal.
 1. Purchases of any type of Information Technology related items (Hardware or Software must adhere to section 2-2-7.
- b. **Procedure.**

Staff shall determine which procurement method listed above is most beneficial.

1. Competitive Informal Bids- a complete scope of product or services must be provided to a minimum of three (3) vendors for pricing and must be for the exact items. All bids must be maintained in the project file after selection.
2. Competitive Formal Bids may be solicited using 2 weeks public notice (the advertisement shall be published on two (2) different occasions, at least seven (7) days apart, in a newspaper having general circulation in the County) and posting on the online bidding system if a minimum of 3 bids cannot be solicited using the informal process. Bids are used when there is no substantive difference among the products or services that meet specifications so that the only difference among responsive bids is price.
3. An RFP should be selected for soliciting proposals from vendors for products and services that cannot be evaluated by cost alone.
4. If selecting Competitive Bid or RFP, completed forms shall be uploaded to the online bidding system.
5. Purchases or services between \$ \$7500 and \$35,000 do not require Board of County Commissioners approval if the project has been funded in the current fiscal year budget and a contract or signature is not required.
6. All responses should be retained for one year.

c. **Award.**

1. Award for bids: Shall be made to the responsible bidder whose response conforms to the solicitation and is determined to be the lowest and most responsible.
2. Award for RFP: Consideration of price and the evaluation factors set forth in the request for proposals or qualifications shall be the determining factors. No other factors or criteria shall be used in the evaluation.
3. The contract file shall contain the basis on which the award is made. Written notice of the award of a contract to the successful bidder or offeror shall be promptly given to all respondents. Once executed, the original contract shall be provided to the Clerk's Office for official record.

2-2-3 PROCUREMENT OVER \$35,000 (TOTAL TO PAY)

- a. Goods or services that are included in the annual budget and valued over \$35,000 shall be purchased or contracted through a competitive formal bid, or request for proposal process.

b. Procedure.

- i. Staff shall determine if a bid or request for proposal (RFP) is appropriate. (Exhibit A)
- ii. Purchases of any type of Information Technology related items (Hardware or Software must adhere to section 2-2-7.
- iii. Once determined, Staff shall complete the Invitation to Bid Form – Goods, Services, or RFP Form with necessary information.
 1. Each bid or request for proposal shall include contract or purchase terms, due date, and location.
 2. Request for proposals and qualifications shall include evaluation criteria.
- iv. Each bid or request for proposal shall provide adequate Public Notice to include two weeks advertisement in an official local publication.
- v. Completed forms shall be uploaded to the online bidding system.
 1. A minimum of three bids or proposals shall be solicited.
- vi. All responses shall be held confidential until the specified due date.
- vii. All bids or proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids/Request for Proposals. The amount of each response, and such other relevant information as may be specified by regulation, together with the name of each bidder or offeror shall be recorded. The record of each response shall be open to public inspection.
- viii. All projects or purchases over \$35,000 require Board of County Commissioners approval.
- ix. All responses should be retained for one year.

c. Award.

- i. Award for bids: Shall be made to the responsible bidder whose response conforms to the solicitation and is determined to be the lowest and most responsible.
- ii. Award for RFP: Consideration of price and the evaluation factors set forth in the request for proposals or qualifications shall be the determining factors. No other factors or criteria shall be used in the evaluation.
- iii. The contract file shall contain the basis on which the award is made. Written notice of the award of a contract to the successful bidder or offeror shall be promptly given to all respondents. The original contract shall be provided to the Clerk's Office for official record.

2-2-4 EMERGENCY PURCHASES

- a. In the event of an unanticipated or emergency circumstance where repairs must be made immediately, and the expense exceeds \$5000, such purchase or contracts may be made based on availability of a responsible provider.

- b. **Procedure.**
 - i. Verbal approval must be received from Department Director or Elected Official prior to purchase or contract approval.
 - ii. Emergency Purchase Notification Form of such procurement shall be completed within 5 business days and retained in the contract file.

2-2-5 SOLE SOURCE PROCUREMENT

- a. A purchase or contract may be awarded for goods, services, or construction above \$7500 without competition when the Department Director or Elected Official determines in writing that there is only one source for the required goods, services, or construction items and approval is granted by the Board of County Commissioners. The Sole-Source Justification Form shall be completed and submitted to the Board of County Commissioners for final approval.

- b. **Procedure.**
 - i. Staff identifies purchase or contract for goods, services, or construction which should be sole sourced.
 - ii. Staff completes Sole-Source Justification Form outlining the following:
 1. Specific reasons why the competitive bid/RFP process is not feasible.
 2. Specific reasons why the vendor has been chosen for the procurement.
 3. Reason the request should be approved.
 - iii. The Sole-Source Justification Form is approved by Department Director or Elected Official.
 - iv. Staff report is prepared and accompanied by the Sole-Source Justification form for review and approval from the Board.
 - v. If the Board does not approve the Sole-Source contract, competitive procurement methods must be followed.

2-2-6 VEHICLE PURCHASES

The purchase or lease of a new automobile, truck, or SUV shall be accomplished through a competitive formal bid and advertised regardless of cost. If there is an automobile, truck, or SUV for trade-in, it shall be included as a part of the advertisement and bid. The Invitation to Bid Form – Vehicle shall be used.

Teton County is committed to operating a vehicle and equipment fleet program that is environmentally and economically sustainable, and is designed, constructed, and operated in a manner to use resources efficiently and minimize waste. The County will remain committed to managing and conserving natural resources in an equitable manner for present and future generations of residents receiving County services. The County will maintain a fleet management model to ensure that vehicle and equipment assets are purchased, maintained, fueled, operated and disposed of in the most efficient methods possible.

a. **Procedure.**

- i. Staff identifies the need for the purchase of a new vehicle and funds are approved in the budget.
- ii. Staff will work with General Services Department to analyze vehicle alternatives and identify the best available technology that fits the need. Vehicles and equipment shall be managed in a manner that provides the County with the best use of each unit.
- iii. Staff completes Invitation to Bid Form – Vehicle with necessary information, including service criteria. Upon request, General Services Department will provide vehicle specifications sheet based on type of vehicle to be purchased.
- iv. Adequate Public Notice to include two weeks advertisement in an official local publication is required.
- v. Completed bid form shall be uploaded to the online bidding system.
- vi. All Bids shall be held confidential until specified due date.
- vii. All Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded. The record of each bid shall be open to public inspection.
- viii. All vehicle purchases require Board of County Commissioners approval.
- ix. All responses shall be retained for one year.

b. **Award.**

- i. Award shall be made to the responsible bidder whose response conforms to the solicitation and is determined to be the lowest and most responsible.
- ii. The contract file shall contain the basis on which the award is made. Written notice of the award of a contract to the successful bidder shall be promptly given to all respondents. The original contract shall be provided to the Clerk's Office for official record.

2-2-7 INFORMATION TECHNOLOGY PURCHASES

- a. The purchase of all Information Technology (IT) equipment to include but not limited to; computers, laptops, tablets, and cellular phones, shall be requested and managed through the Teton County Information Technology Division.

- b. **Procedure.**
 - i. Staff identifies the need for IT equipment.
 - ii. Staff completes IT Purchase Request Form and submits to Teton County Information Technology Division.
 - iii. Dependent upon estimated expense, IT Division shall follow procedure guidelines per Section 2-2-1 Procurement up to \$7,500, 2-2-2 Procurement \$7500 and up \$35,000, or 2-2-3 Procurement over \$35,000.
 - iv. The purchase of any software or application must comply with Teton County's Data Privacy Agreement and Teton County's security protocols

2-2-8 PUBLIC PRINTING CONTRACTS

- a. Whenever a contract is let by Teton County for printing, including reports of officers and boards, pamphlets, blanks, letterheads, envelopes and printed and lithographed matter of every kind and description whatsoever, the contract shall be let to the responsible resident making the lowest bid if the resident's bid is not more than ten percent (10%) higher than that of the lowest responsible nonresident bidder. Any successful resident bidder shall perform at least seventy-five percent (75%) of the contract within the state of Wyoming.

- b. **Procedure.**
 - i. Staff shall follow procedure guidelines per Section 2-2-1 Procurement up to \$7,500, 2-2-2 Procurement \$7500 and up \$35,000, or 2-2-3 Procurement over \$35,000.

2-2-9 PROCUREMENT USING FEDERAL FUNDS

- a. When the County is using Federal funds on a project, all applicable rules for the use of those funds will be followed.

CHAPTER 3 – PROCUREMENT OF PROFESSIONAL SERVICES

2-3-1 PROFESSIONAL SERVICES

- a. When the anticipated contract will exceed \$ \$7500, Teton County will publicly announce all requirements for Professional Services (examples include but not limited to: Architectural, Engineering, and Consulting Services) and negotiate contracts for services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.
- b. **Procedure.**
 - i. Staff completes Request for Qualifications (RFQ) form with necessary information.
 - ii. Notice for newspaper advertising of required services shall be published for a minimum of two weeks if the anticipated contract will exceed \$35,000.00.
 - iii. The RFQ form shall be uploaded to the online bidding system for a minimum of two weeks.
 - iv. Each respondent shall submit a copy of the completed RFQ form and a fee proposal for this project.
 - v. All responses will be publicly opened at the time and location according to the information provided in the Request for Qualifications.
- c. **Award.**
 - i. Consultant selection will be by a selection committee of no less than three.
 - ii. A listing of evaluation factors and weighting factors for the ranking and selection of a qualified firm will be placed in the RFQ and used by the committee to rank. The selection factors should assess the consultant's qualifications and competency, tailored to the scope of work. Evaluation factors may include:
 - i. Established expertise
 - ii. Related work experience
 - iii. Qualifications of firm's personnel
 - iv. Previous performance on projects
 - v. Project approach
 - vi. Workload and capacity
 - vii. Ability to meet the project schedule
 - viii. Other evaluation factors relating to the specific project
 - iii. Consideration of evaluation criteria set forth in the Request for Qualifications shall be the determining factors.

- iv. Cost components may be evaluated on certain projects but must be requested in a separate file and not opened until all scoring has been completed. Cost components may not be used on federal-funded projects.
- v. In-State and local preference shall not be used on federal projects.
- vi. Award shall be made to the responsible respondent whose response conforms to the solicitation and is determined to be the most qualified.
- vii. The contract file shall contain the basis on which the award is made. Written notice of the award of a contract to the successful bidder shall be promptly given to all respondents. The original contract shall be provided to the Clerk's Office for official record.

CHAPTER 4 – PROCUREMENT OF CONSTRUCTION, MAJOR MAINTENANCE OR RENOVATION

2-4-1 CONSTRUCTION SERVICES

- a. When the anticipated contract is under \$ \$7500, a bid process is recommended but not required, when the anticipated contract is between \$ \$7500 and \$35,000, an informal bid process shall be followed, and when the anticipated contract will exceed \$35,000, Teton County will complete competitive formal bidding. This is applicable for all construction-related contracts to include but not limited to alteration, construction, demolition, enlargement, improvement, major maintenance, reconstruction, renovation, routine operation, routine repair, and routine maintenance of infrastructure facilities, public building, public structure, public facility, or public system for Teton County. Specifications for performance, design, a combination of performance and design, responsible products list, or brand name or equivalent must be included in the specifications. Additionally, the following requirements shall be met:
 - i. The contract shall be let to the responsible certified resident making the lowest bid if the certified resident's bid is not more than five percent (5%) higher than that of the lowest responsible nonresident bidder. Certification and requirements as to residency shall be directed in W.S. §16-6-102.
 - ii. A successful resident bidder shall not subcontract more than thirty percent (30%) of the work covered by his contract to nonresident contractors. W.S. §16-6-103. Resident bidder preference shall be subject to the effect, if any, of related laws of the United States and valid rules and regulations of federal agencies in charge, governing use and payment of federal funds. W.S. §16-6-108.
 - iii. Wyoming resident laborers shall be used on the public works project as delineated in W. S. §16-6-203.
 - iv. A contract that is let for bid shall be let to the lowest responsible bidder who shall be determined responsible at the sole discretion of the Board of County Commissioners. The Board of County Commissioners may use alternative design and construction delivery methods as defined by Wyoming Statutes if deemed appropriate. The Board of County Commissioners may reject all bids or responses submitted.
- b. The original contract shall be provided to the Clerk's Office for official record and state retention schedules shall be followed for Capital Construction projects.

2-4-2 APPROVED ALTERNATE PROJECT DELIVERY AND SELECTION METHODS

Alternate design and construction delivery method means the delivery method described by any qualifications-based procurement of design and construction services, including all procedures, actions, events, contractual relationships, obligations and forms of agreement for the successful completion of the design and construction, major maintenance or renovation of any public building, work, improvement, facility, structure or system other than by design, bid and build. Alternate design and construction delivery methods available to a public entity include construction manager agent, construction manager at risk or design-builder.

a. Procedure.

- i. Staff identifies the need for construction, routine operation, routine repair, and routine maintenance of infrastructure facilities and funds are approved in the budget.
- ii. Staff makes project delivery and method selection. See Definitions for further information.
- iii. Staff completes appropriate form with necessary information.
- iv. Adequate Public Notice to include two weeks advertisement in an official local publication is required.
- v. Completed form shall be uploaded to the online bidding system.
- vi. All responses shall be held confidential until specified due date.
- vii. All responses shall be opened publicly in the presence of one or more witnesses at the time and place designated in the solicitation. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded. The record of each bid shall be open to public inspection.
- viii. All construction contracts require Board of County Commissioners approval.
- ix. All responses shall be retained for one year.
- x. All contracts shall require the construction manager at risk or design builder to conduct an open bid process.

2-4-3 CONSTRUCTION MANAGER-AT-RISK (CMAR)

- a. Services for Construction Manager at Risk are recommended when estimated construction costs exceed \$1,000,000. After a request for proposals or qualifications process, Teton County shall enter into a contractual agreement with selected construction manager at risk for the construction work required but will retain the option to select a different construction manager at risk after the completion of the preconstruction services or utilize a different selection and/or bidding process for construction services if deemed

to be in the County's best interest. Staff may request approval from the Board of County Commissioners to perform in-house design and engineering when expertise is present.

b. Procedure.

- i. Staff complete Request for Proposals (RFP) or Qualifications (RFQ) form with necessary information.
- ii. Notice for newspaper advertising of required services shall be published for a minimum of two weeks.
- iii. The RFP or RFQ form shall be uploaded to the online bidding system.
- iv. Each respondent shall submit a copy of the completed RFP or RFQ form.
- v. All responses will be publicly opened at the time and location provided in the Request for Proposals or Qualifications.
- vi. All responses shall be retained for one year.

c. Award.

- d. Award shall be made to the responsible bidder whose proposal conforms to the solicitation and is determined to be the lowest and most responsible.
- e. Upon selection of a successful bidder, Teton County will enter two separate contractual agreements during each phase:
 - i. Preconstruction Phase – During this phase, the CMAR shall work with the Architect on design, constructability, costs, and schedule. Once the design phase has reached 90%, the CMAR will develop a Guaranteed Maximum Price.
 - ii. If agreement on the GMP is not reached, Teton County reserves the right to select a different CMAR.
 - iii. Upon agreement on the GMP, a contract for the Construction Phase is executed.
- f. The original contract shall be provided to the Clerk's Office for official record.

2-4-4- BID BONDS

- a. Bid bond shall be required for all construction, major maintenance, or renovation of any public building or other public work or improvement when the anticipated contract price exceeds \$150,000. Bid bond shall be a bond provided by a surety company, the equivalent in cash, or another form of financial guarantee satisfactory to Teton County. Bid bond shall be in an amount equal to 5% of the amount of the bid.

2-4-5 PERFORMANCE AND PAYMENT BONDS

- a. Performance and Payment Bonds shall be required for all construction, major maintenance, or renovation of any public building or other public work or improvement. When the anticipated contract price exceeds \$150,000, the financial guarantee shall not be less than 100% of the contract price. When the anticipated contract price is less than \$150,000, any form of financial guarantee can be accepted, and the Department Director or Elected Official shall determine a reasonable amount for the financial guarantee that may be less than 100% of the contract price. Wyo. Stat. §16-6-112

2-4-6 POSTING AND PUBLICATION NOTICE OF ACCEPTANCE

- a. The County shall issue a certificate of substantial completion after determination that the public work, or designated portion thereof, is substantially complete.
- b. Upon issuance of the certificate of substantial completion, the County shall cause notice to be published in the weekly edition of the Jackson Hole News and Guide, once a week for two (2) consecutive weeks, and post on the Teton County website for at least two weeks; website notices should be sent to General Services for posting. The notice shall set forth in substance that the county has accepted the work, or designated portion thereof, as substantially complete according to the contract and associated documents and that the general contractor is entitled to payment upon the 41st day (and the notice shall specify the exact date) after the notice was first published and posted. If the contract provides for multiple substantial completions, this provision shall apply to each substantial completion designated in the contract.
- c. Payment shall be made to the general contractor for any amount retained by the county under Wyoming Statute §16-6-702(b) together with any other amount due under the contract, less any amount withheld for the portion of the public work that is incomplete or not completed in accordance with the contract and associated documents.
- d. The County shall issue a certificate of final completion after determination that the contract is fully performed, and all portions of the public work are acceptable under the contract and associated documents. Any amounts withheld under subsection (c) for any work that was determined to be incomplete or not in accordance with the contract or associated documents and due under the contract shall be paid to the general contractor. The County shall post the date of final completion on the Teton County website for two weeks. Notices to be posted on the website should be sent to General Services.
- e. This section does not relieve the general contractor and the sureties on his bond from any claims for work or labor done or materials or supplies furnished in the execution of the contract.
- f. The County shall provide written notice of the requirements of this section in the project specifications.

2-4-7 FINAL SETTLEMENT WITH AND PAYMENT TO CONTRACTOR

- a. In all contracts entered into by the County in regard to public works, no payments under 2-4-6 shall be made until the person files with the County a sworn statement setting forth that all claims for material, supplies, and labor performed under the contract have been and are paid for the entire period of time for which the payment is to be made.
- b. If any claim for material, supplies or labor is disputed, then the sworn statement shall so state, and the amount claimed to be due the subcontractor or materialman may be filed by the claimant as a claim against the general contractor's surety bond. Payment to the general contractor under 2-4-6 shall be paid without regard to the pending claims against the surety bond unless the County has actual knowledge that the surety bond is deficient to settle known present claims, in which case the amount equal to the disputed claims may be withheld.

2-4-8 VALUE ENGINEERING

- a. Once a construction contract has been awarded, Teton County shall not Value Engineer the design plans so much as to reduce the contract bid amount more than 5% without invalidating the contract.

2-4-9 MATERIAL PURCHASE BY OWNER

- a. Teton County may elect to directly purchase materials for a construction contract. Intention of purchase by Owner must be stated in the bid documents. Teton County shall bid materials purchase per this policy.

CHAPTER 5 – ADMINISTRATIVE

2-5-1 CONTRACTS

- a. All contracts must be approved by the Board. Contracts with an estimated cost of more than \$7500 shall be contracted through competitive bidding or RFP process, unless otherwise specifically approved by the Board. Bids for nonbudgeted contracts above \$7500 may be solicited prior to approval, with the express understanding that award of the contract will depend upon approval by the Board. Unless otherwise provided by law, a contract for goods, supplies or services may be entered into for any period deemed to be in the best interests of Teton County, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. All contracts must be competitively bid or extended upon the original contract expiration date. Contracts may be extended or amended by written mutual agreement of the parties provided the original terms and conditions remain unchanged. The standard extension period for contracts is one (1) additional year. All extensions and amendments must be approved by the Board.

2-5-2 CONTRACT CLAUSES

- a. Contracts issued by Teton County shall contain clauses providing for adjustments in prices, time of performance, or other contract provisions, as appropriate, and covering the following subjects:
 - i. Right of Teton County to order in writing:
 1. Changes in the work within the scope of the contract; and
 2. Changes in the time of performance of the contract that do not alter the scope of the contract work.
 - ii. Variations occurring between estimated quantities of work in a contract and actual quantities; and
 - iii. Suspension of work ordered by Teton County; and
 - iv. Site conditions differing from those indicated in the contract, or ordinarily encountered, except that differing site conditions clauses need not be included in a contract:
 1. When the contract is negotiated;
 2. When the contractor provides the site or the design; or
 3. When the parties have otherwise agreed with respect to the risk of differing site conditions.

- v. Price Adjustments.
- vi. Preference for Wyoming Materials
 - 1. Wyoming made materials and products, and Wyoming supplies of products and materials of equal quality and desirability shall have preference over materials or products produced or supplied outside the state and any contract let shall so provide. W.S. §16-6-104 and 16-6-105.

2-5-4 ENVIRONMENTALLY PREFERABLE PURCHASING

- a. Teton County promotes and encourages the selection of products and services that have a lesser or reduced negative effect on health and the environment. Criteria for evaluation factors included in the Invitations to Bid or RFP should determine if the requested products or services are certified by Green Seal, Energy Star, Eco Logo,

2-5-5 CONTRACT APPROVAL

- a. All contracts, agreements, leases, or other documents that legally bind Teton County must be approved as to form and content by the County's Attorney's office prior to the Board's regular meeting and the Board must review and approve such documents at a regular scheduled meeting.

2-5-6 CHANGE ORDERS

- a. Change Orders that exceed the original contract amount must be approved, in writing, by The Board. Teton County may order in writing changes and/or extra work without invalidating the Contract. At the time of ordering such changes and/or extra work, the amount or method of compensation and any adjustment in the time of completion shall be determined and stipulated on a standard form provided by the General Services Department. Staff may request approval for contingency funding up to 10% of total contract price in addition to the contract amount or for additional powers to execute change orders that do not exceed 2.5% of total contract sum, to be granted to staff by resolution
- b. **Procedure.**
 - i. At contract award Staff may request approval from the Board for a contingency amount, not to exceed 10% of total contract sum.
 - ii. If approved, additional powers to the Elected Official or Department Director may be granted through a resolution.

2-5-7 CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

- a. An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of Teton County. The reasons therefore shall be made part of the contract file.

2-5-8 PRE-QUALIFICATIONS OF BIDDERS

- a. Prospective bidders may be prequalified for types of goods, services, and construction. Teton County staff shall request all potential bidders to complete a Request for Qualifications (RFQ) form. The form shall be obtained through the online bidding system and resubmitted via the same system for review by requesting Teton County Staff. Staff will evaluate all bidders per predetermined criteria. Bidders who meet required qualifications will be able to provide a bid. Remaining bidders shall be notified if they do not meet qualifying criteria.

2-5-9 INSURANCE

- a. The Contractor shall secure and maintain insurance coverage in such amounts as shall be required by Teton County, protecting the Contractor and indemnifying the County from claims pertaining to unemployment insurance, old age benefits, worker's compensation, industrial accident, labor, or taxes of any kind. Certificates of such insurance shall be filed with the County before commencing any of the work. All insurance coverage requirements shall be outlined in each contract for goods, services, and construction.

2-5-10 VENDOR OR SUPPLIER SUSPENSION

Due to certain circumstances, the Board of County Commissioners may suspend the use of certain vendors or suppliers. The causes for suspension include the following:

- i. Conviction for commission of criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- ii. Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offence indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Teton County contractor;

- iii. Conviction under State or federal antitrust statutes arising out of the submission of bids or proposals,
- iv. Violation of contract provisions, as set forth below, of a character which is regard to be so serious as to justify debarment action:
 - 1. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- v. Any other cause of the Board of County Commissioners determines to be so serious and compelling as to affect responsibility as a Teton County contractor, including debarment by another governmental entity; and
- vi. For violations of the ethical standards set forth in Section 6.
- vii. The Board of County Commissioners shall issue a written decision to suspend which includes the reasons for action taken. Notification shall be provided immediately to the suspended person and any other party intervening.
- viii. Suspension term shall be determined by the Board of County Commissioners.

CHAPTER 6 – ETHICS

2-6-1 POLICY

- a. Public employment is a public trust. It is the policy of Teton County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Teton County. Such policy is implemented by prescribing general standards of ethics conduct without creating unnecessary obstacles to entering public service. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the procurement procedure used by Teton County. To achieve the purpose of this Policy, it is essential that those doing business with the Teton County also observe the ethical standards prescribed herein.

2-6-2 GENERAL STANDARDS

- a. General Ethical Standards for Employees:
 - i. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.
- b. General Ethical Standards for Non-Employees:
 - i. Any effort to influence any public employees to breach the standards of ethical conduct set forth in this Section is also a breach of ethical standards.

2-6-3 CONFLICTS OF INTEREST

- a. It shall be a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:
 - i. The employee or any member of the employee's Immediate Family has a Financial Interest pertaining to the procurement;
 - ii. A business or organization in which the employee, or any member of the employee's Immediate Family, has a Financial Interest pertaining to the procurement; or
 - iii. Any other person, business, or organization with whom the employee or any member of the employee's Immediate Family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- b. Discovery of Actual or Potential Conflict of Interest, Disqualification, and Waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the

transaction involved. The employee may, at the same time, apply to the County Attorney for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

2-6-4 GRATUITIES AND KICKBACKS

- a. **Gratuities.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- b. **Kickbacks.** It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

CHAPTER 7 – DEFINITIONS

Agency means any department, agency or other instrumentality of Teton County or of a political subdivision of Teton County to which funds are appropriated or authorized for expenditure for capital construction projects and includes any entity that Teton County contracts with to administer or award any bid.

Architectural and Engineering Services means:

1. Professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this Subsection;
2. Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property, and
3. Such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individual in their employ) may logically or justifiably perform, including; studies, investigations, surveying, mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, and plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

Bidder means one who submits a response to an invitation for bid.

Business means corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Change Order means a written order signed by the Department Director or Elected Official, directing the contractor to make changes which the Changes clause of the contract authorized the Department Director or Elected Official to order without the consent of the contractor.

Competitive Informal Bid or Request for Proposal means at least three requests for bid or RFP must be completed prior to award. Request may be made over phone, email, or facsimile. All bids must be returned in writing to be considered.

Competitive Formal Bid or Request for Proposal means at least three requests for bid or RFP must be completed prior to award. Each bid or RFP shall provide adequate public notice to include two weeks advertisement in an official local publication. A formal opening and reading of the bid, with witness, must take place at a designated time and place indicated in the advertisement and instructions to bidders.

Confidential Information means any information which is available to an employee only because of the employee's status as an employee of Teton County and is not a matter of public knowledge or available to the public on request.

Conspicuously means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

Construction means the process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including any structure, building, or other improvements of any kind of real property. It does not include the routing operation, routing repair, or routine maintenance of any existing public infrastructure facility, including structures, building or real property.

Contract means all types of Teton County agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.

Contractor means any person having a contract with a governmental body.

Design-Bid-Build means a project delivery method typically involving three sequential project phases; The design phase when a designer is selected, the bid phase, when a contractor is selected, and a build or construction phase, when the project is built by the selected contractor.

Design – Build means a project delivery method which typically includes one entity (design-builder) and a single contract with the owner to provide both architectural/engineering design services and construction. Design Build is governed by Wyoming Statute §16-6-701(a)(ix)

Construction manager agent means a type of construction management delivery where the professional service is procured under existing statutes for professional services. The construction manager agent is a construction consultant providing administrative and management services to the public entity throughout the design and construction phases of a project. Under this delivery method, the construction manager agent is not the contracting agent and is not responsible for purchase orders

Construction Manager at Risk (CMAR) means a type of construction management delivery in which the construction manager at risk is an advocate for the public entity as determined by the contracts, throughout the pre-construction phase of a project. In the construction phase of a project, the construction manager at risk is responsible for all project subcontracts and purchase orders and may conduct all or a portion of the construction project work. Under this delivery method, the construction manager at risk is responsible for providing a guaranteed maximum price for the project to the public entity prior to commencing the construction project.

Department Director means the Director of Planning and Building, Director of Health, Director of General Services, Fire/EMS Chief, Director of Public Works, Director of Parks & Recreation, Library Director, Director of Housing, Director of Human Resources, and County Commissioners' Administrator.

Employee means an individual drawing a salary from a governmental body, whether elected or not, and any non-compensated individual performing personal services for any governmental body.

Financial Interest means:

1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently, or in the future entitles to receive funds, or
2. Holding a position in a business such as an officer, director, trustee, partner, employee, or the like.

Elected Official means the County Commissioners, County Sheriff, County Coroner, County Clerk, County Treasurer, Clerk of District Court, County Assessor, and County Attorney.

Goods means all property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

Gratuity means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

Immediate Family means a spouse, children, parents, brothers, and sisters.

Infrastructure Facility means a building, structure, or networks of buildings, structures, pipes, controls, and equipment that provide governmental services, transportation, utilities, public education, or public safety services.

Invitation for Bids means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

May denotes the permissive.

Person means any business, individual, union, committee, club, other organization, or group of individuals.

Procurement means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and ward of contract, and all phases of contract administration.

Public Notice means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and website(s) designated by Teton County and maintained for that purpose.

Public Work includes alteration, construction, demolition, enlargement, improvement, major maintenance, reconstruction, renovation and repair of any highway, public building, public facility, public monument, public structure or public system.

Purchase Request means that document whereby a Using Agency request that a contract be entered into for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation, suggested sources of supply, and information supplied for the making of any written determination required by this Policy.

Offeror means the person or entity who submits a proposal in response to a Request for Proposals (RFP).

Resident is as defined by Wyoming Statute §16-6-101(a)(i).

Responsible Bidder means a Bidder that has the capability in all respects to perform the requirements of the Contract. In determining whether a Bidder is a **Responsible Bidder**, the County may consider various factors including, but not limited to, the Bidder's competence and qualifications to provide the goods or services requested, the Bidder's integrity and reliability, the past performance of the Bidder relative to the quality of the goods or services offered by the Bidder and the best interest of the County.

Responsive Bidder means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.

Services means the furnishing of labor, time, or effort by a contractor, not involving the delivery of specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

Shall denotes the imperative.

Specification means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item for an Infrastructure Facility. It may include a description or any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Substantial Completion means the County has determined that the construction of the public work or designated portion thereof is sufficiently complete in accordance with the contract and associated documents so that the work may be occupied or utilized for its intended purpose.

Value Engineering means an organized effort directed at analyzing designed building features, systems, equipment, or material selection for the purpose of achieving essential functions at the lowest life cycle costs consistent with requirements for performance, quality, reliability, and safety.

Written or In Writing means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

BOARD MEMBER CHECKLIST

