



Internal Controls Examination
January 28, 2014

Governor's Office of Economic Development

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Executive Summary

Eide Bailly LLP (“Eide Bailly”) was engaged by the Governor’s Office of Economic Development (“GOED”) located in Pierre, South Dakota to conduct an internal controls examination (**Bates No. 01-03**). As part of the examination, Eide Bailly reviewed the employee handbook and conducted interviews with employees focused on identifying strengths and weaknesses within the controls over their respective positions.

Eide Bailly has provided recommendations within this report for areas perceived to have internal control weaknesses over GOED’s assets. These recommendations are designed to strengthen current controls as well as increase employee perception of detection, which is an effective measure in reducing an organization’s fraud risk.

Engagement

Specific procedures performed during the examination include the following:

- Interviewed twelve (12) employees (**Workpaper 1**):
 - Costello, Pat – Commissioner
 - Davis, Marty – Director of Administration
 - Dovre, Travis – Assistant Finance Director/Loan Officer
 - Easland, Kim – Finance Director
 - Gesick Johnson, Ann – Grant Administrator
 - Gruis, LaJena – Loan Officer
 - Knapp, Dale – Accounting Assistant
 - Lukkes, Nathan – Deputy Commissioner
 - Mehlhaff, Paul – Grant Administrator
 - Nielson, Cherissa – Grant Administrator
 - Roberts, Hunter – Energy Development Director
 - Ustad, Mel – Director of Commercialization
- Examined the South Dakota Bureau of Human Resources (“Bureau of HR”) employee handbook (**Bates No. 04-43**).
- Examined the GOED’s travel expense reimbursement policy (**Bates No. 44**).
- Examined program descriptions and information for the following GOED programs:
 - Agriculture Processing and Exporting (“APEX”) (**Bates No. 47-48, 53-60**)
 - Community Development Block Grants (“CDBG”) (**Bates No. 48-49, 61-64**)
 - Dakota Seeds (**Bates No. 51-52**)
 - Economic Development Finance Authority (“EDFA”) (**Bates No. 47-48, 65-91**)
 - Ethanol Infrastructure Incentive Program (**Bates No. 52**)
 - Future Fund (**Bates No. 49-50, 92-94**)
 - Proof of Concept (**Bates No. 50-51**)
 - Revolving Economic Development Initiative (“REDI”) (**Bates No. 45-46, 95-130**)
 - South Dakota Works (“SD Works”) (**Bates No. 48, 131-136**)

The services provided in this matter adhere to the applicable American Institute of Certified Public Accountants’ Statement on Standards for Consulting Services (**Bates No. 137-139**) and the applicable Certified Fraud Examiner Code of Professional Standards established by the Association of Certified Fraud Examiners (**Bates No. 140-163**).

Internal Controls Examinations

Process

Our methodologies for conducting an internal controls examination include the following procedures:

- Employee Job Responsibility Interviews:
Conducting job responsibility interviews of management, accounting and other key personnel is the primary focus of our examination. Interviews allow us to determine if existing policies and procedures are being followed within each department and to identify internal control weaknesses. These interviews often provide essential information not normally obtained through a review of policy manuals and discussions with management.
- Examination of Policy and Procedures Manual(s):
Examining the policy and procedures manuals will help in identifying what controls employees are expected to adhere to.

Benefits

There are numerous benefits to conducting an assessment of the internal controls. According to the Association of Certified Fraud Examiners' 2012 Report to the Nations, anti-fraud controls help reduce the cost and duration of fraud schemes. The following are a few ways GOED will directly benefit from the examination:

- Gain knowledge of breakdowns in accounting policies and procedures within your organization.
- Increase the perception of detection among the employees within the organization to reduce the risk of fraud by communicating that Management is serious about fraud prevention efforts. Perception of detection is the number one way to prevent fraud from an employer's perspective.
- Gain a better understanding of employee's views/concerns on accounting procedures and fraud within the organization.
- Effective recommendations to increase internal controls to improve accounting processes and to reduce fraud risk.

Experience

Our internal controls examination approach is based on years of forensic accounting experience identifying employee fraud and/or errors within organizations. The approach we use to identify internal control weaknesses is based on employees and job responsibilities. Our experience will assist GOED in strengthening current controls to secure its assets.

Service Team

Eide Bailly selected professionals for the service team who are the right fit for the engagement, based on their knowledge and experience with internal controls. You will find comprehensive profiles for each team member in **Workpaper 2**. The following information will provide an overview of the service team:

Jeremy Bendewald, Principal



Jeremy has more than 12 years of experience providing forensic accounting services to clients. Jeremy holds the Certified Fraud Examiner, Masters in Fraud Management, Certified Forensic Interviewer, and Private Investigator designations and is located in our Fargo, ND office.

Jason Olson, Senior Manager



Jason has more than 9 years of experience providing forensic accounting services. Jason holds the Certified Public Accountant, Certified Fraud Examiner, Certified Forensic Interviewer, Certified in Financial Forensics, and Private Investigator designations and is located in our Minneapolis, MN office.

Liz Johnson, Manager



Liz has more than 6 years of experience providing forensic accounting services. Liz holds the Certified Public Accountant, Certified Fraud Examiner, and Private Investigator designations and is located in our Fargo, ND office.

Alex Schroeder, Senior Associate



Alex has more than 3 years of experience providing forensic accounting services. Alex holds the Certified Public Accountant, Certified Fraud Examiner, and Private Investigator designations and is located in our Fargo, ND office.

Fraud Control Activities

Job responsibilities were analyzed and evaluated for recommendations that could be made to improve the control activities against fraud, including preventative controls and detective controls.

Preventative Controls

Preventative controls or “before the fact” controls attempt to deter or prevent unauthorized transactions from occurring. Preventative controls include segregation of duties, proper authorization and physical safeguards.

Proper Segregation of Duties

When one (1) person controls multiple phases of accounting transactions, the opportunity for fraud in the workplace significantly increases. By involving at least one (1) other person in the transaction, the risk of fraud can be greatly reduced. Even with duties being segregated, employees could still work together to override the current controls in place to commit fraud. Fraud research indicates that nearly two-thirds of all frauds are committed by one (1) perpetrator acting alone, whereas only one-third involve collusion by two (2) or more parties.

The accounting and reporting processes are divided into four (4) separate phases: authorization, execution, custody, and recording. The *authorization* phase requires one employee to direct another employee to initiate and execute a transaction. The *execution* phase requires a person with authority to initiate a transaction. *Custody* is the actual possession of the asset, such as cash or checks. *Recording* involves adjusting accounts to reflect the effects of the transaction within the accounting records.

Employees whose responsibilities encompass two (2) or more phases of a transaction may have the opportunity to divert company assets for personal gain, which increases the level of fraud risk.

Proper Authorization

Proper authorization reduces the opportunity for fraudulent transactions to occur because approval from an authorized individual is necessary to complete various stages of a financial transaction. Authorization can come in the form of signatures, initials and electronic approvals. Pre-determined levels of authority for employees to approve transactions should be clearly documented within an organization.

Individuals with authorization authority should review supporting documentation to verify the validity of transactions before approving them. Requiring proper authorization prevents unapproved transactions from taking place while also creating an audit trail. This audit trail will indicate who approved each transaction or if the authorization requirement was overridden, which can be helpful if further review of a transaction is necessary.

Physical Safeguards

The use of physical safeguards helps to ensure the security of assets and records by only allowing authorized individuals to have access to these assets. Physical safeguards also help to prevent the theft of company assets. Companies should implement physical safeguards such as locks, keys, safes, fences, and passwords to prohibit unauthorized access to assets and records.

Detective Controls

Detective controls or “after the fact” controls attempt to identify unauthorized transactions after the occurrence. Detective controls include independent checks and adequate documentation and records. For these controls to be effective they must be continually performed and often take on preventative characteristics. For example, surprise cash counts if used as a detective control, would increase the perception of detection and thus “prevent” some unauthorized acts.

Independent Checks

Independent checks should be conducted to ensure transactions have proper authority and are recorded accurately. Independent checks include rotating job duties among employees, requiring mandatory vacations, surprise audits, engaging in yearly audits, etc.

Adequate Documentation & Records

Adequate documentation and records refers to maintaining proper documentation and records for each transaction, either in paper or electronic form. Procedures to ensure documentation and records are properly maintained should be in place to help guarantee supporting documentation is maintained and can be located and referenced at any time if certain transactions or discrepancies are subject to further review.



Internal Controls Recommendations

Eide Bailly identified the following potential fraud risks during the interviews and has provided internal controls recommendations for areas that appear most vulnerable to fraud, waste or abuse. The areas of concerns are provided to make GOED aware of its potential fraud-related risks.

GOED should review the following areas of concerns and corresponding recommendations to determine if the benefit of changing the current processes in place to reduce fraud risk exceeds the associated costs.

General Concerns

1. **Area of Concern**

The Bureau of HR's employee handbook fails to adequately discuss employee fraud and its consequences.

Potential Risk

Employees may not know what constitutes fraud. Lack of fraud awareness can inherently increase fraud risk within an organization.

Recommendation

The Bureau of HR should include a fraud awareness section within the employee handbook. This section should address what constitutes fraud in the workplace and the consequences of fraud. Management should communicate this policy to its employees on a periodic basis to increase the perception of detection among employees. A sample fraud policy created by the Association of Certified Fraud Examiners ("ACFE") has been provided in **Workpaper 3**.

2. **Area of Concern**

Employees are not aware of the available channels for reporting employee theft and fraud.

Potential Risk

If employees are not aware of how to report employee theft and fraud, suspicious activity or known instances of fraud may go unreported. This can result in delayed detection of a fraud scheme and increased losses.

Recommendation

All employees should be made aware of the available channels for reporting employee theft and fraud. The ability of employees to report fraud anonymously to a third-party is important to reduce an employee's fear of retaliation.

3. **Area of Concern**

Backgrounds checks are not performed on all new hires at GOED.

Potential Risk

Employment application forms can contain false information about experience, education, and ability to perform functions required of the position.

Recommendation

The Bureau of HR should review whether a policy regarding the job function and the necessity of employment background checks should be implemented for GOED. Performing checks on potential new hires decreases the risk of employee fraud in the workplace.

Employee Expense Reimbursements

1. Area of Concern

It appears that employee expense reimbursements and directly billed travel expenses are not compared when approving and processing employee reimbursements.

Potential Risk

Employees could submit an expense for reimbursement that was directly billed and paid for by GOED therefore being reimbursed for expenses already paid by GOED.

Recommendation

Employee expense reimbursements and directly billed travel expenses should be compared for duplicates during the approval and processing completed by GOED when employees submit their expenses. Or, the State Auditor's Office should consider a procedure to review for duplicates when they process all employee expense reimbursements. This will reduce the risk of employees being reimbursed for expenses paid by GOED/the State of South Dakota.

2. Area of Concern

Employee expense reimbursements are not required to be submitted within a set period of time after the expense is incurred.

Potential Risk

Employees could submit expenses for reimbursement that were already reimbursed to the individual and the authorizing employee may not recall the purpose of the expense if there are significant time delays in the submission.

Recommendation

Employees should be required to submit expense reimbursements within a certain number of days (to be determined and implemented by the GOED/State Auditor's Office). This will reduce the risk of employees submitting expenses that were previously reimbursed or for unauthorized expenses.

Payroll

1. Area of Concern

The Director of Administration adds and removes employees from the accounting system as well as processes employee payroll.

Potential Risk

Allowing one (1) employee access to numerous payroll functions increases the opportunity for fraudulent payroll disbursements through unauthorized rate changes and/or fictitious/ghost employees.

Recommendation

The duties of adding and removing employees from the system as well as processing payroll should be segregated by not allowing an employee to perform more than one (1) of these duties. The Bureau of HR does verify that new employees added have a legitimate social security number; however an employee could still set up an unauthorized employee with a legitimate social security number. Only an individual independent of the payroll process should be authorized to add new employees to the system. At a minimum, an individual independent of the payroll processes (i.e. the Deputy Commissioner/Director of Finance) should be tasked with reviewing GOED's payroll.

Special Events

1. **Area of Concern**

The sale of shirts and hats for the Governor's Hunt are not formally reconciled to the cash and checks that are received.

Potential Risk

Individuals could take shirt or hat inventory and/or cash and checks received and no one would be aware of the shortage.

Recommendation

Shirt and hat inventory should be reconciled with the cash and checks received by an employee independent of the access/handling of inventory and cash/check receipts after the Governor's Hunt. The occurrence of this reconciliation should be communicated to individuals before they assist with the handling/sales process. This will increase the perception of detection and reduce the risk of individuals misappropriating inventory and/or cash and check.

Program Specific

1. **Area of Concern**

A small percentage of future fund grants lack adequate third party supporting documentation to evidence the fulfillment of the grant requirements.

Potential Risk

Allowing the grant recipients to provide internally prepared documentation to support expenses paid increases the risk of the recipients using grant funds for unauthorized purposes.

Recommendation

Grant recipients should be required to provide third party documentation such as invoices, bank statements and cancelled checks when submitting for reimbursement. This will reduce the risk of funds being used for unauthorized purposes.

2. **Area of Concern**

Community Development Block Grant and Ethanol Infrastructure Incentive Program vouchers are prepared by the Grant Administrator and then approved by the Director of Administration. The approved vouchers go back to the Grant Administrator to send to the State Auditor's Office.

Potential Risk

Allowing an approved voucher to be returned to the preparer before being sent for payment increases the risk of the voucher being modified after approval.

Recommendation

Approved vouchers should be sent to the State Auditor's Office directly by the Director of Administration or by an individual independent of the process. This will reduce the risk of the Grant Administrator modifying vouchers after they are approved.

Conclusion

Eide Bailly has provided several internal control recommendations within this report based on the interviews conducted with employees. Fraud or workplace theft is possible within the GOED. To reduce this risk, GOED can increase its employees' perception of detection through the implementation of the aforementioned recommendations in addition to the internal controls that are currently in place.

Eide Bailly LLP

Forensic & Valuation

SD GOED and SDDC

Interviewees

Name	Position	Entity	Program Name	Location
Ann Gesick-Johnson	Grant Administrator	GOED	Proof of Concept	Sioux Falls
Ann Gesick-Johnson	Grant Administrator	GOED	Workforce Development	Sioux Falls
Ann Gesick-Johnson	Grant Administrator	GOED	Dakota Seeds	Sioux Falls
Ashley Moore	Loan Servicing Agent:	SDDC	SDDC Other	Pierre
Charlie Van Gerpen	Loan Officer:	SDDC	SDDC Other	Pierre
Charlie Van Gerpen	Loan Officer:	SDDC	SDDC Investments	Pierre
Charlie Van Gerpen	Loan Officer:	SDDC	MicroLoan/MicroLOAN Expresss	Pierre
Cherissa Nielson	Grant Administrator:	GOED	REDI	Pierre
Dale Knapp	Accounting Assistant:	GOED	REDI	Pierre
Dale Knapp	Accounting Assistant:	GOED	Future Fund	Pierre
Dale Knapp	Accounting Assistant:	SDDC	SDDC Other	Pierre
Hunter Roberts	Energy Development Director	GOED	Ethanol Infrastructure Incentive Program	Pierre
Kim Easland	Finance Director:	GOED	REDI	Pierre
Kim Easland	Finance Director:	GOED	EDFA	Pierre
Kim Easland	Finance Director:	GOED	SD Works	Pierre
Kim Easland	Finance Director:	GOED	CDBG	Pierre
Kim Easland	Finance Director:	GOED	Future Fund	Pierre
Kim Easland	Finance Director:	SDDC	SBA 504	Pierre
Kim Easland	Finance Director:	SDDC	SDDC Other	Pierre
Kim Easland	Finance Director:	SDDC	SDDC Investments	Pierre
Kim Easland	Finance Director:	SDDC	MicroLoan/MicroLOAN Expresss	Pierre
LaJena Gruis	Loan Officer:	GOED	EDFA	Pierre
LaJena Gruis	Loan Officer:	GOED	SD Works	Pierre
LaJena Gruis	Loan Officer:	SDDC	SBA 504	Pierre
LaJena Gruis	Loan Officer:	SDDC	SDDC Other	Pierre
Marty Davis	Director of Administration:	GOED	REDI	Pierre
Marty Davis	Director of Administration:	GOED	EDFA	Pierre
Marty Davis	Director of Administration:	GOED	SD Works	Pierre
Marty Davis	Director of Administration:	GOED	CDBG	Pierre
Marty Davis	Director of Administration:	GOED	Ethanol Infrastructure Incentive Program	Pierre
Mel Ustad	Director of Commercialization:	GOED	Proof of Concept	Sioux Falls
Mel Ustad	Director of Commercialization:	GOED	Dakota Seeds	Sioux Falls
Nathan Lukkes	Deputy Commissioner:	GOED	Future Fund	Pierre
Nathan Lukkes	Deputy Commissioner:	GOED	Proof of Concept	Pierre
Nathan Lukkes	Deputy Commissioner:	GOED	Dakota Seeds	Pierre
Nathan Lukkes	Deputy Commissioner:	GOED	Ethanol Infrastructure Incentive Program	Pierre
Pat Costello	Commissioner:	GOED	CDBG	Pierre
Pat Costello	Commissioner:	GOED	Future Fund	Pierre
Pat Costello	Commissioner:	GOED	Proof of Concept	Pierre
Pat Costello	Commissioner:	GOED	Dakota Seeds	Pierre
Pat Costello	Commissioner:	GOED	Ethanol Infrastructure Incentive Program	Pierre
Paul Mehlhaff	Grant Administrator:	GOED	CDBG	Pierre
Travis Dovre	Assistant Finance Director:	GOED	REDI	Pierre
Travis Dovre	Assistant Finance Director:	GOED	EDFA	Pierre
Travis Dovre	Assistant Finance Director:	GOED	SD Works	Pierre
Travis Dovre	Assistant Finance Director:	GOED	CDBG	Pierre
Travis Dovre	Assistant Finance Director:	GOED	Future Fund	Pierre
Travis Dovre	Assistant Finance Director:	SDDC	SBA 504	Pierre
Travis Dovre	Loan Officer:	SDDC	SDDC Other	Pierre
Travis Dovre	Assistant Finance Director:	SDDC	SDDC Investments	Pierre
Travis Dovre	Assistant Finance Director:	SDDC	MicroLoan/MicroLOAN Expresss	Pierre



Jeremy Bendewald, MBA, CFE, CFI

Principal, Director of Forensic Services

701.239.8513 | jbendewald@eidebailly.com

Knowledge and Experience

- Serves as Eide Bailly's director of forensic accounting and investigative services.
- More than 10 years experience providing forensic accounting services for clients, with special knowledge in detection of fraudulent activity through computer data and accounting software.
- Participates with criminal and civil court of law proceedings regarding allegations of fraud.
- Provides significant fraud management services for many different types of organizations, including development of on-going fraud management control systems.
- Advanced education and training in Interview and Interrogation technique.

Professional Memberships

- Association of Certified Fraud Examiners
- Forensic EnCase Methodology
- Reid Technique of Interviewing and Interrogation
- Wicklander Zuluwsky method of conducting interviews and interrogation

Designations & Licensures

- Certified Fraud Examiner
- Masters in Fraud Management
- Certified Forensic Interviewer
- Private Investigator, Arizona
- Private Investigator, Minnesota

Education

- Masters of Business Administration, Fraud Management and Economic Crime - Utica College founded by Syracuse University, New York
- Bachelor of Science, Accounting with Forensic Accounting studies - North Dakota State University, Fargo



Jason Olson, MBA, CPA, CFF, CFE, CFI

Forensic Accounting Senior Manager
612.253.6554 | jwolson@eidebailly.com

Knowledge and Experience

- Provides forensic accounting services for complex financial transactions.
- Documents and quantifies fraud losses for businesses.
- Provides litigation support for civil and criminal proceedings.
- Documents weaknesses in internal controls and recommends solutions to mitigate future opportunities for fraud.
- Assists clients with insurance claims regarding fraud losses.
- Provides accounting, audit and tax services to clients.
- Advanced education and training in interview and interrogation technique.

Professional Memberships

- Association of Certified Fraud Examiners
- American Institute of Certified Public Accountants
- North Dakota Society of Certified Public Accountants
- State of Minnesota Board of Accountancy

Designations & Licensures

- Certified Public Accountant
- Certified Fraud Examiner
- Certified Forensic Interviewer
- Certified in Financial Forensics
- Private Investigator - Minnesota

Education

- Bachelor of Science, Accounting with Forensic Accounting emphasis - North Dakota State University, Fargo
- Masters of Business Administration, Fraud Management and Economic Crime - Utica College founded by Syracuse University, New York



Liz Johnson, CPA, CFE

Forensic Accounting Manager

701.239.8601 | ejohnson@eidebailly.com

Knowledge and Experience

- More than six years of experience providing forensic accounting services to clients.
- Provide fraud detection and investigation services to quantify fraud losses for organizations.
- Specialize in conducting internal controls examinations to identify potential fraud risks and provide recommendations to mitigate the identified risks for clients.
- Obtained advanced training in the Wicklander Zulauski method of interview and interrogation techniques.

Professional Memberships

- North Dakota Society of Certified Public Accountants
- American Institute of Certified Public Accountants
- Association of Certified Fraud Examiners

Designations & Licensures

- Certified Public Accountant
- Certified Fraud Examiner
- Private Investigator, Minnesota

Education

- Bachelor of Science, Business, Accounting and Fraud Investigation emphasis – North Dakota State University, Fargo



Alex Schroeder, CPA, CFE

Forensic Accounting Senior Associate
701.476.8822 | aschroeder@eidebailly.com

Knowledge and Experience

- More than three years of experience providing forensic and investigative accounting services to clients.
- Provides fraud detection and investigation services to quantify fraud losses for organizations.
- Provides internal controls examinations to identify potential fraud risks and provide recommendations to mitigate the identified risks for clients.
- Obtained training in the Wicklander-Zulawski method of interview and interrogation techniques.

Professional Memberships

- American Institute of Certified Public Accountants
- North Dakota Society of Certified Public Accountants
- Association of Certified Fraud Examiners

Designations & Licensures

- Certified Public Accountant
- Certified Fraud Examiner
- Private Investigator, Minnesota

Education

- Bachelor of Accountancy with Minor in Fraud Investigation - North Dakota State, Fargo

Sample Fraud Policy

BACKGROUND

The corporate fraud policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against ABC Corporation. It is the intent of ABC Corporation to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

SCOPE OF POLICY

This policy applies to any irregularity, or suspected irregularity, involving employees as well as shareholders, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with ABC Corporation (also called the Company).

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Company.

POLICY

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be reported immediately to the Director of _____, who coordinates all investigations with the Legal Department and other affected areas, both internal and external.

**ACTIONS
CONSTITUTING
FRAUD**

The terms defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

- Any dishonest or fraudulent act
 - Misappropriation of funds, securities, supplies, or other assets
 - Impropriety in the handling or reporting of money or financial transactions
 - Profiteering as a result of insider knowledge of company activities
 - Disclosing confidential and proprietary information to outside parties
 - Disclosing to other persons securities activities engaged in or contemplated by the company
 - Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the Company. Exception: Gifts less than \$50 in value.
 - Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment; and/or
 - Any similar or related irregularity
-

**OTHER
IRREGULARITIES**

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by departmental management and the Employee Relations Unit of Human Resources rather than the _____ Unit.

If there is any question as to whether an action constitutes fraud, contact the Director of _____ for guidance.

**INVESTIGATION
RESPONSIBILITIES**

The _____ Unit has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. If the investigation substantiates that fraudulent activities have occurred, the _____ Unit will issue reports to appropriate designated personnel and, if appropriate, to the Board of Directors through the Audit Committee.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

CONFIDENTIALITY

The _____ Unit treats all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the _____ Unit immediately, and *should not attempt to personally conduct investigations or interviews/interrogations* related to any suspected fraudulent act (see **REPORTING PROCEDURE** section below).

Investigation results *will not be disclosed or discussed* with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the Company from potential civil liability.

**AUTHORIZATION FOR
INVESTIGATING
SUSPECTED FRAUD**

Members of the Investigation Unit will have:

- Free and unrestricted access to all Company records and premises, whether owned or rented; and
 - The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.
-

**REPORTING
PROCEDURES**

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee who discovers or suspects fraudulent activity will contact the _____ Unit immediately. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Investigations Unit or the Legal Department. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "I am not at liberty to discuss this matter." *Under no circumstances* should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with *anyone* unless specifically asked to do so by the Legal Department or _____ Unit.

TERMINATION

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the designated representatives from Human Resources and the Legal Department and, if necessary, by outside counsel, before any such action is taken. The _____ Unit does not have the authority to terminate an employee. The decision to terminate an employee is made by the employee's management. Should the _____ Unit believe the management decision inappropriate for the facts presented, the facts will be presented to executive level management for a decision.

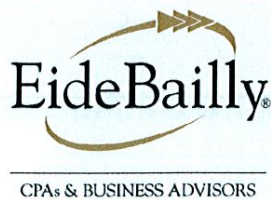
ADMINISTRATION

The Director of _____ is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.

APPROVAL

(CEO/Senior Vice President/Executive

Date



November 26, 2013

J. Pat Costello, Commissioner
Governor's Office of Economic Development
State of South Dakota
711 E. Wells Ave.
Pierre, SD 57501

RE: Internal Controls Examination

This letter is to confirm our understanding of the services that we are to provide for you.

Scope of Engagement

We will conduct an internal controls examination for the State of South Dakota's Governor's Office of Economic Development ("GOED"). Specific scope and internal controls examination items are detailed below:

- Review and evaluate the policies and procedures currently in place for internal control weaknesses over the GOED's accounting and cash management functions.
- Conduct internal controls examination interviews to determine if existing policies and procedures are being followed and to identify internal control weaknesses. The interviewees consist of individuals overseeing the following programs:
 - Revolving Economic Development Initiative Fund ("REDI")
 - Economic Development Finance Authority ("EDFA")
 - South Dakota WORKS ("SD Works")
 - Community Development Block Grants ("CDBG")
 - GOED's Building SD and Infrastructure Reinvestment Program
 - Future Fund
 - Proof of Concept
 - Dakota Seeds
 - Ethanol Infrastructure Incentive Program
 - Agriculture Processing and Exporting ("APEX")
- Provide a report that will include a written narrative that will cover identified breakdowns in accounting processes, internal control weaknesses and recommendations.

Our engagement will be conducted in accordance with lawful forensic accounting and internal control examination techniques.

Timeline

We will begin our procedures upon acceptance of this engagement agreement. If delays are experienced in receiving information, the delivery of the report will be delayed accordingly. Should we experience difficulties in these areas we will inform you promptly and discuss the effect on our timetable with you. You also agree that we may discuss this engagement with other partners or associates in our firm for the purpose of obtaining expertise, research materials or other matters essential to this engagement. You agree to accept the limiting conditions as listed in our report and to the scope of the report. You also agree that we may disengage ourselves from this engagement for any reason.

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Fees

Eide Bailly LLP is dedicated to professionalism and service to our clients. While professional fees should be reasonable, they must be representative of the professional quality of the services to be provided. Our fees are based upon the amount of time required to complete the assignment and the level of personnel assigned. The fee for our internal controls examination is \$11,000 **plus** out-of-pocket expenses.

In addition, we will be compensated for any time and expenses, including time and expenses of legal counsel, we may incur in conducting or responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings as a result of our Firm's performance of these services. You and your attorney will receive, if lawful, a copy of every subpoena we are asked to respond to on your behalf and will have the ability to control the extent of the discovery process to control the costs you may incur.

In accordance with our firm policies, work may be suspended if your account becomes 30 or more days overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Should our relationship terminate before our examination procedures are completed and a report issued, you will be billed for services to the date of termination. All bills are payable upon receipt. A service charge of 1% per month, which is an annual rate of 12%, will be added to all accounts unpaid 30 days after billing date. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

Dispute Resolution

The following procedures shall be used to resolve any disagreement, controversy or claim that may arise out of any aspect of our services or relationship with you, including this engagement, for any reason ("Dispute"). Specifically, we agree to first mediate.

Mediation

All Disputes between us shall first be submitted to non-binding mediation by written notice ("Mediation Notice") to the other party. In mediation, we will work with you to resolve any differences voluntarily with the aid of an impartial mediator. The mediator will be selected by mutual agreement, but if we cannot agree on a mediator, one shall be designated by the American Arbitration Association ("AAA").

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the Dispute. Mediation will be conducted with the parties in person in Sioux Falls, South Dakota.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Either party may commence suit on a Dispute after the mediator declares an impasse.

Governing Law and Venue

We also both agree to submit any unresolved Dispute to a trial by a court of the South Dakota Unified Judicial System. This agreement shall be governed by and construed in accordance with the laws of the State of South Dakota (regardless of the laws that might be applicable under the principles of conflict of law) as to all matters including without limitation, matters of validity, construction, effect, and performance.

Limitation of Damages and No Punitive Damages

The exclusive remedy available to you in any adjudication proceeding shall be the right to pursue claims for actual damages that are directly caused by acts or omissions that are breaches by us of our duties under this agreement and/or under applicable professional standards, such damages will be limited to no more than two times fees paid under this agreement. In no event shall we be liable to you for any punitive or exemplary damages, or for attorneys' fees.

Time Limitation

The nature of our services makes it difficult, with the passage of time, to gather and present evidence that fully and fairly establishes the facts underlying any Dispute. We both agree that, notwithstanding any statute of limitations that might otherwise apply to a Dispute, it is reasonable that you may not bring any legal proceeding against us unless it is commenced within twenty-four (24) months ("Limitation Period") after the date when we deliver our report, return or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the report.

The Limitations Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of the existence or possible existence of a Dispute.

Assignments Prohibited

You agree that you will not and may not assign, sell, barter or transfer any legal rights, causes of actions, claims or Disputes you may have against Eide Bailly, its partners, affiliates, officers and employees, to any other person or party, or to any trustee, receiver or other third party.

Conclusion

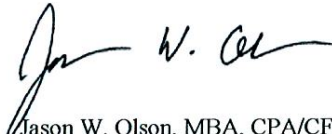
We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign a copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter.

Very truly yours,

Eide Bailly LLP



Jeremy G. Bendewald, MBA, CFE, CFI
Director of Forensic Services



Jason W. Olson, MBA, CPA/CFF, CFE, CFI
Senior Manager, Forensic & Valuation

Accepted By:

GOVERNOR'S OFFICE OF ECONOMIC
DEVELOPMENT


Signature

J. Pat Costello, Commissioner

Title

11-26-13
Date



*Building, Developing & Retaining
a Productive State Workforce*

Employee Handbook

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Handbook Disclaimer

This handbook is intended to provide general information to state employees. The policies and information described in this handbook are not conditions of employment, and the language is not intended to, nor does it, create a contract between the State and the employee. The State reserves the right to change or eliminate any of the policies or information in this manual at its discretion with or without notice. Also, some of the statements in this handbook are general in nature and should not be read as including all the details on the subject discussed. The State reserves the right to discipline status employees in accordance with the state laws and rules and to discipline all other employees (who are at-will employees) at any time and for any reason.

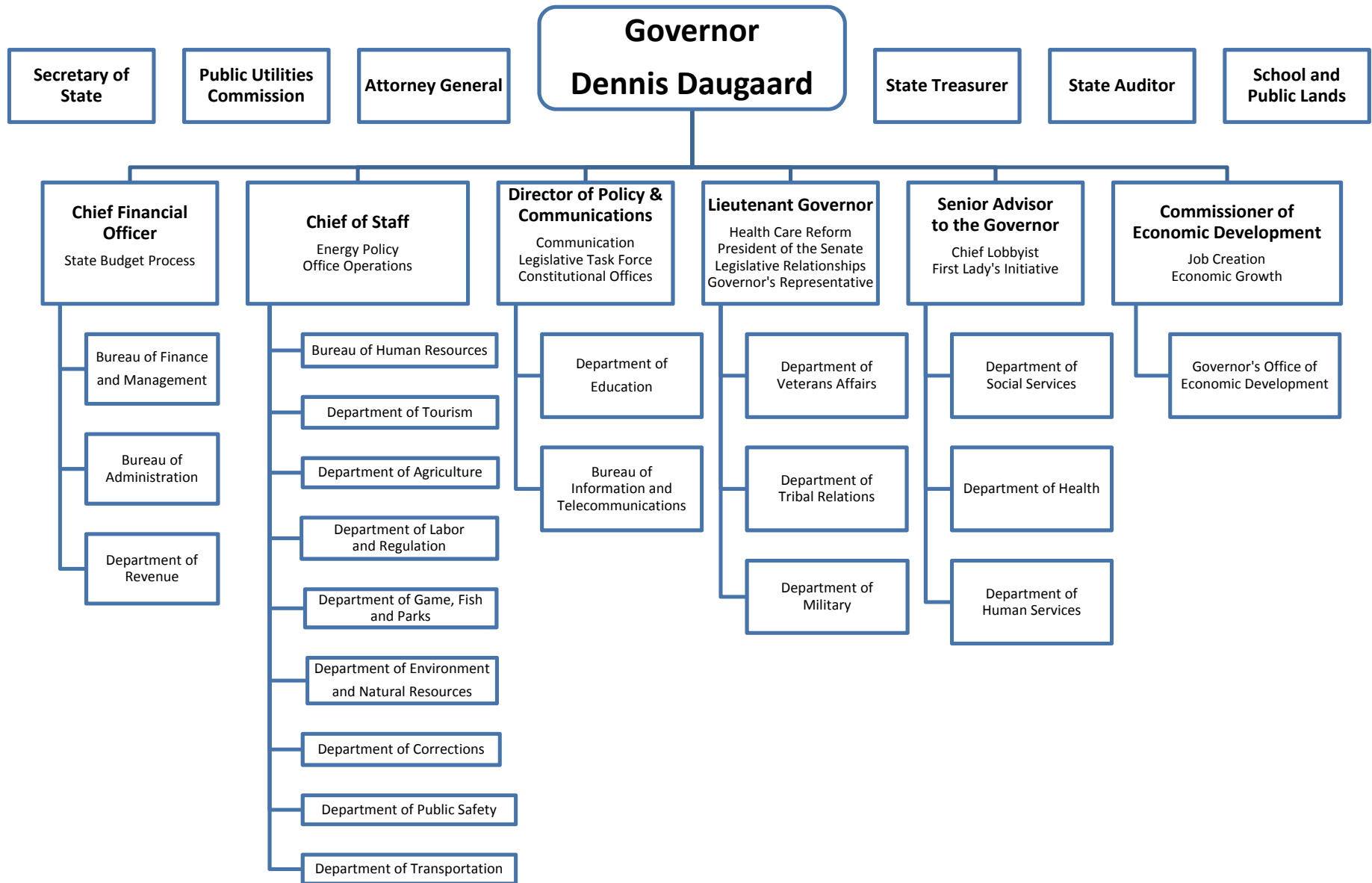
Any employee handbook or manuals previously distributed by the Bureau of Human Resources are revoked and rescinded, and the provisions are null and void.

This handbook is not an exhaustive list of all employee obligations. In addition to the handbook, employees must also abide by federal and state laws, regulations, and rules as well as other statewide and internal agency orders, policies, guidelines, directives, and instructions.

If you have questions about the employee handbook or this disclaimer, please contact your human resource representative.

The State of South Dakota Employee Handbook is updated regularly by the Bureau of Human Resources. To receive or review a current copy of the handbook, please contact your human resource representative at the Bureau of Human Resources or access the handbook on the Bureau of Human Resources' intranet website.

Executive Branch Organizational Chart



Overview of Government Agencies

Executive Branch Agencies

The three branches of state government include the Legislative Branch, the Judicial Branch, and the Executive Branch. The Executive Branch includes eight elected officials, the lieutenant governor, and the governor. The governor has decision-making authority over the Bureau's and 17 departments (see chart on page 3).

OFFICES OF ELECTED OFFICIALS

Public Utilities Commission - regulates facilities, services, operations, and rates on telephones and utilities in the state.

Secretary of State - provides assistance with all federal, state, and local elections; completes and records all public state documents; and administers corporate and Uniform Commercial Code functions.

Attorney General - as the state's legal counsel, this office represents the state by issuing official legal opinions, investigating consumer complaints, and directing the Division of Criminal Investigation.

State Treasurer - monitors and safely keeps all moneys that are paid to the state treasury; responsible for filing all transactions and reporting the state's indebtedness. In collaboration with the State Auditor, the Treasurer disperses state funds.

State Auditor - administers state employee payroll, records and monitors all fund balances, and submits reports to the governor on the state's financial condition.

School and Public Lands - manages school and endowment lands and trust funds owned by the state for the support of public schools and state institutions.

OFFICE OF EXECUTIVE MANAGEMENT

Bureau of Administration (BOA) - provides administrative, engineering, and nontechnical services to support the operation of other departments. These services are offered through the following programs: Buildings & Grounds, Central Duplicating, Central Mail, Fleet and Travel Management, Surplus Property, Procurement, Space Management, Records Management, the Office of Hearing Examiners, Federal Surplus Property, the State Engineer's Office and the Office of Risk Management.

Bureau of Finance and Management (BFM) - advises the Governor on the overall fiscal policy; completes and presents the annual fiscal plan; and manages the central accounting and payroll systems. The functions performed by bureau staff fall into four categories--budget analysis, executive management finance office, financial compliance, and financial systems.

Bureau of Information and Telecommunications (BIT) - manages state government information technology and public broadcasting. It includes the following divisions: the Data Center which runs enterprise-computing facilities; the Telecommunications Division maintains local and wide area voice, data and video networks; the Development Division is responsible for developing information systems, and South Dakota Public Broadcasting provides broadcasts over TV, radio, and the Internet.

Bureau of Human Resources (BHR) – administers the human resources management system for the State of South Dakota and its employees. This includes recruitment and selection, job analysis, training for all employees, payroll, compensation, and employee benefits.

DEPARTMENTS

Department of Agriculture (DOA) – promotes and enhances the state's agricultural industry by improving the quality of agricultural products and resources as well as rural life in South Dakota.

Department of Corrections (DOC) – provides the necessary custody, care, and supervision of juvenile and adult offenders for the protection of the citizens of South Dakota, and oversees the operations of the state's adult prisons, juvenile correctional facilities, adult parole, and juvenile aftercare.

Department of Education (DOE) – oversees K-12 public education in South Dakota, providing support and technical assistance to schools across the state. Includes the South Dakota State Library, which provides services to public, school and research libraries statewide, and direct service to blind and visually-impaired citizens. Coordinates postsecondary technical education at the state's four technical institutes.

Department of Environment and Natural Resources (DENR) – manages the allocation, utilization, development, and quality of the state's water resources; promotes and regulates mineral, oil, and gas exploration and production; and works to maintain and enhance the quality of the environment.

Department of Game, Fish, and Parks (GFP) – protects and improves the quality of the state's natural environment to provide a variety of recreational opportunities, maintains the state's wildlife, regulates hunting and fishing, and develops and maintains outdoor recreational facilities and state parks.

Department of Health (DOH) – promotes the general health of the public by ensuring access to quality health care, coordinating the delivery of health services, working to prevent and control communicable diseases, providing inspection and certifications of facilities, and coordinating public health preparedness and response efforts.

Department of Human Services (DHS) – promotes the highest level of independence for all individuals regardless of disability or disorder. DHS includes the following Divisions/Facilities: Developmental Disabilities, Rehabilitation Services, Services to the Blind and Visually Impaired, and South Dakota Developmental Center in Redfield.

Department of Labor and Regulation (DLR) – assists employers with workforce and employment-related needs; helps people with job placement and career transition services; ensures fair employment practices; handles human rights issues and labor contract mediations; administers the State's unemployment insurance and workers' compensation systems; provides sound state-chartered and licensed financial institutions; sets rules and procedures to ensure investments sold in South Dakota meet standards of full disclosure, including securities products, franchises, and business opportunities; and regulates and licenses the insurance industry in South Dakota to serve and protect consumers, companies, and producers.

DLR also provides for the safety and well-being of the general public by administering the following professional licensing boards: the Abstractor's Board of Examiners, Banking Commission, Board of Accountancy, Board of Barber Examiners, Board of Technical Professions, Cosmetology Commission, Electrical Commission, Plumbing Commission, and Real Estate Commission.

Department of the Military (DOM) - The Adjutant General commands the Army and Air National Guard units in the state and is the Secretary of the Department of the Military. The South Dakota National Guard provides trained forces and proper equipment for the Active Military in times of national emergencies and conflicts. The National Guard also assists local and state government during times of disaster, civil disturbances and other emergencies based on the Governor's direction.

Department of Veterans Affairs (DVA) - The Department of Veterans Affairs assists veterans and their families by providing technical expertise on how to access benefits, file claims for their benefits, processing and paying claims, the GI bill as well as any other issues or concerns they may have. The department also manages the Michael J. Fitzmaurice State Veterans Home in Hot Springs.

Department of Public Safety (DPS) - It is the mission of the South Dakota Department of Public Safety to keep South Dakota a safe place in which to live, work, visit and raise a family. The Department consists of 11 different programs including Enforcement, Licensing, Emergency Services and Homeland Security.

Department of Revenue (DOR) - collects and administers taxes and license fees levied by the state and local governments, ensures that taxpayers are in compliance with South Dakota tax laws, provides manages and operates secure instant match, video lottery and lotto games to generate revenue for the state's general fund.

Department of Social Services (DSS)- The Department of Social Services provides social, financial and medical services to eligible South Dakotans with the goal of fostering independence and personal responsibility. DSS also ensures children, the elderly and people with disabilities are safe from abuse and neglect.

Department of Tribal Relations- The mission of the Department of Tribal Relations is to establish and maintain an effective communication link between the Governor and the Tribal Governments in the state.

Department of Tourism (TOUR)- The Department of Tourism promotes the state as a premier vacation destination to all visitors, and supports and serves the South Dakota visitor industry.

Department of Transportation (DOT) - provides an effective and efficient transportation system to satisfy diverse mobility needs while retaining concern for safety and the environment. The DOT system and services covers all transportation systems in the state, including highways and bridges, aviation and airports, railroads and public transit.

Governor's Office of Economic Development (GOED) - The GOED grows South Dakota's Gross Domestic Product by assisting businesses in capital investment and quality job creation.

Equal Employment Opportunity

The State of South Dakota is an equal opportunity employer. Equal employment opportunities will be provided to all employees in all conditions of employment. Discrimination on the basis of race, color, creed, religion, sex (including pregnancy), ancestry, national origin, genetics, age (40 years of age or older), disability, or, for civil service employees, political affiliation, is prohibited. If an employee believes he or she has been denied equal opportunity or discriminated against, the employee should immediately notify his or her supervisor and human resource representative and has the right to file a grievance on the basis of discrimination.

Types of Positions

Your job is classified as one of the following types of positions:

- A. **Probationary** – new employees appointed to civil service positions who have not completed their probationary period. For more information about the probationary period, see below.
- B. **Civil service or Status** – employees appointed to civil service positions who have completed their probationary period. The positions are covered by the provisions of the civil service act (SDCL 3-6D).
- C. **Exempt** – positions that are excluded from the provisions of SDCL 3-6D.
- D. **Temporary** – positions that are temporary or seasonal in nature. This type of position is not entitled to the benefits or rights of a status employee.

Employees in probationary, exempt, and temporary positions are at will employees and may be terminated for any reason at any time.

Probationary Period

Civil service employees must serve a probationary period. The probationary period lasts for the first 1,040 regular hours of work, excluding overtime. This normally amounts to six months for full-time employees who have not taken leave without pay during the probationary period. The probationary period for law enforcement civil service employees is one year. During the probationary period, you do accumulate vacation and sick leave. You may use your accumulated sick leave as needed, but you may not use vacation leave for six months. You are not eligible for payment of vacation leave if you leave employment before completing six months of service.

During the probationary period, you are an at will employee who can be dismissed for any reason, at any time. Your only right to appeal a termination during the probationary period is on the basis of a prohibited form of discrimination. Following successful completion of your probationary period, you achieve civil service status. For additional information, contact your human resource representative.

Leaves of Absence

Vacation Leave

As a full-time employee, you will accumulate leave credits of 5 hours per semimonthly pay period and may accumulate a maximum of 240 hours. When you have completed 15 years of service, you receive 6.6667 hours of leave per semimonthly pay period and may accumulate a maximum of 320 hours. Vacation leave may be granted for vacation leave or to supplement other leaves of absence.

New employees may not use vacation leave until six months of service have been completed. If you work less than 40 hours in a week or take leave without pay, the number of leave credits earned is reduced in proportion to the number of hours worked. Upon retirement or resignation, state employees with six months of continuous service will be paid for accumulated vacation leave.

Sick Leave

Full-time employees earn 4.6667 hours of sick leave each semimonthly pay period. There is no limit to the number of hours you can accumulate. Sick leave may be granted for personal illness or disability, pregnancy, exposure to a contagious disease that would endanger the health of coworkers, eye or dental care, required medical examinations, counseling or treatment at approved centers for alcohol or drug abuse, or psychiatric care.

If you work less than 40 hours or take leave without pay, the number of sick leave credits earned will be reduced in proportion to the number of hours worked. The Commissioner of the Bureau of Human Resources and your department secretary, bureau commissioner, or institution administrator have the authority to investigate suspected misuse of sick leave. If you are guilty of misuse of sick leave, the time off will be charged to leave without pay. Misuse of sick leave may be cause for disciplinary action.

General provisions for the accumulation and use of vacation and sick leave:

- If employment is terminated during your first six months, you will not be paid for your accrued vacation leave.
- You cannot use more vacation leave than you have accumulated.
- Requests for leave other than sick leave must be approved by your immediate supervisor prior to your departure time.
- If you are ill, you must notify your supervisor prior to the start of your work shift.
- The amount of time you are absent from your job without prior authorization or notification will be considered absence without leave. You will not be paid for that time. Unauthorized or unreported absences may be cause for disciplinary action.
- When you are terminating employment and are on vacation leave, you cannot use other types of leave.
- Upon an employee's resignation/retirement/layoff from employment, one-fourth of accumulated sick leave (up to 480 hours) will be paid to employees who have been continuously employed in a permanent position by the state for at least seven years. The accumulated leave is paid at the rate of pay as of the employee's last day on payroll.

Leaves of Absence (cont.)

Personal Leave

If necessary, you may use up to 40 hours per year of accumulated sick leave for personal leave. The leave may be used for:

- a death in the immediate family (which is defined as your father, mother, spouse, children, mother-in-law, father-in-law, son-in-law, daughter-in-law, brothers, sisters, grandparents, grandchildren, stepbrothers, stepsisters, stepchildren, stepparents, or foster children);
- the temporary care of members of the immediate family;
- the birth or adoption of a child; and
- a call to state active duty of military reserve or National Guard members.

Family and Medical Leave Act (FMLA)

State administrative rules and the Federal Family and Medical Leave Act of 1993 provide eligible employees with up to 12 weeks of unpaid, job-protected family and medical (FMLA) leave each year for certain family and medical reasons or up to 26 weeks for a family caregiver of an injured or ill service member. Employees are eligible if they have worked for at least one year and for 1,250 hours over the previous 12 months.

Effective February 1, 2011, the calculation of the 12-month period for Family and Medical Leave Act purposes changed from a calendar year calculation to a 12-month period measured forward from the date an eligible employee's first FMLA leave begins. Holidays and/or administrative leave days will also be counted in the calculation of FMLA hours if the holiday or administrative leave day falls in a week where the employee is scheduled to take a full week of FMLA leave, or if the employee is using FMLA in increments of less than a full week, if the employee was otherwise scheduled and expected to work during the holiday and/or administrative leave day.

Reasons for Taking Leave:

FMLA leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care (this leave must conclude within 12 months of the birth or placement);
- to care for the employee's spouse, son or daughter (who is under eighteen years old, unless the son or daughter is not capable of self-care due to mental or physical disability), or parent, who has a serious health condition;
- for a serious health condition that makes the employee unable to perform the employee's job;
- for a qualifying exigency arising out of the fact that a covered military member (a spouse, son, daughter or parent) is on active duty or called to active duty status in support of a contingency operation (e.g. of reasons for leave: short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities); or

- to care for a family member (spouse, son, daughter, parent or next of kin) who incurred a serious injury/illness as a result of active military service (up to 26 weeks combined FMLA leave in a single 12-month period.)

Paid Versus Unpaid Leave

Employees may substitute eligible paid leave for unpaid leave during the FMLA period. To use paid leave during the FMLA period, the employee must meet all the leave requirements of that particular paid leave. For example, sick leave can only be used for the employee's *own* illness. The state requires employees to use eligible paid leave before utilizing unpaid leave during the FMLA period. If the employee exhausts his or her eligible paid leave, then the remainder of the FMLA period is unpaid.

Advance Notice and Medical Certification:

Employees are required to provide advance leave notice and medical certification. Taking of leave may be denied or delayed if requirements are not met. The employee ordinarily must provide 30 days advance notice when the leave is foreseeable. In other circumstances, the notice must be given as soon as practicable.

- The State will require medical certification from your health care provider to support a request for leave because of a serious health condition, and may require second or third opinions, periodic recertification, periodic reports regarding the employee's status and intent to return to work, and a fitness for duty report to return to work. Failure to provide this information may result in disciplinary action.

Job Benefits and Protection:

- During FMLA leave, the state will maintain the employee's benefits coverage (such as health, life, and flexible benefits) at the same cost to the employee. The employee must pay his or her share of premiums, and, if the employee fails to pay the premium, coverage will cease. If the employee is on leave without pay, the employee must contact the Bureau of Human Resources Benefits Program to make arrangements for the timely payment of premiums.
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- The state may recover its share of insurance premiums if the employee fails to return after taking leave under certain circumstances.

Failure to Return to Work:

If an employee fails to return to work after FMLA leave is exhausted, the employee may be subject to disciplinary action or termination due to inability to perform the essential functions of the job.

Court and Jury Leave

In some instances, employees may receive court and jury leave for time spent testifying in court or serving on a jury. The Court and Jury Leave Policy found in the policy section of the handbook explains court and jury leave in more detail.

Military Training Leave

Permanent employees are entitled to Military Training Leave of up to 15 days per calendar year. Employees requesting military leave for training must obtain a written order from the commander of their reserve or National Guard unit indicating dates of the training period. This notice is to be submitted to your supervisor at least 15 calendar days prior to the date of your departure for training.

Leave of Absence Without Pay

Prior permission must be obtained from your supervisor to take a leave of absence without pay. While on leave without pay, you will not accumulate leave credits and you must make provisions to pay for your voluntary payroll deductions.

Absence Without Leave

Unauthorized and unreported absences may result in a deduction of pay and may be cause for disciplinary action. You must report the reason for any absence to your supervisor as soon as possible.

Alternative Work Schedule

Alternative work schedules enable managers and supervisors to meet their program goals while at the same time, allowing employees more flexibility in scheduling their personal activities. Within guidelines, it is the policy of the state to provide employees the opportunity to request the hours of work that suit their individual needs. Alternative work schedules include flexible work schedules and reduced work schedules.

Holidays

All employees in permanent positions in state government receive their regular pay for ten legal holidays plus any other day proclaimed as a holiday by the Governor of South Dakota or the President of the United States. The State of South Dakota recognizes the following holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	third Monday in January
Presidents' Day	third Monday in February
Memorial Day	last Monday in May
Independence Day	July 4
Labor Day	first Monday in September
Native Americans Day	second Monday in October
Veterans Day	November 11
Thanksgiving	fourth Thursday in November
Christmas	December 25

If a holiday from the list falls on a Saturday, the preceding Friday is observed as the paid holiday. If a holiday falls on a Sunday, it is observed on the following Monday. Holiday pay is prorated based on hours worked for employees who are working less than full-time. For information about holiday pay provisions, contact your human resource representative.

Employee/Manager Service Center

A self-service website for employees on Central Payroll is available at <https://bfm.sd.gov/empselfservice/sea.asp>. Employees have the ability to view earnings statements, leave balances and usage transactions, Performance, Planning and Review (PPAR) history and other payroll employee information. This site allows employees to take an active role in maintaining some of their own information on the payroll system like home address, emergency contacts, federal tax withholding, and direct deposit information. Links to other websites, for example South Dakota Retirement System's retirement calculator, benefits information, employee reimbursements for travel, training opportunities and current state job listings are also available.

This site is a quick, easy, and secure way to ensure the HR/payroll employee information is accurate and meets employees' wishes. This website will continue to be developed to increase services and applications available to employees.

To access this site, you must enter your user id (employee number) and password. Your password is initially set to the last four digits of your social security number and the month (mm) and day (dd) of your birth, creating an eight (8)-digit number. You have the ability to change your password after you log into the system. If you forget your password, you can contact your BHR representative and request to have your password re-set to the initial password. For more information on Employee/Manager Service Center, contact your human resource representative.

The two screens illustrated below are the Employee self-service center and the menu shown to an employee when "pay" is selected. From the menus, various applications and services are offered to the employee for viewing or updating.

South Dakota HR PORTAL Portal Home Welcome

Home Pay

SD Employee

Pay ▾

Tax Withholding

Direct Deposit

Leave Balances

Update Your Information

Position Information

Job Profile

Review History

Current Benefits

Emergency Contacts

Training ▾

Information ▾

SD Manager ▾

Portal

Common Tasks

> [Manage Subscriptions](#)

> [Change Password](#)

Change your single-signon password

Useful Information

> [Portal User Help](#)

> [Hotkeys Help](#)

South Dakota HR PORTAL Portal Home Welcome

Home Pay

Pay ▾

Parent Menu ▾

Online Paystubs

2010 W2

2009 W2

2008 W2

Pay Rate History

Year-to-Date Totals

Reimbursement Details

Hourly Pay Calculations

Portal

Common Tasks

> [Manage Subscriptions](#)

> [Change Password](#)

Manage your navigation links and home page content

Useful Information


> [Portal User Help](#)

> [Hotkeys Help](#)

Paychecks

The State of South Dakota requires employees to have direct deposit. Employees who do not have a bank account can elect to have a payroll card. Employees can receive an electronic pay stub. E-stubs can be sent to more than one email address (home/work) or as a text message. Employees who do not have an email/text address can access pay check information online at the State of South Dakota Employee Manager Self Service (HR Portal) website at <http://www.state.sd.us/bfm/empselfservice/sea.asp>

This is an example of a pay check e-Stub:

		Payment No. 99999999	
		Payment Date: 01/16/2009	
PAY TO THE ORDER OF		Last, First M.	
		\$861.00	
		NON-NEGOTIABLE	
<i>This e-mail is notification that the above payment will be deposited in your account(s) on the date specified.</i>			
HR Contact List		SEA Manager/Employee Service Center	
		e-Stub FAQ	
EMPLOYEE NAME	EMP #	DEPT	PERIOD END
Last, First M.	999999	XXX-0000	01/08/2009
		RATE OF PAY \$12.53	

AUTO DEPOSIT DISTRIBUTIONS			
BANK ACCOUNT	DESCRIPTION	AMOUNT	
XXXXXXXXXX	BANKNAME	\$851.00	
XXXXXXXXXX	FIXED ACH	\$10.00	

EARNINGS			
	HOURS	CURRENT	YTD
Regular	60.00	\$751.80	\$1854.44
Holiday	16.00	\$200.48	\$200.48
Admin	8.00	\$100.24	\$100.24
Sick	8.00	\$100.24	\$100.24
Vacation	4.00	\$50.12	\$50.12
Total Gross	96.00	\$1202.88	\$2305.52
Taxable Wages		\$1094.84	\$2095.45
Total Deductions		\$341.88	\$655.05
Total Net		\$861.00	\$1650.47

TIME ACCRUAL PLANS			
PLAN NAME	EARNED	BALANCE	
Personal	0.0000	40.0000	
Sick	4.6667	356.1299	
Vacation	5.0000	103.8500	

TAXES/DEDUCTIONS			
	Type	CURRENT	YTD
FIT	Tax	\$131.52	\$248.90
Med EE	Tax	\$16.92	\$32.39
Soc Sec	Tax	\$72.35	\$138.49
Dental	Pre-tax	\$9.80	\$19.60
MedSpend	Pre-tax	\$20.00	\$40.00
Vision	Pre-tax	\$6.07	\$12.14
Retire	Pre-tax	\$72.17	\$138.33
HI/Lf-ER	State Paid	\$240.54	\$481.08
Med ER	State Paid	\$16.92	\$32.39
Retire	State Paid	\$72.17	\$138.33
UI	State Paid	\$0.78	\$1.50
Soc Sec	State Paid	\$72.35	\$138.49
W Comp	State Paid	\$2.65	\$5.08
YMCA	Deduc	\$13.05	\$25.20

Compensation

A pay grade is established for each job classification. It indicates the range of pay for the position, including a minimum and a maximum.

Overtime Pay

Overtime is paid in accordance with the state overtime policy and federal and state law. Your human resource representative will inform you if you are eligible for overtime pay.

Holiday Pay

Any employee in a permanent position who must work during a state holiday will be compensated in accordance with the department's holiday pay policy. Your human resource representative can inform you of the appropriate holiday pay policy.

Longevity Pay

Longevity pay is a reward for years of service to the State of South Dakota. It is a way to recognize experienced and dedicated state employees. Longevity pay is based on the total number of years worked for the state. The years of service need not be continuous. Employees with seven through ten years of service receive a \$100 longevity check once per fiscal year. The rate increases by \$5 per year in five-year increments.

For example, for years 11 through 14, the amount is \$10 times the years of service. For 15 through 19 years of service, the amount is \$15 times the years of service. [e.g. an employee with 14 years of service will receive \$140 (\$10 x 14 years) longevity payment (minus deductions), and an employee who serves for 22 years will receive a \$440 (\$20 x 22 years) longevity payment (minus deductions).]

Longevity Pins

For ten or more total years of service, employees receive a lapel pin of the great seal of South Dakota. Pins are awarded at five-year increments: 10, 15, 20, 25, 30, and 35 years. In addition, employees with 30 years of service will receive a wall plaque.

Workers' Compensation

If you are injured or contract a disease as a result of and/or in the course of your employment, you must report it as soon as possible. Within three business days of occurrence, you must report in writing the circumstance of the injury or disease to your supervisor as well as to the person responsible for filing the Employer's First Report of Injury. Then, within seven days, not counting Sundays and legal holidays, after the employer has knowledge of the occurrence of an injury, the Employer's First Report of Injury must be filed with the Workers' Compensation Program at the Bureau of Human Resources. Failure by the employee to file the claim on time may result in denial of the claim. You should keep in contact with your human resource representative to ensure a claim is properly filed.

Health, Life, and Flexible Benefits

All employees in permanent positions of the State of South Dakota, who work 20 hours or more per week, at least six months of the year are eligible to participate in the South Dakota State Employee Health, Life, and Flexible Benefit Plans. An Employee must complete the online Benefits Enrollment Form during the initial 30-day enrollment period.

PLEASE NOTE: The following summary information on Health, Life, and Flexible Benefits is accurate for the Plan Year beginning July 1, 2013, and ending June 30, 2014. For information on any benefits changes, contact your human resource representative.

Health Plan

The main components of the South Dakota State Employee Benefits Program are as follows:

1. Employee coverage is paid by the State. Dependent coverage is the responsibility of the employee.
2. Employees have four plan options:
 - \$500 Deductible Plan
 - Members must satisfy \$500 per person or \$1,250 per family of three or more before the Plan begins paying benefits.
 - \$1,000 Deductible Plan
 - Members must satisfy \$1,000 per person or \$2,500 per family of three or more before the Plan begins paying benefits.
 - \$1,800 Deductible HSA Compatible Plan
 - Members must satisfy \$1,800 single coverage or \$3,600 per family of three or more before the Plan begins paying benefits.
 - Opt Out of the Health Plan
 - Members who Opt Out of the Health Plan must provide proof of other group health coverage and may receive a \$300 Opt-Out credit.

The employee will pay a tobacco-user fee if the employee and/or covered spouse use tobacco products.

3. To be eligible for the \$500 Deductible Plan in FY15, employees and covered spouses must a Health Screening, Health Assessment, and a Latitude Program during the designated time frames. Contact the Benefits Program for detailed information. Employees hired in FY14 do not need to complete the requirements for the \$500 Deductible Plan in FY15. Contact the Benefits Program for detailed information.
4. Coinsurance applies after you meet your deductible and after any copayment, if applicable. If you visit a network provider, the Plan pays 75% and you pay 25%. For services provided by an out-of-network provider, the Plan pays 65% and you pay 35%.
5. Each member is eligible for Benefit Maximums. Refer to the Health Summary Plan Description "Master Schedule" for Benefit Maximums.

For additional information about the Health Plans, contact the Bureau of Human Resources, Benefits Program at 877.573.7347 option 2, or visit <http://benefits.sd.gov>.

Life Coverage

The State offers Basic Life Coverage of \$25,000 to Benefit Eligible Employees.

In addition to the employer paid coverage, you may purchase additional amounts of Supplemental Life Coverage of two to five times your annual salary level to a maximum value amount of \$400,000.

If you enroll in Supplemental Life Coverage, you may purchase Dependent Life Coverage of \$10,000 for your spouse and each eligible dependent.

Employees, who enroll in the Supplemental Life Coverage, may also purchase Accidental Death and Dismemberment (AD&D). AD&D Coverage provides a life benefit in case of accidental death and dismemberment. AD&D Coverage must equal the Supplemental Life Coverage selected. If you enroll in AD&D, your AD&D Coverage will apply to Dependent Life Coverage as well, if applicable.

Employees who carry the State Group Supplemental Life Coverage will automatically receive a Basic Long Term Care (LTC) benefit. The Basic benefit provides \$1,500 per month if a member is unable to work due to the loss of two or more Activities of Daily Living (ADLs) and is confined to a nursing home. Partial benefits are provided if a member resides in an Assisted Living Center or receives professional help in the home. The maximum amount for this benefit is \$36,000 which is equivalent to a 2-year duration with a \$1,500 monthly benefit.

For more information about Supplemental Life Coverage, Dependent Life Coverage, AD&D, or Long Term Care benefits, contact the Bureau of Human Resources, Benefits Program at 877.573.7347, option 2, or visit <http://benefits.sd.gov>.

Flexible Benefits Plans

Eligible Employees may choose to participate in any or all of the following Flexible Benefits Plans and Spending Accounts.

- **Dental Care Plan**
 - Provides benefits for eligible dental expenses.
- **Vision Care Plan**
 - Provides benefits for eligible vision expenses.
- **Major Injury Protection (MIP)**
 - Provides a fixed-dollar benefit for certain accidental injuries, regardless of coverage under other Plans.
- **Hospital Indemnity Plan (HIP)**
 - Provides a daily benefit during eligible preauthorized hospitalizations, regardless of coverage under other Plans.
- **Short Term Disability Plan (STD)**
 - Provides a benefit during eligible periods of disability (employee only coverage).
- **Medical Expense Spending Account**
 - Provides pre-tax reimbursement for eligible expenses
- **Dependent Care Spending Account**
 - Provides pre-tax reimbursement for eligible expenses

How the Flexible Benefits plans work:

1. Coverage for eligible Dependents may also be elected for most Plans as long as the Employee elects the coverage type. Expenses incurred by the Employee and eligible Dependents may be reimbursed under the applicable Spending Accounts.
2. Tax free deductions are taken out of your gross pay. Each pay period, all tax free premium deductions for benefits you have chosen are taken out of your paycheck before federal income tax and Social Security are calculated.
3. Taxes are calculated on the amount remaining. After all premiums have been deducted, federal income tax, and Social Security are calculated on the remainder of your salary.

Wellness and Prevention Programs

Latitude

Latitude is a free, voluntary, and confidential personalized wellness and health improvement program designed to promote a culture of health by improving healthy habits, attitudes, and behaviors; increasing physical activity, and making positive and healthy lifestyle choices.

Eligibility

South Dakota State Employee Benefits Program members who may enroll in Latitude programs include:

- Employees
- Covered spouses of State employees
- Retirees and their covered spouses under the age of 65
- COBRA members and their covered spouses
- Dependents (Asthma and Diabetes Condition Management only)

Wellness and Prevention Programs

- Health Screenings
- Health Assessment
- Latitude Programs
- Condition Management
- Our Healthy Baby

Note: To be eligible for the \$500 Deductible Plan in FY15, employees and covered spouses must a Health Screening, Health Assessment, and a Latitude Program during the designated time frames. Employees hired in FY14 do not need to complete the requirements for the \$500 Deductible Plan in FY15. Contact the Benefits Program for detailed information.

Health Screenings

Take control of your health by attending a free Health Screening offered by the State. Your free Health Screening will include measuring cholesterol (Total, HDL, LDL, Triglycerides, TC/HDL Ratio), blood pressure, HbA1C and body mass index.

To register for a Health Screening

- Go to <https://latitude.hmpsd.com>
- Enter your DAKOTACARE ID # (9 digits) + the two digit number before your name (written as 01, 02, etc.) in the user name box.
- Enter your birth date (YYYYMMDD) in the password box.
- Choose your location, appointment date, and time.

Health Assessment

Receive an immediate picture of your health by taking a confidential Latitude Health Assessment, yearly. Based on your responses, you receive a personalized report of your current health, with tips on how to prevent or reduce your individual health risks. It's quick (about 15 minutes) and easy to complete.

Latitude Programs

Watch for detailed information about new Latitude Programs coming in Fall 2013.

Condition Management Programs

Condition Management Programs help individuals with chronic conditions better understand how to take care of their health, feel better, and enjoy the best quality of life possible.

Our Healthy Baby

The Our Healthy Baby™ Program is a voluntary program available to Members of the South Dakota State Employee Benefits Program. Members who enroll and complete the program receive a \$500 incentive. The purpose of this program is to provide support to expectant parents through educational materials, supportive contact, and individual case management throughout the pregnancy. For detailed information visit <http://benefits.sd.gov/ourhealthybaby.aspx>.

Preventive Care

Under the \$500 Deductible,, \$1,000 Deductible, and \$1,800 Deductible Plans eligible preventive care services such as routine cancer screenings, well-child care, and immunizations are covered prior to satisfying your deductible when received from a network provider.

For additional information, contact the Bureau of Human Resources, Benefits Program at 877.573.7347, option 2 or visit <http://benefits.sd.gov>.

Employee Responsibilities

Attendance

Your schedule and hours of work are set by your supervisor. Employees are expected to adhere to hours and schedules set by the supervisor. Breaks are allowed if employees' workload permits. Breaks are not guaranteed and employees must remain available and accessible during breaks to provide for the needs of the department.

Change of Address

It is the employee's responsibility to update any change in a home address or telephone number. Employee's can update changes through Employee/Manager Service Center or they may contact their human resource representative.

Political Activity

Civil service employees are prohibited from using their official authority to influence or coerce the political action of a person or group of people. Active participation is allowed in political management or in political campaigns except during working hours. Employees may also hold an elective office in political clubs or organizations which does not interfere with the normal performance of job responsibilities, except as prohibited by law. Employees whose positions are partially or wholly funded by federal monies are restricted from political activity by the Hatch Act. Neither state nor federal law prevents activity of a nonpartisan type not specifically identified with a national or state political party. Questions relating to constitutional amendments, referendums, approval of state laws, and other issues of similar character are not deemed specifically identified with a national or state political party. For example, school board elections and many city elections are nonpartisan.

Outside Employment

You may have outside employment provided that, in the opinion of your appointing authority, there is not conflict with your working hours, your work efficiency, or with the interests of state government. You must check with your supervisor before accepting other employment.

Travel Reimbursement

If your job requires you to travel away from your home station, you will be reimbursed for food and lodging in accordance with state rates. For employees who travel, a state identification card will be issued by your human resource representative.

Job Announcements

When a civil service position is announced by the Bureau of Human Resources, it is announced in one of the following announcement types:

1. **Open/Competitive** - vacancies announced as open/competitive are open to the general public.
2. **Statewide Promotional** - open to all permanent, exempt, or probationary employees of the State of South Dakota.
3. **Department Promotional** - open to permanent, exempt or probationary state employees within the specified department.
4. **Unit-Specific Promotional** - open to permanent, exempt or probationary state employees within a specific classification and/or unit.

All current announcements are on the Internet at <http://bhr.sd.gov/workforus>.

Disability Preference

Disability preference is extended to individuals qualified for the position who have been certified as having a disability by a Department of Human Services rehabilitation counselor.

Veterans' Preference

Individuals who are residents of South Dakota and have served on continuous federalized active military duty for a period of at least ninety days for reasons other than training and were discharged or separated from service honorably or under honorable conditions are eligible for veterans' preference. Veterans' preference may also be granted to the spouse of a service-connected disabled veteran if the veteran is so disabled that he or she cannot claim the right to veterans' preference. The spouse of a deceased veteran may also be granted veterans' preference if he or she has not remarried. For additional information, contact the Bureau of Human Resources.

Promotions

A promotional opportunity may be announced either open/competitive or promotional. To be considered for a promotion, you must submit an application. You may apply for a promotion even if you are still serving your probationary period. For additional information, contact your human resource representative.

Classification System

Following a review of the duties, responsibilities, and authority, civil service positions are classified within a group of positions of similar nature called a classification. You may request a copy of your class specification from your human resource representative at the Bureau of Human Resources or access class specifications on the Bureau of Human Resources's website. As you read your class specification, you may notice that some of the duties you are assigned are not listed and some duties on the list are not part of your job. This is because a class specification is meant to be descriptive, not restrictive. In other words, the duties listed are only general examples of the work performed by employees in your classification.

If at any time you feel you are consistently performing duties that fit another class specification, you are encouraged to discuss them with your supervisor. To request a review of your position classification, you may submit a completed Position Description Questionnaire (PDQ) to your supervisor who will forward it to your human resource representative. A PDQ form is available on the BHR Intranet website. When the Bureau of Human Resources receives the completed PDQ, a personnel specialist will review your position for the appropriate classification. For additional information, contact your human resource representative.

Training

The Bureau of Human Resources Training Program offers a variety of training courses for all employees. Included are professional development training, computer training, and other work-related training opportunities. The training calendar and registration information are available through BHR Training (<http://bhr.sd.gov/training>) or your human resource representative. For additional information regarding any of the training courses, contact the Bureau of Human Resources Training Program at 605.773.3461.

Performance Planning and Review & Accountability and Competency Evaluation

The state has a formal Performance Planning and Review (PPAR) system for its employees. The overall objective of the PPAR system is to provide an avenue of two-way communication by which employees and their supervisors can discuss mutual expectations, review performance, and plan future goals.

Some agencies use the Accountability and Competency Evaluation System (ACES) instead of the PPAR system. In this system there are two components of performance: Accountabilities (what gets done) and competencies (how the work gets done). Both accountabilities and competencies need to be considered together to get an accurate and complete picture of performance.

Resignation and Retirement

If you decide to leave your current state position, **even if it is to accept another position with the State of South Dakota**, you are asked to give your supervisor a written notice of intent at least two weeks prior to the date you plan to leave. However, the state may accept your verbal resignation or written resignation with less than two weeks notice.

To be eligible for unreduced retirement benefits, normal retirement age is 65 (age 55 for Class "B" Public Safety members) with at least three years of credited service under the South Dakota Retirement System (SDRS). Your normal retirement date is the first of the month of your 65th birthday. However, there is no mandatory retirement age in state government.

There are several opportunities to retire before your normal retirement date, depending on your age and years of service. The South Dakota Retirement System also provides disability coverage for employees who have three years of credited service or for employees who are accidentally disabled while performing the usual duties of their job. If you cannot work because of a disability that is expected to last one year or longer, you may be eligible to receive a monthly benefit from SDRS.

For additional information regarding your retirement benefits, contact the South Dakota Retirement System.

Disciplinary Action

Disciplinary action may include suspension without pay, reduction in salary, demotion, or termination. A status employee may be disciplined for cause at any time or for unsatisfactory performance after a work improvement plan to address performance issues. Before you are disciplined, you will be notified verbally or in writing of the specific reasons for the proposed actions and provided an opportunity to present reasons why you should not be disciplined.

Discipline for Cause

Just cause for disciplinary action includes, but is not limited to:

- violating statutes, rules, policy, directives, and work rules;
- committing any sex offense, any crime involving illegal drugs, or a felony;
- insubordination;
- disrupting the efficiency or morale of the department;
- being under the influence of a controlled drug or alcohol while at work;
- misuse or abuse of leave;
- engaging in outside business or personal activities on government time, or using state property for non-government purposes;
- engaging in conduct that reflects unfavorably on the state, destroys confidence in the operations of state services, or adversely affects public trust in the state;
- poor attendance;
- negligence with state money or property; and
- discrimination and harassment.

These examples indicate the types of conduct that may be cause for disciplinary action, but is not an exhaustive list. If you have specific questions regarding causes for discipline or want to review the entire list of causes, contact your human resource representative.

Discipline for Performance

If a status employee's work performance is unsatisfactory, the employee will be notified in writing that disciplinary action may be taken unless the employee's performance improves. The employee may be placed on a work improvement plan that will last a minimum of 30 calendar days. The work improvement plan will tell the employee where the employee's performance is unsatisfactory and the level of performance that is expected. If the employee's performance does not improve to an acceptable level, or at a later date performance falls below standard, disciplinary action may be taken. Employees may be disciplined for just cause during the work improvement period.

Appeals and Grievances

A civil service employee may appeal dismissals, demotions, suspensions, reduction in pay or his or her classification. A civil service or probationary employee may appeal on the grounds of discrimination or may appeal the misinterpretation, misapplication, or violation of any existing agreement, contract, policy, or rule, excluding overtime pay issues, as they apply to the conditions of employment.

Most departments, bureaus, and institutions have adopted a formal grievance procedure to handle complaints by civil service employees. Departments, bureaus, or institutions that do not have their own grievance procedure use the procedure outlined in the Bureau of Human Resources rules. A current copy of the grievance procedure for your agency may be obtained from your human resource representative.

The grievance procedure provides an equitable method of resolving employee complaints. Rules prohibit retaliation against an employee who submits or is involved in a grievance. A grievant who fails to comply with the timeframes outlined in the grievance procedure will have his or her grievance dismissed. If you voluntarily terminate your employment, your grievance will be withdrawn.

After an employee has exhausted the grievance procedure established by the employee's department, bureau, or institution, the employee may appeal to the Civil Service Commission, where the employee will have an administrative hearing on the grievance. The appeal and grievance process is not available to exempt employees.

Policies

The following are selected statewide policies and are not an exhaustive list of all policies. The state reserves the right to change or eliminate these policies with or without notice. Please be aware that your agency may have more restrictive policies or guidelines on the same subject matter and additional policies on different subjects. Please contact your human resource representative if you have any questions about your agency's policies or guidelines.

Alternative Work Schedule Policy

It is the goal of the state of South Dakota to provide employees with a work environment that allows them to balance work and life activities. As an employer, the State recognizes the need for flexibility in scheduling to provide employees the opportunity to participate in family and community activities. To achieve this goal, employees and supervisors are encouraged to use alternative work schedules. Alternative work schedules will enable managers to meet their program goals and provide better customer service while, at the same time, allowing employees to be more flexible in scheduling their personal activities.

Alternative Work Schedules Available:

Flexible work schedule: With supervisory approval, employees may select alternative starting and stopping times during the workweek. The starting and stopping times and the lunch period are fixed for the duration of the flexible schedule unless the supervisor discontinues or temporarily suspends the flexible work schedule. Salaried employees on a flexible work schedule may be required to work additional hours or adjust their schedule to meet the requirements of their position.

Permanent reduced work schedule: With supervisory approval, hourly and salaried employees may reduce the number of hours worked each week. Employees on a reduced work schedule will be considered permanent part-time employees and will earn less leave and pay based on the reduced number of hours worked. If employees work less than 20 hours per week, they are not entitled to health, life, or retirement benefits. This is a permanent schedule and is not intended for seasonal fluctuation.

Flex time: With supervisory approval, employees may occasionally modify their daily work schedule. Adjustments may be made at any time to allow employees flexibility in their schedule during the week. Hourly employees must make up hours flexed at a different time during the work period. Hourly employees who are unable to make up hours flexed during the work period must take either paid or unpaid leave. Salaried employees may not flex an entire day.

Compressed work schedule: With supervisory approval, full-time hourly and salaried employees may work their normally scheduled number of hours each work period in less than 5 days. Examples are four 10-hour days or four 9-hour days and one 4-hour day. Since full-time employees are entitled to a maximum of 8 hours for a holiday, hourly employees working a compressed work week may be required to adjust their work week or take paid or unpaid leave during a work period that includes a holiday. Salaried employees must have a set schedule and take leave for any day in which they will be absent during all scheduled hours regardless of the number of hours worked during the week. Salaried employees on a compressed work schedule may be required to work additional hours or adjust their schedule to meet the requirements of their position.

Work Adjust: Work adjust is adjusting hours for work performed outside the normal work schedule to meet the requirements of the agency. Work adjust is intended for short term changes to an employee's schedule to meet workload requirements. Work adjust applies to hourly employees and is not appropriate for salaried employees.

Eligibility for Alternative Work Schedules:

Supervisors will work with employees and attempt to accommodate their scheduling requests. Alternative work schedules, however, may not be available to every employee at any time because of customer service requirements. If alternate work schedules are not possible, the supervisor should explain why the request for an alternative work schedule cannot be honored.

Guidelines:

Principal administrative offices will be open during the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, including the noon hour. Service to both internal and external customers must be maintained or improved.

Rest periods are a normal part of the work schedule and cannot be accumulated or be included as a basis for a flexible work schedule. A lunch break of at least 30 minutes of uninterrupted time is recommended.

Responsibilities:

Teamwork among employees and agency management is an important factor in implementing alternative work schedules and achieving positive benefits associated with alternative work schedules. Meaningful work must be available for the employee during the entire alternate work schedule. Supervisors and employees are mutually responsible for ensuring successful alternative work scheduling programs.

Supervisors shall:

1. Ensure adequate, not minimal, staff is available to serve the needs of the public. Both internal and external "customer" needs will be considered to determine adequate staffing.
2. Ensure that alternative work schedules are administered consistently and equitably.
3. Ensure alternative work schedules do not cause or contribute to the need for additional staff or overtime work.
4. Ensure work that requires regular supervision or essential interaction with other staff is scheduled when supervisors and interacting staff are available.
5. Ensure the work site has adequate supervisory and management coverage at all times.

Employees shall:

1. Plan and organize their time to meet the job requirements established by the supervisor. This includes answering your phone during all alternative work hours.
2. Participate in the resolution of conflicts between the job and the alternative work schedule and inform the supervisor when coverage is not adequate.
3. Be able to meet workload requirements and be available for scheduled conferences and meetings. The requirements of the job always take precedence over the alternative work schedule.

4. Not engage in excessive socializing prior to the beginning of their workday when employees are already engaged in their work schedule. This can be disruptive to the work patterns of employees with earlier starting times.
5. Record actual hours worked for each day on the time form.

Procedures for Requesting an Alternative Work Schedule:

A Request for an Alternative Work Schedule (AWS) form must be completed by the employee and submitted to the supervisor for approval if the employee wants to participate in a flexible work schedule, a permanent reduced work schedule or a compressed work schedule. A copy of this form should be sent to your Human Resource Manager to be placed in the employee's personnel file. A form is not required to participate in occasional flex time.

Changes to Work Schedules:

Alternative schedules do not alter the responsibility and authority of supervisors to establish and change work schedules without prior notice. Supervisors may discontinue or temporarily suspend alternative work schedules when necessary. Alternative work schedules may also be altered if work needs change or if service is impaired.

To ensure an opportunity for all employees to request an alternative work schedule and to ensure the schedule remains workable for the employee and the agency, requests for flexible work schedules, permanent reduced work schedules, and compressed work schedules will be submitted and reevaluated at least every six months.

Please contact your agency human resource manager if you have any questions relating to the alternative work schedule policy.

Anti-Harassment/Discrimination Policy

The State of South Dakota will not tolerate harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex (including pregnancy), age (40 years or older), genetic information, disability or any other legally protected status or characteristic.

Employees must not engage in harassment, discriminatory or offensive behavior. Additionally, because of the State's strong commitment to keeping the workplace free from harassing, discriminatory and offensive behavior, employees must avoid any conduct that could be viewed as harassing, discriminatory or offensive even if the conduct does not violate federal or state law.

Harassment includes conduct that creates a hostile work environment or that results in a "tangible employment action," such as hiring, firing, promotion or failure to promote, demotion, work assignments, benefits, or compensation decisions. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting an individual, or (3) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Harassment, discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid employees in identifying inappropriate conduct, the following examples of harassment, discriminatory or offensive behavior are provided (these examples are not all-inclusive):

- unwelcome physical contact such as kissing, fondling, hugging, or touching;
- demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability;
- calendars, posters, pictures, drawings, display, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability; or
- refusing to hire someone because you know the applicant has the breast cancer gene.

An employee who has a complaint of harassment, discriminatory or offensive behavior by anyone, including supervisors, co-workers, or non-employees, should immediately notify his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources at (605) 773-4918. The person who receives a harassment or discrimination complaint shall immediately report the matter to his or her supervisor (or a higher-level supervisor if his or her supervisor is allegedly involved in the harassment) and the agency's human resource manager.

The State will investigate all complaints. If the investigation supports charges of harassment, discrimination, a violation of this policy, or inappropriate behavior, appropriate corrective action will take place. The employee engaging in the improper behavior will be subject to discipline, up to and including termination.

The State will protect the confidentiality of harassment/discrimination allegations to the maximum extent possible, and information will only be shared with those individuals who need to know about it. While the State cannot guarantee complete confidentiality because it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses, it will keep information as confidential as possible.

The State will not tolerate adverse treatment of employees because they report harassment, oppose discrimination in the workplace, participate in the complaint process, or provide information related to complaints. If an employee feels that he or she has been subjected to retaliation, the employee should immediately report the alleged retaliation to his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources.

In addition to reporting alleged harassment or discrimination to the State, an employee may file a charge of discrimination based on race, color, religion, national origin, sex, disability, or protected activity with the South Dakota Division of Human Rights (Human Rights) or may file a charge of discrimination based on race, color, religion, national origin, sex, age, disability, genetic information, or protected activity with the United States Equal Employment Opportunity Commission (EEOC). A charge of discrimination based on race, color, religion, national origin, sex, disability, or

protected activity must be filed with Human Rights or with the EEOC within 300 days of the violation. A charge of age discrimination or discrimination based on genetic information must be filed with the EEOC within 180 days of the violation. These deadlines run from the last date of unlawful conduct and not from the date of the complaint to the State if resolved. Please contact the EEO officer for the Bureau of Human Resources at (605) 773-4918 if you have any questions about harassment, unlawful discrimination, or this policy.

Arrest Policy

Any employee who has been arrested or charged with or has reasonable knowledge to believe they will be arrested or charged with: 1.) any felony; or 2.) any crime (including misdemeanors) involving a sex offense or illegal drugs or illegal use of legal drugs shall immediately report this information to his or her supervisor. The supervisor is required to immediately report this information, through the chain of command, to the appropriate department secretary, bureau commissioner, or institution administrator who shall report it to the Commissioner of the Bureau of Human Resources. Department Secretaries and Bureau Commissioners may approve more extensive reporting requirements.

Bomb Threat Policy

The following policy and procedure was developed to provide direction in a time of crisis. The outline will assist the contacted individual to take the necessary steps in getting the affected employees to safety as soon as possible, and to contact the appropriate administrative and security agencies and provide them with the most detailed information possible regarding the bomb threat.

This document should be posted in a conspicuous place within each of the various offices and divisions. The below policy is the official policy to be followed in the event that a bomb threat is received.

This document is self-explanatory; however, persons within the office should be made aware of its location and be directed to read it.

SOUTH DAKOTA BOMB THREAT POLICY

THE RECIPIENT OF A BOMB THREAT SHOULD TAKE THE FOLLOWING ACTION:

1. TAKE INFORMATION FROM CALLER (see attached form).
2. IF THREAT INDICATES LESS THAN 20 MINUTES OF DETONATION OF DEVICE, USE FIRE ALARM SYSTEM (if available) TO EVACUATE AND NOTIFY LAW ENFORCEMENT (indicate not a fire)
3. IF THREAT INDICATES MORE THAN 20 MINUTES OF DETINATION OF DEVICE, NOTIFY A SENIOR STAFF PERSON IN YOUR OFFICE
4. THAT SENIOR STAFF PERSON MUST NOTIFY LAW ENFORCEMENT AND EVACUATE BUILDING
5. SENIOR STAFF PERSON IS RESPONSIBLE FOR NOTIFYING ALL STATE AGENCIES WITHIN THREATENED BUILDING TO EVACUATE
6. NOTIFY DEPARTMENT HEAD, NATIONAL GUARD (737-6702), AND GOVERNOR'S OFFICE (773-3212) OF THREAT

BOMB THREAT REPORT

When receiving a bomb threat (or learning of a threat from another source) the staff member receiving the call or information should immediately complete the following checklist.

Exact time of call: _____

Exact words of caller: _____

Questions to Ask:

1. When is the bomb going to explode? _____
2. Where is the bomb? _____
3. What does it look like? _____
4. What kind of bomb is it? _____
5. What will cause it to explode? _____
6. Did you place the bomb? _____
7. Why? _____
8. Where are you calling from? _____
9. What is your address? _____
10. What is your name? _____

****If possible, have a second person monitor the call; ask the caller to repeat the original message to permit possible correlation to the first copy to aid in possible identification of the caller.**

CALLERS VOICE (circle)

Male

Female

Calm	Disguised	Nasal	Angry	Broken	Stutter
Slow	Sincere	Lisp	Rapid	Giggling	Deep
Crying	Squeaky	Excited	Stressed	Accent	Loud
Slurred	Normal				

Were there any background noises? _____

Your Name _____ Date: _____

Break Periods for Employees

It is the policy of the state of South Dakota to allow employees a 15 minute rest period every four hours if the work load permits. The break, however, is not guaranteed. Supervisors may deny the break on any given day. Since this time is counted and paid as time worked, employees must not be absent from their work stations beyond the allotted time. Employees must be available and accessible during the rest period to provide for the needs of the department. Management retains the right to schedule work, work periods and break times.

Employees may take one 15 minute break for each four hour block of work time. Breaks may not be accumulated and combined to make one long break or be broken into several small segments. Breaks may not be taken at the beginning or end of the day, attached to the lunch break or used to adjust the work schedule. Leave time may not be supplemented by break times.

Employees must notify the supervisor before leaving the workplace during work hours. This includes absences for breaks, if the break takes place outside of the immediate work area. Employees may leave the work area for their break, if the absence is for 15 minutes or less.

Court and Jury Leave Policy

Employees in permanent positions are eligible for court and jury leave. The employee shall immediately notify the employee's supervisor if the employee expects to be absent from work due to court and jury obligations. Absences will be administered as follows:

1. Testifying in official capacity. If the employee is subpoenaed by either party to testify in any civil or criminal proceeding because of the employee's official capacity or is instructed by the supervisor to testify in an official capacity without being subpoenaed, the employee shall receive the employee's regular salary without loss of leave credits and may receive actual expenses according to state rates, but may not receive witness fees. The appointing authority and the Bureau of Human Resources shall determine if the employee is testifying in an official capacity.
2. Subpoenaed to testify in non-official capacity. If a state employee is subpoenaed to testify in court in a non-official capacity and is not a party to the case, the employee shall receive the employee's regular salary from the state without loss of leave credits for the time spent testifying during regular working hours and may receive, in accordance with SDCL 19-5-1 or any comparable federal law, witness fees and mileage from the party who issued the subpoena. However, the employee may not take court and jury leave for travel time or time when the employee is not reasonably expected to testify regardless of whether the employee has been subpoenaed for that period of time. If the employee is absent from the workplace while not testifying, the employee must use vacation leave or leave without pay. This leave must be requested in advance and is subject to the supervisor's approval.
3. Party or witness not subpoenaed to testify. If an employee is a party to or witness who has not been subpoenaed, the employee must use vacation leave or leave without pay. This leave must be requested in advance and is subject to the supervisor's approval.
4. Service on jury. If a state employee is summoned to serve on a jury, the employee shall receive the employee's regular salary without loss of leave credits for the time spent on jury duty during regular working hours and the per

diem and mileage provided for by SDCL 16-13-46 or any comparable federal law.

The commissioner may decide any question as to whether an employee is eligible for court and jury leave.

Drug and Alcohol Testing Policy

The State has implemented a drug testing procedure for applicants and employees in 1) safety sensitive positions and 2) positions requiring a commercial driver's license.

Under state law, a safety sensitive position is any law enforcement officer authorized to carry firearms and any custody staff employed by any agency responsible for the rehabilitation or treatment of any adjudicated adult or juvenile. State statutes and administrative rules govern the drug testing of persons in safety sensitive positions, and these statutes and rules may be obtained from your agency's human resource manager.

Federal law requires drug and alcohol testing of applicants and employees who must have a commercial driver's license (CDL) to perform their jobs. The State has implemented an alcohol and drug-testing program for CDL holders and has published a CDL drug-testing handbook and policy entitled "State of South Dakota CDL Policy, Rules and Educational Information." Your agency's human resource manager can answer questions about the program and provide you with a copy of the handbook and policy.

Other employees may be tested for drugs and alcohol if the test does not violate federal or state law.

Drug Free Workplace Policy

The State of South Dakota has a drug free workplace policy for all state employees. As a condition of your employment with the state, you must agree to abide by the terms of this policy.

The dangers of drug abuse in the workplace include accidents and injuries; reduced productivity; absenteeism and increased health care costs; loss of public confidence in the State; and adverse effects on the abuser, family, friends, co-workers, and persons receiving services from the State.

The policy prohibits the unlawful manufacture, dispensation, possession, or use of a controlled substance by an employee in the workplace. If you are convicted of a violation of a criminal drug law or admit in court to a criminal drug law violation, you will be subject to appropriate disciplinary action, which includes termination. You must comply with the arrest policy if you are arrested, charged, or believe you may be charged with any crime involving illegal drugs.

General Reference Policy

References for Employers Outside of State Government

One person in the agency, typically the human resource manager, is designated to respond to all requests for information on current and former employees (including interns). More than one person may be designated to provide responses to requests, however person(s) responding should be the human resource manager or someone at a managerial level within the agency such as program directors, division directors, or

department secretaries. If two or more people are responding to requests, the human resource manager should coordinate the response.

According to state law, written references given in response to written requests are presumed to be given in good faith. This means if a former employee files a lawsuit regarding giving of bad references, the agency can rely on a defense of good faith if the reference was in writing. Telephone inquiries are answered by telling the caller that it is the policy of the state to respond only to written requests. Written requests should be accompanied by an authorization, release, and waiver.

Employees must not give references on inmates or former inmates. These references must be handled by the appropriate person at the Department of Corrections.

References within State Government

If a reference request comes from another state agency, the designated person may respond either in writing, verbally or over the e-mail system. A signed authorization, release, and waiver is not necessary. All other guidelines apply to giving references within state government.

Intern References

Human resource managers may authorize those persons who supervise interns to respond in writing to written reference requests relating to those interns that they have supervised.

Emergency Office Closing Policy

State employees will always be expected to deliver service because state government cannot close completely; it must continue to provide emergency services, coordinate government responses to disasters, and care for citizens who are entrusted to our institutions. State government will do whatever possible to accommodate state employees during emergency events, however, it does need to maintain adequate staffing to ensure the safety of citizens and continue state operations.

This policy does not mean employees should take undue risks during inclement weather. Employees who believe they cannot safely reach the worksite or travel home at the end of the scheduled work day should make arrangements with their supervisor to be absent from work.

Outlined below is the process for executive branch agencies under the direction of the Governor to follow when determining whether to close operations of a state office due to natural, man-made, or health-related emergencies which disrupts state government facilities or operations. An emergency includes but is not limited to; inclement weather, utility failure, fire, terrorism, or other forced evacuations.

Who has Authority to Close an Office(s)?

1. The Governor or his designee can close any state office or offices in any location.
2. A Cabinet member has the authority to close their state office in any location for an isolated incident.

What are the Criteria for a Cabinet Member to Close an Office?

A cabinet member or their designee may close a specific office when they have met the following criteria:

1. Verify the office either neglects sufficient staff to adequately function or the closing emergency prevents the office from safely functioning.
2. Ask BHR to coordinate the closure of the office with agencies that have employees in the same building, geographic or affected area.
3. Consult the Governor's Office on the office closure prior to final decision and sending a notice to employees.
4. Communicate and/or coordinate office closure with local government as needed.
5. Notify media covering the affected area as soon as possible. However, do not rely upon media announcements as the sole means of communication. If possible, clients with scheduled appointments should be contacted to cancel the appointment. Voice mail systems should be updated to reflect the office closing.

Other offices should not be closed unless the above conditions have been met.

What is the Procedure for Reopening an Office?

In coordination with BHR, the affected cabinet member should regularly reevaluate emergency conditions so that the office can resume the normal schedule as soon as is reasonable.

Policy on Acceptance of Gratuities, Rebates, Reward Points and Other Perquisites by State Employees

This policy prohibits the acceptance of personal gratuities, rebates, reward points and perquisites by state government employees in the performance of their duties.

POLICY REQUIREMENTS

1. State employees shall not accept gratuities, money, or any type of gift or service from a company that does business or that actively aspires to do business with the state of South Dakota. This section does not apply to promotional items or activities associated with business conferences where vendors provide promotional gifts and food.
2. State employees shall not accumulate reward points or receive rebates, from any source, related to the purchase of goods or services from any vendor which can be redeemed for the employee's personal use.
3. Any vendor program offering rebates or award points to the State of South Dakota related to the purchase of goods and services must be reviewed and approved by the Bureau of Administration. Rebate payments and award program points must be made payable to the "State of South Dakota", or otherwise as determined by the Commissioner of Administration.
4. This policy does not apply to frequent flier miles or lodging reward points accumulated by state employees for their State sponsored or reimbursed travel expenses. State employees using a personal credit card to pay travel expenses may accumulate frequent flier miles, reward points and rebates offered by their credit card company. In making travel decisions however, state employees must make arrangements that provide the best value for the State of South Dakota.

Rewards offered to a State officer or employee for purchasing supplies or services for the agency could reasonably be viewed as a means of influencing or rewarding the State officer or employee in how he or she carries out his or her official duties for the agency. Under these circumstances, such rewards would constitute gifts that influence or reward a State officer or employee for his or her official actions. Therefore, the redemption of these rewards by a State employee eligible to receive them as a result of their responsibilities on behalf of the State agency would violate this policy and state law. (See SDCL 3-8-3; SDCL 4-3-9)

Seat Belt Policy

All state employees who are driving or are passengers in state-owned vehicles covered by the state's automobile liability insurance policy are required to wear seat belts, both in the front and back seats. (SDCL 32-38-5; Executive Order 88-7)

Solicitations on State Premises

It is the policy of the state of South Dakota that commercial vendors may not solicit business on state property or solicit state employees during working hours. Working hours include breaks and lunch periods if the employee is on state grounds.

Subject to prior approval by management, employees may solicit for charitable purposes using their own time by adjusting their work week to make up the time or by using vacation leave or leave without pay. Activities should be scheduled so that the soliciting employee does not interfere with co-workers' performance. Agency human resource managers will not assume responsibility for coordination of charitable activities.

Please contact your human resource manager if you have any questions regarding this policy.

State Employee Bloodborne Pathogen Procedures - Short Guide

Time is critical with Bloodborne exposures. When in doubt, report the exposure right away to your supervisor and seek guidance. If your supervisor is not available, SEEK MEDICAL ATTENTION IMMEDIATELY.

A Significant Bloodborne Exposure is an occupational risk exposure to blood or potentially infectious body fluid by:

1. needle stick, puncture or cut by an object through the skin
2. direct contact of mucous membrane (eyes, mouth, nasal, etc)
3. exposure of broken skin to blood or other potentially infectious body *fluids* such as:
 - o semen
 - o vaginal secretions
 - o any body fluid visibly contaminated with blood
 - o human tissues (including dental extractions)

If a Significant Exposure Occurs:

Employee's Immediate Responsibility

- Needle-sticks, cuts and skin exposures should be washed with soap and water. (Do NOT use bleach)
- Splashes to the nose, mouth, or skin should be flushed with water.

- Splashes to the eyes should be irrigated with sterile irrigants, saline or clean water.
- Report the exposure to your supervisor right away. If HIV Post-exposure treatment is recommended, you should start treatment within 1-2 hours after the exposure or as soon as possible. (This can reduce HIV infection by up to 79%)

Supervisor's Immediate Responsibility

- **Without Delay** – If a significant blood borne exposure has occurred, get the exposed individual to the nearest Emergency Room for evaluation. Supervisor should call the emergency room and inform them that they are sending an employee to the emergency room for evaluation and follow-up to a bloodborne exposure.
- **Testing the employee and the source is strongly recommended when a high risk exposure has occurred.** The employee has the right to request or decline testing. The source fluid/object should be collected (if possible) for testing. If the source is a person, they cannot be tested without consent, except under the circumstances described in SDCL 23A-35B (laws dealing with sexual assault and exposure to law enforcement personnel). The exposure to the employee should be explained to the source and testing of the source requested.
- **Complete a First Report of Injury and an Employee Accident Report** for all bloodborne pathogen exposures. This form must be completed and filed with the Workers Compensation office/Bureau of Human Resources within seven (7) days of the exposure/incident. An official written report is necessary for reporting the incident and to claim worker's compensation benefits for initial treatment and post exposure testing. If testing is declined this should also be reported.
- **Consult the comprehensive "Bloodborne Pathogens Exposure Guidelines"** for the complete policy, testing, and forms required for this event. These guidelines can be found on the Department of Health's website at <http://doh.sd.gov/resources/assets/DOHBloodbornePathogens.pdf>.
- **Complete and forward the "Occupational Risk Exposure Form" and the "Bloodborne Exposure Medical Follow-up Sheet"** to the Human Resource Office for inclusion in the employee's personnel file.
- **Ensure that the employee complete any follow up testing required in the comprehensive guidelines.** If you have questions, you can contact the Department of Health at 1-800-592-1861 can provide you with the guidelines, additional information, assistance & guidance.
- **Report exposure to your next level supervisor.**

Healthcare Provider's Responsibility

- Determine the nature & severity of the exposure.
- Evaluate source patient (if information is available).
- Counsel/treat exposed employee as applicable.
- Also evaluate employee for Hepatitis B & C as applicable.

****Know what you are going to do before an exposure occurs.**

Technology Use Policy

Employees shall use state technology (telephones, computers, Internet, email, etc.) at their disposal in an appropriate manner. As it applies to the state's e-mail and phone system(s), emergency communications are allowed. Reasonable and appropriate personal communications are allowed. Under no circumstances are employees allowed to use the state's technology to engage in outside business interests, inappropriate, offensive, or illegal activities. Abuse of the system is not acceptable. Employees should not expect privacy or confidentiality when using state resources. Use common sense. If in doubt, do not use state resources.

Statewide Remote Technology Access Policy

- Hourly employees are not required or expected to check email while outside normal or assigned working hours. Unless hourly employees are directed to provide an immediate response, emails or phone calls should be responded to only during the individual's normal working hours.
- Hourly employees, who are required to work outside of their normal work hours using mobile technology, are required to record and submit to their manager all time spent responding to emails or answering phone calls while out of the office. This must be reported to the manager the next business day.
- Hourly employees must have overtime approved by their manager. If overtime is not approved, the employees are required to flex the time.
- Employees must receive pre-approval from their manager for remotely accessing any non-public state government technology resource during the individuals' non-standard business hours. This includes state-owned or non-state owned devices. (Once approved by manager, all employees must submit a Remote Access Device (RAD) approval form for having this privilege during the individuals' non-standard business hours. The form is located at <http://intranet.bit.sd.gov/forms/rad/> and is submitted to the BIT Help Desk.)

Tobacco Free Environment Policy

The State of South Dakota is dedicated to providing a healthy, comfortable, and productive environment for employees, clients, and visitors.

Smoking and the use of all tobacco products is prohibited on all real property or portions thereof owned by the Executive Branch of state government under the direction and control of the Governor and all real property leased by the state where the state is sole occupant.

This policy applies to employees and visitors, and includes all vehicles, parking lots, and walkways leading into state buildings throughout South Dakota. The following are exceptions: clients at the State Developmental Center in Redfield, residents of the State Veteran's Home in Hot Springs, visitors to campsites in state parks, and upon state highways and outdoors at state highway rest stops. The Bureau of Administration and/or appropriate Department Secretary may grant limited exceptions for specific, special events.

Enforcement of this policy is the shared responsibility of all Executive branch personnel. All employees are encouraged to communicate this policy with courtesy, respect, and diplomacy. Incidents of smoking and/or tobacco use by employees will be documented for supervisor follow-up.

Use of Sick Leave for the Birth or Adoption of a Child

The following policy shall be used relative to the birth or adoption of a child by a state employee of the executive branch under the control of the Governor.

Birth of a Child

A six week period of disability after childbirth is supported by medical evidence and legal precedence, therefore, a female employee may use up to 6 weeks of accumulated sick leave without the need to document medical necessity. Any female employee may use additional accumulated sick leave when medical necessity is documented on the Certification of Health Care Provider employee form. New fathers may use up to 5 days of accumulated personal leave for the birth of their child.

Adoption of a Child

Consistent with SDCL 3-6C-7, any state employee adopting a child may utilize up to 6 weeks of accumulated sick leave for the placement with the employee of a child for adoption and to care for the newly placed child.

Family Medical Leave Act

Under the Family Medical Leave Act, eligible state employees are entitled to use up to 12 weeks of unpaid leave within a 12 month period for specific purposes which include:

- The birth of a child and to care for the newborn child; or
- The placement with the employee of a child for adoption or foster care, and to care for the newly placed child.

Substitution of Paid Leave for Unpaid Leave under the FMLA

Consistent with the FMLA, the State requires that employees use eligible paid leave during the FMLA period before using unpaid leave.

Ex. Eligible employee has 3 weeks of accumulated sick leave and 2 weeks of accumulated vacation leave and they want to take the full 12 weeks. The first 5 weeks the employee would use their accumulated sick/vacation leave. The remaining 7 weeks would be unpaid leave.

Use of Intermittent Leave for birth or adoption

Intermittent leave for the birth or adoption of a child is allowed if medically necessary or if not medically necessary, with the approval of the employee's supervisor.

Use of FMLA Leave when both Mother and Father are State Employees

If both mother and father are state employees and FMLA eligible, each is entitled to use up to 12 weeks of FMLA leave which may be utilized concurrently or consecutively. Approval by the employee's supervisor is required to use intermittent leave.

Ex. 1. The mother and father could simultaneously take the 12 weeks off following the birth.

Ex. 2. The mother could take the first 12 weeks off, and then the father could take 12 weeks off.

Ex. 3. With permission of their supervisors, the mother could take 6 weeks off and then have mornings off for 12 weeks.

The entitlement to FMLA for birth or adoption (placement) of a child expires one year (12 months) from the event (birth or placement).

Use of Video, Recording Devices or Still Cameras by State Employees in the Workplace

Purpose: The purpose of this policy is to set out the allowable uses of video, recording devices, or still photography by state employees and to protect the right of privacy of patients, inmates, coworkers and the public.

State Owned Cameras, Video or Recording Devices for Authorized

uses: Employees are allowed to use state owned video, recording devices or still cameras (including camera phones) when authorized as part of their job duties. Such usage should be with the knowledge and consent of the employee's supervisor.

Personal Video, Recording Devices or Cameras at Work: Personal video, recording devices or still cameras may be used to commemorate awards, retirements or similar events when authorized by the employee's supervisor or department head. The use of personal video, recording devices or still cameras, (including camera phones) by state employees at work for any other purpose is prohibited.

Other prohibited uses:

The use of any video, recording devices or still cameras (including camera phones) is prohibited by state employees while at work for any of the following purposes:

1. As part of or in furtherance of any illegal activity.
2. For recording any image which is lewd, obscene, or pornographic.
3. For taking any image or recording of any patient, inmate, or other person without their express written consent unless taken for an authorized purpose within the scope of the employee's duties.
4. Any purpose that reflects unfavorably on the state, destroys confidence in the operation of state services, or adversely affects the public trust in the state.

Workplace Safety Policy

It is the policy of the State of South Dakota to promote a safe environment for its employees. The State is committed to working with our employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior.

Violence, threats, harassment, intimidation, and other disruptive behavior that affect the working environment will not be tolerated. All reports of such incidents will be taken seriously and will be dealt with appropriately. Such behavior can include oral or written statements, gestures, expressions or any other behavior that communicates a direct or indirect threat of physical harm or damage to state or personal property, either on duty or off-duty. Individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.

All employees shall cooperate to implement this policy effectively and maintain a safe working environment. Do not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. If you observe or experience such behavior by any state employee on or off state premises, report it immediately to a supervisor or manager. Supervisors and managers who receive such reports shall contact the agency human resource manager or the Bureau of Human Resources at (605) 773-6363. Severe threats or assaults that require immediate attention shall be reported to police by calling 911.

Risk Management

A part of the Bureau of Administration, the Office of Risk Management focuses on protecting the state's assets and resources by identifying exposures to loss and providing alternative methods to finance, transfer, reduce, or eliminate those losses. The office provides the following services: developing safety and loss control programs, conducting loss control audits, educating through seminars and assistance information, and negotiating insurance coverages.

Each agency and institution has a risk management contact and a loss control committee to direct risk management efforts. Requests for training and other technical assistance from the Office of Risk Management are made by the contact.

Managed by the state risk manager, the Public Entity Pool for Liability (PEPL) Fund is a funded self-insurance program which provides coverage for general liability, law enforcement liability, public officials errors and omissions liability, automobile liability, and some medical malpractice liability.

The coverage extends to all current and former employees and elected and appointed officers of the state and applies to any accident, act, error, omission or event during the coverage period which results in damages and arises within the scope of the employee's duties for the state.

There are, however, limits to the state's coverage. For example, the state does not pay for injuries covered by other insurance; does not pay when agencies or employees were not legally responsible to prevent accidents; does not cover liability arising out of the employee's willful and wanton misconduct including but not limited to reckless disregard for the safety of others and intentional disregard of a duty under laws, rules, policies, or regulations the employee is governed by; and maintains a limit of \$1,000,000 per occurrence.

When state employees are driving state vehicles on state business, they are covered by workers' compensation. Non-state employees who are on official business for the state are covered by automobile liability through the PEPL Fund. Liability to other persons for bodily injury or property damage due to negligence in operating state vehicles is also covered through PEPL. Belongings in the vehicle are not insured by the state. When employees use their personal vehicles, their automobile insurance policy provides coverage for physical damage, loss, or liability. Both the workers' compensation and personal property coverages are the same as when operating a state vehicle. In situations where the loss exceeds personal policy limits, the state will cover the excess liability under certain terms of the PEPL agreement.

State employees are expected to promptly and properly report accidents, incidents, unsafe conditions, as well as claims made against the State of South Dakota. All accidents involving a fatality, serious bodily injury, or serious property damage should immediately be reported to Claims Associates, Inc., the state's claims adjusting service, at their 24-hour emergency number, 1-888-430-2249. All accident reporting information is located in the glove compartment or other convenient place in every state vehicle. If you have any questions regarding the above information, please contact the Office of Risk Management at 605.773.5879.

Travel Reimbursement

In-State Meal Per Diem Rates:

Breakfast	\$ 5.00
Lunch	\$ 9.00
Dinner	\$ 12.00

Out-of-State Meal Per Diem Rates:

Breakfast	\$ 8.00
Lunch	\$ 11.00
Dinner	\$ 17.00

You do not need receipts to claim reimbursement for meals unless you are a constitutional officer then you receive reimbursement for actual expenditures. If you purchase meals on behalf of a constitutional officer, you must provide the receipt.

Reimbursement for meals are determined as follows:

Leave Before	Return After
5:31 a.m.	7:59 a.m. Breakfast
11:31 a.m.	12:59 p.m. Lunch
5:31 p.m.	7:59 p.m. Dinner

By providing your leave and return times, your meal reimbursement will automatically be calculated. If you do not want to claim a meal, please note that on the travel detail sheet.

Lodging Rates:

In-state	\$50.00 plus tax	Maximum allowable
Out-of-state	\$250.00 plus tax	Maximum allowable

Receipts are required. Check with the lodging properties when making reservations as some properties do not offer state rates; and some will offer government rates, but those are different from state rates and do not apply to us.

Mileage Rates

When using your own vehicle on state business, you will be reimbursed **\$.37/mile** if there is no state vehicle available. You are reimbursed **\$.20/mile** if there is a state vehicle available and you choose to take your personal vehicle. Mileage is determined by providing beginning and ending odometer readings or using the State Auditor's state map mileage chart. You must provide your personal license number when claiming mileage.

Taxi Fares

You must have a receipt for any fares over \$5.00

Incidentals to Travel

For all other expenses \$1.00 and over, you must provide a receipt.

Airline Tickets

The office has provided an account number on file at the local travel agencies that can be used. Provide a copy of the itinerary or ticket with your travel reimbursement request.

GOED Programs

The Governor's Office of Economic Development ("GOED") is the only "department" covered by the internal controls examination. However, the GOED administers/oversees a number of different programs and boards. The following summary explains each of the programs administered by the GOED and the applicable board, if any.

Revolving Economic Development Initiative ("REDI") Fund

The REDI Fund is established pursuant to SDCL 1-16G-3 for the purpose of making grants and loans for economic development. The South Dakota Board of Economic Development ("BED") oversees the REDI Fund. The BED is established pursuant to SDCL 1-16G-1, with its voting members appointed by the Governor. As of June 30, 2013, REDI had total assets of \$105,029,409. Of that amount, \$39,560,190 was net loans receivable.

Staff:

- Kim Easland, Finance Director
- Travis Dovre, Assistant Finance Director
- Cherissa Nielson, Grant Administrator
- Dale Knapp, Accounting Assistant
- Marty Davis, Director of Administration

In accordance with ARSD 68:02:01:50, the GOED performs the administrative functions of the creation, processing, and review of loan applications; the preparation and negotiation of loan agreements; the review of the financial status of an applicant; loan servicing; and other functions necessary to expedite and assist it in the performance of its duties. Notwithstanding any assurance, guarantee, communication, or representation made to the contrary, there is no commitment of the REDI fund without specific authorization by the board. Only the board may make an award from the REDI fund to an applicant.

REDI Loan Process:

The applications are submitted to Assistant Finance Director for review and underwriting. The request is presented to the BED for review. GOED staff will issue a commitment letter to the borrower with the conditions of the approval. Once the project is complete and they are seeking funding, BED works with our contracted Servicing Agent at Bankwest to prepare the closing documents. The loan servicing agent will send the draft loan documents to our local attorney for review. Once the loan documents are finalized and executed, the loan servicing agent submits a wire request to Marty Davis, Director of Administration for remittance of funds.

For more information on REDI loans go to <http://www.sdreadytowork.com/Financing---Incentives-REDI-Loans.aspx>

BED Grants:

In addition to the REDI Fund, the BED also administers four grant programs: the Reinvestment Payment Program (“RPP”); the Economic Development Partnership Program (“EDPP”), the Local Infrastructure Improvement Program (“LIIP”), and the South Dakota Jobs Grant Program (“SDJP”). For FY13 the foregoing funds had the following balances available for disbursement: RPP – no set amount, it’s tied to the sales/use tax paid on the project; EDPP - \$1,050,000; LIIP - \$1,750,000; and SDJP - \$350,000.

In accordance with ARSD 68:02:07:12, 68:02:08:09, 68:02:09:09, and 68:02:10:13, the GOED performs the administrative functions of the creation, processing, and review of RPP/EDPP/LIIP/SDJP applications; the creation, processing, and review of documentation necessary to evidence compliance with the terms and conditions of the RPP/EDPP/LIIP/SDJP and the requirements of this chapter; disbursement of RPP/EDPP/LIIP/SDJP reinvestment payments/grants in accordance with conditions imposed pursuant to this chapter; and other tasks necessary to expedite and assist the board in the board's duties. Notwithstanding any assurance, guarantee, communication, or representation made to the contrary, there is no commitment of the economic development partnership fund without specific authorization by the board. Only the board may approve an RPP/EDPP/LIIP/SDJP reinvestment payment/grant from the RPP/EDPP/LIIP/SDJP fund.

Grant Process:

The reinvestment payment/grant applicants apply directly to GOED. The applications are scored by our Grant Administrator and then reviewed by the Finance Director, Assistance Finance Director, Deputy Commissioner, Commissioner, Business Development Director and Rural Development Specialist. After recommendations are compiled they are presented to the Board for approval. A commitment letter is then forwarded to the applicants upon approval from the Grant Administrator. Upon request of funding, the wire request is sent to Director of Administrations at GOED to request payment to the applicant from the State Auditor’s Office.

For more information on the EDPP go to <http://www.sdreadytowork.com/Financing-and-Incentives--Economic-Development-Partnership-Program.aspx>

For more information on the LIIP go to <http://www.sdreadytowork.com/Financing-and-Incentives--Local-Infrastructure-Improvement-Program.aspx>

For more information on the SDJP go to <http://www.sdreadytowork.com/Financing-and-Incentives--South-Dakota-Jobs-Grant-Program.aspx>

For more information on the RPP go to <http://www.sdreadytowork.com/Financing-and-Incentives--Reinvestment-Payment-Program.aspx>

Economic Development Finance Authority (“EDFA”)

The Economic Development Finance Authority oversees and authorizes the issuance of EDFA Bonds and the Agricultural Processing and Export (“APEX”) loan program. The EDFA is created pursuant to SDCL 1-16B-7. In accordance with SDCL 1-16B-11, all staff services required by EDFA are provided by the GOED.

Staff:

- Kim Easland, Finance Director
- Travis Dovre, Assistant Finance Director
- LaJena Gruis, Loan Officer
- Marty Davis, Director of Administration

EDFA Bonds:

Funding designed for more capital-intensive projects, provides small businesses access to larger capital markets for tax-exempt or taxable bond issuances. Applications for financing are submitted to GOED for underwriting. The Assistant Finance Director, reviews the application and compiles the underwriting criteria, this information is submitted to the bond underwriter with Dougherty and Company. The application is then presented to the EDFA board for approval, along with a request to pass a preliminary resolution initiating the bond transaction process. Once the project is completed, loan officer at GOED works with underwriter, bond counsel and contracted Trustee, First National Bank, to prepare bond documents. The loan closing occurs and the ongoing servicing of the file and necessary paperwork is prepared by our Trustee. Any required amendments/changes to the file go through the board for approval. As of June 30, 2013, EDFA has \$18,540,000 in bonds outstanding.

For more information on EDFA Bonds go to <http://www.sdreadytowork.com/Financing-and-Incentives--Bond-Financing.aspx>

APEX:

The APEX Loan Program is designed to assist companies in communities with a population of 25,000 or less, which add value to raw agricultural products through processing, or export a minimum of 75 percent of its product to entities outside the State of South Dakota or replace an import. The program is open to for-profit businesses and local economic development corporations. This program is funded in conjunction with USDA.

The applicant applies directly to GOED. The application is reviewed by the loan officer who compiles the underwriting package which is submitted to the EDFA for approval. If the loan proceeds will draw receipt from USDA, USDA also has to review and underwrite the file prior to taking to the EDFA. Upon approval of the loan, a commitment letter is sent to the borrower by the loan officer. Once the project is completed, the loan officer prepares the loan closing documents to be reviewed by our local attorney. The request for funding and wire instructions are submitted to loan servicing agent, which is contracted out to First National Bank in Sioux

Falls. The loan servicing agent will wire the proceeds to the applicant per direction form the loan officer.

First National Bank acts as servicing agent for the file. All payments are remitted to their office for deposit. As of October 31, 2013, APEX had a fund balance of \$3,221,984. Gross loans receivable was \$1,673,309.

For more information on APEX loans go to <http://www.sdreadytowork.com/Financing-and-Incentives--APEX-Loans.aspx>

South Dakota WORKS (“SD WORKS”)

The SD WORKS loan program provides business/commercial loans for businesses needing working capital and interim construction needs. The program funding comes from a grant received by the US Treasury under the Small Business Credit Initiative. As of October 31, 2013, SD Works had total assets of \$8,739,614. Of that amount, \$4,118,530 was net loans receivable.

Staff:

- Kim Easland, Finance Director
- Travis Dovre, Assistant Finance Director
- LaJena Gruis, Loan Officer
- Marty Davis, Director of Administration

Applicants apply directly to GOED. The loan officer reviews the file and prepares the underwriting criteria to the SD Works loan review committee. SD Works is a 7 member committee. Four of the members are active commercial bankers, two of the members have previous commercial banking experience, and the remaining member is the Commissioner. If approved by the SD WORKS loan review committee, the loan officer sends a commitment letter to the applicant with the conditions of approval. Upon completion of the project the loan documents are prepared and sent to our local attorney for review. The loan documents are fully executed by the applicant and the request for funding is sent to Director of Administration at GOED for remittance by wire. Once the loan is closed, the file is sent to Bankwest, who is contracted Servicing Agent for the program.

For more information on SD WORKS go to <http://www.sdreadytowork.com/Financing-and-Incentives--South-Dakota-WORKS.aspx>

Community Development Block Grants (“CDBG”)

The GOED administers the CDBG program with funding provided to the State of South Dakota from the Department of Housing and Urban Development. An application for federal assistance is submitted to HUD along with our State Certifications in November with our ConPlan update. Grantees may apply for up to \$500,000 for projects and \$15,000 for administrative assistance for a total grant maximum of \$515,000. In FY13, we received approximately \$5,150,000 to disburse.

Applicants can apply if they meet one of three national objectives set forth by HUD. Those objectives are:

- Benefit to low- and moderate- income persons
- Aid in the prevention or elimination of slums or blight
- Meet a need having a particular urgency often referred to as Urgent Need

Staff:

- Pat Costello, Commissioner
- Kim Easland, Finance Director
- Travis Dovre, Assistant Finance Director
- Paul Mehlhaff, Grant Administrator
- Marty Davis, Director of Administration

CDBG Process:

After it has been determined that the city or county will meet one of the national objectives, they utilize the services provided by one of the six planning districts to provide the administrative service needed to submit a complete application. Those applications are accepted during two funding cycles with deadlines of April 1 and October 1. When the application is received, the process of approving begins with a check of the information provided. Internal discussion takes place prior to a meeting with the Commissioner of GOED. After that meeting, the grant requests are then presented to the Governor for his final recommendation and approval.

The areas that CDBG funds can be used for are community projects, public services including work force training, or economic development.

Grantees submit requests for payments to GOED. The request for funds is approved by the Finance Director of GOED. A voucher is then created by the Program Manager. An accounting assistant then approves the voucher before being sent to the GOED Director of Administration for final approval. The voucher is then sent to the Auditor's Office to be paid.

For more information on CDBG go to <http://www.sdreadytowork.com/Financing-and-Incentives--CDBG.aspx>

Future Fund

The Future Fund is created pursuant to SDCL 61-5-29.1 and is used for purposes related to research and economic development for the state. The Future Fund is utilized for Technical Assistance Grants and Workforce Development Training Grants.

Staff:

- Pat Costello, Commissioner
- Nathan Lukkes, Deputy Commissioner
- Kim Easland, Finance Director
- Travis Dovre, Assistant Finance Director
- Dale Knapp, Accounting Assistant

- Marty Davis, Director of Administration
- Ann Gesick Johnson, Grant Administrator

Technical Assistant Grants:

Technical Assistance Grants are used to assist companies with technical assistance and research needs. The companies contact the Business Development Team for their needs. The assessment on the project needs is then forwarded to the Commissioner of GOED who then presents the request to the Governor for approval. A letter of agreement is then prepared by Accounting Assistant and reviewed for approval by the Deputy Commissioner. Once approved, the Commissioner executes and forwards to the applicant for execution. The recipient's receipts and request for funding are submitted to the Accounting Assistant for approval. The request is then forwarded to the Director of Administration entering the voucher request to State Auditor's Office.

Workforce Development Training Grants:

Workforce Development Training Grants are used to assist with workforce training needs on a reimbursement basis to SD Companies for new hires or elevating existing workforce. The Grant Administrator receives the application and reviews for approval. If the application is under \$10,000, Grant Administrator approves the grant. If the application is requesting over \$10,000, the application is submitted to the Commissioner for approval. Once approved, the grant agreements are drafted and submitted to the Deputy Commissioner for review and then the Commissioner executes. The applicant requests funding from the Grant Administrator who then submits the request form to Director of Administration for remittance.

Proof of Concept

The Proof of Concept Fund, with support from the US Small Business Administration FAST program and the GOED, will provide up to \$25,000 investments for eligible applicants to conduct research demonstrating the technical and economic feasibility of an innovation significantly enhancing the likelihood of commercialization of the innovation.

Staff:

- Pat Costello, Commissioner
- Nathan Lukkes, Deputy Commissioner
- Mel Ustad, Director of Commercialization
- Ann Gesick-Johnson, Grant Administrator

The day to day operations of the Proof of Concept program are handled by the GOED. The Research Affairs Council, consisting of a representative from each state university, Vice President of Research and Economic Development of the South Dakota Board of Regents, Executive Director of the South Dakota EPSCoR program and Director of Commercialization for GOED, review each application and make a recommendation to the Commissioner of the GOED. There is no final commitment of Proof of Concept money without specific authorization by the Commissioner of the GOED.

The applicant must submit a formal application to GOED. The application must be complete before the Research Affairs Council reviews the applications. GOED assists applicants in completing the application by answering questions or concerns.

Upon acceptance of the borrower's application, the GOED executes various loan documents which generally include commitment letter and loan agreement. The borrower is generally required to make monthly payments to GOED. The check is received and verified for the correct amount by the GOED Finance Division. The Administration division receipts the check, endorses using the department endorsement stamp, prepares a cash receipts transmittal for approval, enters online, and forwards to the State Treasurer's Office for deposit. The Proof of Concept excel report prepared by the Administration Director is reconciled monthly with MSA with the changes and additions in revenue. A copy of this report is provided to the Finance Division and Director of Commercialization.

For more information on Proof of Concept go to <http://www.sdreadytowork.com/Financing-and-Incentives--Proof-of-Concept-Application.aspx>

Dakota Seeds

The Dakota Seeds Program provides grant funds to encourage the development of internships and graduate assistantships. The program will reimburse up to one-half the wages paid to a student with a cap of \$2000 for undergraduate interns, \$8000 annually for a masters level graduate assistant and \$10,000 annually for a PhD level graduate assistant. The program is funded through the GOED and the South Dakota National Science Foundation Experimental Program to Stimulate Competitive Research (SD NSF EPSCoR) grant awarded administered through South Dakota State University (SDSU).

Staff:

- Pat Costello, Commissioner
- Nathan Lukkes, Deputy Commissioner
- Mel Ustad, Director of Commercialization
- Ann Gesick-Johnson, Grant Administrator

Companies interested in the funding must submit an application to the GOED indicating the work the student will be doing. If applying for graduate assistants, the student and the school they are attending must be identified in the application. This application is review by Mel Ustad, Ann Gesick Johnson and the Commissioner of GOED to determine if the work will be meaningful and will provide an opportunity for the company to expand. Upon approval of the application, a letter of agreement between the GOED and the company is executed for the company's signature.

For an internship, the company will submit an online report at the Dakota Seeds website upon completion of the internship. The report will include the name of the student, the school they are attending, the dates of internship, and the wages earned. Companies receiving awards for

graduate assistants may submit reports quarterly. The reports must contain the name of the student, the period covered and the total wages earned.

Once the company reports are submitted to GOED and reviewed, the grant administrator makes an authorization for payment. The payment authorization contains the dollar amount requested by the company, copies of the documentation submitted by the company (whether online or in payroll documents) and a copy of the signed agreement.

For more information on Dakota Seeds go to <http://www.dakotaseeds.com/>

Ethanol Infrastructure Incentive Program

The Ethanol Infrastructure Incentive Program serves to alleviate the costs associated with the installation of blender bumps. The state awards up to \$25,000 to retailers for the first pump and \$10,000 for each additional pump. Funds are provided on a reimbursement basis upon providing proper supporting documentation. Funds can only be used for dispenser, associated hardware, and other tank fueling infrastructure. Hunter Roberts, Energy Development Director, administers the Ethanol Infrastructure Incentive Program, with approval and oversight provided by Pat Costello, Commissioner and Nathan Lukkes, Deputy Commissioner. Payment disbursements are processed by Marty Davis, Director of Administration. The program has approximately \$500,000 available for disbursement annually.

For more information on the Ethanol Infrastructure Incentive Program go to <http://www.sdreadytowork.com/blenderpumps.aspx>

South Dakota Development Corporation Programs

The South Dakota Development Corporation (“SDDC”) is a 501(c)(6) non-profit. It is a non-state entity that maintains a private-public partnership with the GOED. The GOED is the servicing agent for the SDDC and administers the loan packaging and servicing of the SBA 504 loans. The GOED also originates and services MicroLOAN and MicroLOAN Express programs, SDDC “other” loans and offers equity investments in SD Companies as well. A local law firm provides the closing services associated with these loans.

SBA 504

Staff:

- Kim Easland, Director of Finance
- Travis Dovre, Assistant Director of Finance
- Lajena Gruis, Loan Officer
- Ashley Moore, Loan Servicing Agent
- Dale Knapp, Accounting Assistant

The SBA 504 loan program offers subordinated, fixed rate financing to healthy and expanding small businesses. Long-term, fixed rate financing (10-20 years) and reasonable rates (near long-

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Purpose

The purpose of the Agricultural Processing and Exporting (APEX) Loan Program is to encourage and assist the development of companies in communities which have a population of less than 25,000 that add value to raw agricultural products through processing. It also is designed to assist in the export of those products outside the state, create new wealth in South Dakota, and increase employment in rural areas. Businesses assisted through this program will, to the maximum extent practical, employ low income persons, farm families, or displaced farm families, and use products as well as provide services to the farm community. The South Dakota Economic Development Finance Authority (EDFA or Finance Authority or The Authority) is responsible for making credit decisions for the APEX program (SDCL 1-16B- 14, Admin Rule: 68:01:02:09)

Administration of the Finance Authority

The SD Economic Development Finance Authority (EDFA) consists of 7 members appointed by the Governor. Members serve a four-year term and terms of members are staggered. No more than five members of the board may be members of the same political party (SDCL 1-16B-8). These members do not need to be approved by the Legislature.

An Executive Committee of this board has been established and consists of the 3 officers (Chairman, Vice-Chairman and Secretary) of the Board. The purpose of this Executive Committee is to perform functions authorized by the Board between meetings.

“All staff services required by the South Dakota Economic Development Finance Authority shall be provided by the Governor's Office of Economic Development, and all expenses incurred in carrying on the work of the authority, including the per diem and travel expenses of the authority board, payment of bond premiums which may be required of its officers and members, and any other items of expense, shall be paid out of funds appropriated or otherwise made available to the Governor's Office of Economic Development” (SDCL 1-16B-11).

The day to day operations of the APEX Fund are handled by the Governor's Office of Economic Development (GOED). There is no final commitment of APEX Fund money without specific authorization by the authority. Thus, only the authority may make a loan to the applicant. However, the authority permits Executive Management at GOED to structure proposals, preliminarily committing APEX funds as part of normal business practices. These proposals are communicated to the authority and accounted for in the APEX Fund financial position.

APEX Program Funding

APEX loans are financed with funds from the following two sources: loan commitments from the REDI Fund and The US Department of Agriculture Rural Development Intermediary Relending Program (RD-IRP). The amount to be provided from each source depends on the percentage decided on by USDA Rural Development guidelines.

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Rural Development may change this percentage each funding round. Below is a summary of RD-IRP funding rounds to date and the REDI match:

RD \$2.5 million – Initial Loan
REDI \$1.0 million – Match

RD \$500,000 – Approved in FY00
REDI \$125,000 – Match

RD \$750,000 – Approved in FY04
REDI \$200,000 – Match

RD \$500,000 – Approved in FY07
REDI \$200,000 – Match*

RD \$750,000 – Approved in FY09
REDI \$200,000 – Match*

RD \$750,000 – Approved in FY09
REDI \$200,000 – Match*

*No New Funding from the REDI fund, using the same match.

Total RD \$5.750 million
=====

The loan with the REDI Fund will be established when funds are disbursed to the ultimate borrower. The Finance Authority will repay the loan to the REDI Fund at 3% interest and the loan to RD at 1% annual interest.

Revolved RD-IRP funds do not require 20% match.

The First National Bank of Sioux Falls (FNB) acts as the servicing agent for the Finance Authority. The APEX Fund loan serving agent with First National Bank SF does run the APEX loans through their commercial loan program to monitor the principal/interest payments on the loans.

The Application Process

Eligible applicants for a loan must satisfy SDCL 1-16B-41 and be a for-profit business, a for-profit or nonprofit development corporation, or a non-profit business cooperative that is either a start-up business, existing business, or the relocation of an existing business from out-of-state that will create new jobs in South Dakota and that will do the following: (Admin Rule: 68:01:02:02):

- (1) Export a minimum of 75% of its product to entities outside the state of South Dakota or replace an import;

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- (2) Provide employment opportunities for low-income persons or displaced farm families to the maximum extent practicable;
- (3) Use a South Dakota grown or produced agricultural product as at least 50% of the raw material; and
- (4) Locate in a community with a population less than 25,000.

An applicant may request a waiver of (1), (3), or (4) by petitioning the EDFA. A 2/3 vote by the EDFA is necessary to approve a waiver. The finance authority may waive a maximum of only 2 out of the 3 required rules listed above.

An applicant may apply for a loan up to 250,000 or 75% of the total project costs. The applicant must provide an equity contribution of at least 10% of the total project costs. The equity requirement may be waived by a 2/3 vote of EDFA, with the approval of RD. Administrative Rule 68:01:02:06 identifies the permissible uses of loan proceeds, and 68:01:02:07 and identifies the impermissible uses of loan proceeds.

Interest rate is 3%, depending on the risk of the project the board may increase the rate, and the amount of participation by APEX. The interest rate will be determined by EDFA at loan consideration and will be fixed for the life of the loan. The terms of the loans are up to 10 or 20 years, whichever best matches the useful life of the assets (10 years max on equipment, 20 year max on land and building (Admin Rule: 68:01:02:14). There is typically a six year balloon on most loans, some are fully amortized over seventy two months depending on cash flow of the borrower.

The applicant must submit a completed loan application (including the APEX Addendum) in order to be considered for a loan. Within 30 days after GOED receives the completed application, EDFA will decide whether or not to approve the loan. If EDFA approves the loan application, the application and required items are then sent to RD for approval (do not need RD approval on revolved funds). Loan agreements cannot be entered into without RD's approval of the loan. RD has provided the Finance Authority with a checklist of items needed by RD for each ultimate recipient's application. The required items to be submitted to RD are:

1. Copy of ultimate recipient's application
2. Certification from intermediary that ultimate recipient is eligible
3. Certification proposed from intermediary that loan is for an eligible purpose
4. Certification that the loan complies with all applicable statutes and regulations.
5. Form RECD 1940-20 "Request for Environmental Information"
6. Security Agreement
7. Conflict of Interest
8. Assurance Agreement - Under Title VI, Civil Rights Act of 1964
9. Evidence that at least 51% of the outstanding interest in any ultimate recipient must have membership or be owned by those who are citizens of the United States or reside in the U.S. after being legally admitted for permanent residence. (See application)
10. If ultimate recipient is a corporation, copies of organizational documents (see borrower's file).

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RD reviews and approves the loan application for program criteria but does not determine if the applicant is a good credit risk. The credit risk of the applicant is to be determined by the Finance Authority.

According to admin rule 68:01:02:10, if RD rejects the loan application, the Finance Authority, in accordance with SDCL 1-16B-38, may approve the loan using revolved funds, which are not subject to an agreement between the authority and RD.

Loan Approval Process

The EDFA meets monthly. Borrower applications are reviewed and a decision is made on whether to approve, disapprove or require changes before granting loan approval. Admin. Rule 68:01:02:08 lists some of the factors the EDFA uses to determine if a loan should be made. These factors are not mandatory. EDFA decisions are final. The applicant cannot appeal to the Legislature or the Governor.

Loan Documents

Once RD approves the loan, EDFA executes the following loan documents with the ultimate borrower:

1. Preliminary Authorization
2. Loan Agreement
3. Employment Agreement
4. Promissory Note

and may also execute any of the following documents depending on the security/collateral to be given:

5. Security Agreement
6. Mortgage
7. Guaranty
8. Corporate Authorization
9. UCC Financing Statement

The loan agreement will contain the rights and responsibilities of the parties and the terms and conditions of the loan. The requirements to secure the loan will be included in the loan agreement. Loans may be secured or unsecured, but preferably, secured. A lender agreement is signed because a regulated lender bank is responsible for servicing of the loan of the ultimate borrower.

Loan Disbursement Process

When the loan is ready to be disbursed, the REDI Fund will disburse to Finance Authority the REDI Fund portion of the loan (if applicable). Marty Davis (Finance Officer) is contacted, and she prepares the voucher to establish the REDI Fund loan receivable and to transfer the funds. These funds are wire transferred to First National Bank SF, Trustee for the Finance Authority, and deposited into the APEX Capital Account.

The Finance Authority (GOED Finance) will contact the RD state office in Huron to request a draw down of funds for the RD share of the loan, and these funds are also deposited into the

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APEX Capital Account. On the day of the loan closing, First National Bank SF wire transfers the funds from the APEX Capital Account to the regulated lender bank. RD wires funds directly to FNB SF.

Repayment of Loan

The borrower is generally required to make monthly payments to the servicing agent. Payments are deposited into the APEX Loan Repayment Account at FNB SF. The APEX fund loan servicing agent is required to submit monthly reports to GOED Finance on payments received and loan balance information. In this report, the APEX Fund loan servicing agent identifies the loan number, the effective date of each payment, the due date, the principal and interest applied, and the remaining balance.

The information received from the APEX Fund loan servicing agent is then entered into the Financial Accounting System Loan Portfolio System (FAS) or PortFol, by GOED Finance Staff (Finance Director and the Loan Specialist). The Finance Director and Loan Specialist have access to this system. Monthly the GOED Finance Division reconciles the APEX Fund loan servicing agent's report against FAS (this is done to verify the correct application of principal and interest for payments reported by the APEX Fund loan servicing agent).

The APEX Fund loan servicing agent is responsible for monitoring all loan payments. The APEX Fund loan servicing agent works with the GOED Finance Division in reconciling differences that arise in the loan servicing agent's interest and principal calculations and GOED's interest and principal calculations as calculated by FAS or Portfol. GOED can produce copies of the Transaction History Report for any particular time frame and a Loan Portfolio Report as of any date.

The APEX Fund loan servicing agent informs GOED when a borrower does not make a monthly payment, and GOED Finance will contact the borrower to determine the reason for non-payment.

A balloon payment is required of most loans after six years. The APEX Fund loan servicing agent calculates the final payment; this calculation includes determining the amount applied to principal and the amount applied to interest. The final payment, including the principal and interest application, is verified with GOED Finance using FAS or PortFol prior to having the APEX Fund loan servicing agent notify the borrower of the final payment amount. GOED asks the APEX Fund loan servicing agent to forward all loan documents to the GOED. The loan documents along with the note is released back to the company with the GOED keeping copies unless the security agreement covers another loan in which case it would not be released. A satisfaction of mortgage is then filed with the Register of Deeds, and UCC-3 is filed with the Secretary of State.

Records Retention

A formalized records retention policy has been established to maintain records as long as the loans are outstanding.

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Reporting Process

The Economic Development Finance Authority is required to prepare an annual report to include but not limited to: its operations and accomplishments, its receipts and expenditures during the previous fiscal year, its assets and liabilities at the end of the previous fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds and a schedule of the outstanding notes, amounts redeemed and incurred during the previous fiscal year. (1-16B-48)

Origination Fees and Other Revenue

Currently no origination fee is being charged on the loans. There may be other revenue and/or reimbursement checks to be deposited into the EDFA fund. The Administration division receipts any checks and sends to First National Bank of Sioux Falls for deposit.

Monitoring Process

Borrowers are required to submit a balance sheet and an income statement at least annually or as determined by the EDFA. The borrower's financial stability determines the regularity of reporting and if the financials have to be compiled, reviewed or audited. Four reporting time frames have been established by GOED: monthly, quarterly, semi-annually, and yearly. Generally, new and existing loans are required to report financials annually and have at least "reviewed" financials. Deals that are experiencing problems or are in an industry experiencing problems may be required to report more frequently and be subject to providing "audited" financials.

Yearly loan reviews on all loans are performed by the EDFA loan officer and presented to the Economic Development Finance Authority per board policy. The frequency of the reviews set in board policy is based on the Standard Banking Industry Practices.

Loans classified to the "Commissioner's Watch List" will require a "full" loan review. "Full" loan reviews have to be presented to the board and accepted by the board. Loans not classified on the "Commissioner's Watch List will only require a "cursory" loan review. "Cursory" loan reviews have to be presented to the board, but are not required to have a motion of board acceptance.

The loans in the GOED portfolio will have their historical and pro forma financial information installed onto Moody's (a financial analysis software package). Historical financial information will be added as it is received. The various reports, financials and loan reviews will be generated and stored by the APEX Fund Loan Officer at GOED.

The borrowers are required to submit Employment Reports annually. GOED requires borrowers to submit employment reports at calendar year end.

The Secretary of State's Office is contacted to determine if the borrowers who are corporations are in good standing with the State. All corporations that have received APEX Loans are examined for good standing each year.

All the loans (including loan balance information, motions/notes related to the loan and employment statistics) are placed on the GOED Loan Database for monitoring by GOED

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Finance Staff. From this system, various reports can be and are generated. Multiple reports from this system are used to analyze the historical trends and results of the APEX Fund and its borrowers. The previously mentioned Financial Accounting System Loan Portfolio System (FAS) is used to verify current loans and the application of payments to the APEX reported to GOED Finance by the APEX Fund loan servicing agent

A Loan Servicing and Monitoring Policy Handbook maintained in the GOED Finance Division notes the policies and procedures used by the Finance Division within the Governor's Office of Economic Development when administering the APEX program. All GOED Finance Division employees and the APEX Fund loan servicing agent have access to the policy handbook and the administrative rules governing the APEX program.

The Finance Authority is required to submit to RD on a quarterly basis the Schedule of Federal Expenditures (SEFA) Report of IRP/RDLF Lending Activity. This reporting is compiled by GOED Finance Staff.

Loan Defaults

If a loan goes into default, the Finance Authority will try to collect on the loan. Bad debt will be absorbed in the difference between the interest rate of 1% charged by RD and the Finance Authorities interest rate of 3-5%.

Administration Costs

The EDFA approves all invoices of \$1000 and over for payment after GOED Finance Division has verified that the invoices are correct and appropriate. Invoices received under \$1000 are verified and approved for payment by GOED (without board approval). The board is notified in the monthly meeting of any bills of this nature per board policy. Upon approval, the invoices are given to the First National Bank of Sioux Falls for payment.

Monitoring Policies

GOED Staff has developed a master loan review tracking form which it uses to track all of its programs including the APEX loans. Monthly monitoring reports are also generated such as the Commissioner's Watch List.

First National Bank also provides monthly statement of accounts for all the various EDFA related accounts to GOED on its web site, which is accessible by password only.

Allowance for Loan Losses

The allowance for loan losses is calculated by first classifying the outstanding principal balance of all problem, default, and non-accrual loans. The four classifying categories are watch, substandard, doubtful, and loss. The classification of the loan balance is determined by the board. The allowance for loan losses is then calculated as the sum of 3% of the "watch" amount, 12.5% of the "substandard" amount, 50% of the "doubtful" amount, and 100% of the

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“loss” amount. For all loans not classified on the watch list, 1% of the total principal is reserved. Rural Development requires a 6% loan loss reserve for watch list loans.

Records Retention (GOED)

Under the Department of Governor's Office of Economic Development Records and Destruction Schedule, GOED-24 states retention for 6 years after the loan has been paid off. The GOED Finance Division keeps the file in the office for future reference for 6 years and then shreds the file contents.

Training

The APEX Loan Officer is offered and encouraged to take advantage of many training opportunities. The skill level of the APEX Loan Officer will dictate what opportunities are applicable for helping the Loan Officer increase his/her knowledge. Some specific training opportunities are:

- Any applicable course offered through the American Bankers Association.
- National Development Council - Economic Development Professional Training Program

Specific software training (i.e. training for Moody's Financial Analyst Product – this product is used by the department to “spread” financials)

Audits

An audit of the EDFA is conducted by the Department of Legislative Audit in accordance with auditing standards generally accepted in the United State and the standards applicable to financial audits contained in Government Auditing Standards.

The audit encompasses all programs the Economic Development Finance Authority is charged with overseeing. The audit objective is the expression of an opinion by the Department of Legislative Audit on whether the EDFA's financial statements are fairly presented in all material aspects.

As part of the preparation for this audit, Finance staff and the contracted accountant (Clausen Rice LLP) will additionally ensure the accuracy of the financial statements and notes through the following controls:

- Compare amounts reported to the prior year,
- Investigate significant changes,
- Review for inconsistencies and inaccuracies,
- Identify potential changes for financial reporting during the fiscal year, and
- Ensure that all note disclosures and other information is properly reported.

Purpose:

To document the procedures for the Community Development Block Grant program. This is a review of the control environment to address risk assessment, control activities, information and communication and monitoring related to the program.

Source:

Kim Easland, Director of Finance
Travis Dovre, Project Advisor
Paul Mehlhaff - Program Manager
Brenda Badger-Fiscal Assistant
Marty Davis-Agency Administrator

Procedures:**Activities Allowed or Un-allowed & Allowable Costs**

For the Special Projects Account, the applicants must receive an invitation to apply for the grant by GOED. The Community Projects Account does not require special invitation to apply. The potential applicants submit the application package containing the required components to GOED. The Community Projects Account application has two cycle periods. The deadlines to apply are April 1st and October 1st. Applicants proposing an eligible activity and meeting one or more of the state CDBG program objectives will be considered for funding. The Special Projects Account is awarded based on how well it fits the criteria.

The Governor's Office of Economic Development (GOED) will review all potential projects to ensure the project meets the requirements of the CDBG program including being an eligible activity and meeting a national objective. If the project is deemed eligible for CDBG funding, it will receive a minimum of two reviews. The Program Manager will review and summarize the project, The Director of Finance and/or the Deputy Commissioner will be presented the project for approval before the request of an award will be presented to the Commissioner of GOED. After approval of the Commissioner, the requests are then presented to the Governor for consideration. The Governor will then approve or disapprove the project as submitted. The Governor may also determine at this time to change the amount of the requested funds. CDBG staff will be provided with an approval or denial of assistance for the project from the Governor. A letter will then be sent to the project sponsor informing them of either the level of CDBG funding being reserved for their use or denial of their request. If the project is approved, a CDBG grant agreement is then drawn up pending an environmental review.

Once a project is approved for funding, GOED staff enters the project onto the Integrated Disbursement and Information System (IDIS). This system allows HUD to track obligations to date for each grant award that the state receives. IDIS is explained further below.

All CDBG recipients are required to comply with the provisions of several civil rights mandates in the administration of their projects. CDBG staff requires local governments to document their efforts to assure civil rights compliance by adopting an Equal Employment Opportunity Policy and a Resolution Assuring Fair Housing.

Prior to the drawdown of CDBG funds the grantee must complete and submit to the Governor's Office of Economic Development the initial requirements. Any amendments to the project must receive GOED approval.

Cash Management

Payments can only be requested after the Initial Requirements have been satisfied. The Program Manager keeps track on a computer spreadsheet when requirements are met. Project files are also kept with the initial requirements. Once the requirements have been satisfied, the grantee can begin requesting reimbursement for eligible project expenditures. A check of the electronic file is made by the Program Manager before the first payment is made. The grantee completes the CDBG Payment Request and mails the request along with the supporting documentation to GOED. If the project includes labor costs, the grantee must also submit the Certificate for Payment before being reimbursed for the labor costs. When the Program Manager receives the request for payment, they pull the project file and determine whether the expenditures meet the grant requirements. They will then give the request for payment to the Director of Finance. The Director of Finance reviews the form and then initials and dates the form. The Program Manager then processes the payment request, and a voucher is prepared. The voucher is then checked by the Fiscal Assistant and signed. The Agency Administrator will give the voucher final approval before the voucher is sent to the State Auditor's Office. There, the voucher will get one final audit before a warrant or ACH payment is approved. The Program Manager includes a worksheet in the project file which shows the date and amount of vouchers and the balance of the grant for their own monitoring purposes.

The cash draw system, the Integrated Disbursement and Information System (IDIS) performs draws over the internet. The Program Manager uses a password to get into the system and request the funds after a payment has been made by the State Auditor's Office. Once the request is entered, the system will create a printout of the information entered. The Program Manager signs this printout and then gives it to the Project Advisor to approve the drawdown on the IDIS system using their password. The drawdown must be approved by two separate persons before being wired to the State Treasurer's Office. A cash receipt is then prepared by the Program Manager and approved by the Agency Administrator before being sent to the State Treasurer's Office. MSA reports are then used to verify that payments were received.

Davis-Bacon Act

All laborers to be paid wages not less than those established for the locality of the project. [24 CFR 570.496 (c)] Wages paid are reviewed during on-site visits. The Six Planning Districts staff provides the technical assistance in monitoring the contractors and verifying that Davis-Bacon wage determinations are being followed.

Equipment and Real Property

The purchase of equipment is not an eligible CDBG activity under the federal guidelines unless it is an activity associated with a for-profit business. The State of South Dakota CDBG program only funds infrastructure projects through the Special Projects Account (SPA) when assisting for-profit businesses as stated in the CDBG SPA application Manual.

Matching, Level of Effort & Earmarking

The State is authorized to withhold up to 2% of the annual allocation plus \$100,000 for program administration. The State is also authorized to set aside 1% of their allocation to provide technical assistance to local governments and nonprofit organizations. To keep track of when funds are drawn down for administrative costs, the Program Manager maintains a computer worksheet for each of the federal grant years.

Period of Availability of Federal Funds

The award conditions in the CDBG agreement state that the project work for which assistance has been awarded must be completed within eighteen months or less from the date of award. The local government may apply for an extension if their project has been delayed and will not be completed within that period.

Procurement and Suspension and Debarment

The State utilizes the competitive bid process when utilizing CDBG funds. In the unlikely event that CDBG funds were used for procurement, the State would follow the procurement standards 24 CFR Part 85.

Contractors are required to submit Part I, Suspended or Debarred Contractors Certification Form with their competitive bid. A new policy of checking the SAM (System for Award Management) was introduced in 2013 to double check contractors and grantee to see that they hold an active status.

Program Income

Program income is not applicable to the CDBG program because the State does not fund projects that require a repayment of awarded funds back to the State.

Real Property Acquisition and Relocation Assistance

The Department monitors relocation assistance projects during their on-site visits. A checklist from the monitoring guide specifically relates to relocation assistance. Any problems encountered during the review are passed on to the recipient for corrective action [24 CFR 570.488].

Real property purchases are required to submit an appraisal of the property with the application for CDBG funds. After a CDBG award has been made, the local government is required to submit documentation of title transfer to ensure compliance. The project is desk monitored and monitored on site throughout the project.

INTERNAL CONTROL
Community DEVELOPMENT BLOCK GRANT

There were no relocation projects and no real property has been purchased during the current year; therefore, this requirement is not material to South Dakota for FY2013.

Reporting

HUD requires GOED to submit a Consolidated Annual Performance/Evaluation Report (CAPER) on an annual basis. This report is filed electronically. The CAPER is a joint filing between CDBG and the South Dakota Housing Authority that addresses the needs, general objectives, method of selecting grantees, and the applications process for the CDBG program. HUD will not release funds to GOED until the consolidated plan is approved.

Subrecipient Monitoring

The monitoring consists of desk monitoring and on-site monitoring. All on-site monitoring must be completed prior to project close-out. The on-site monitoring is divided into three sections: 1) compliance with state and federal program requirements, 2) special requirements, and 3) close out (performed when project is ready for close out).

The special requirement section consists of two areas: 1) project construction and 2) economic development projects. The on-site monitoring performed will depend on the type of project.

The Program Manager has a computer spreadsheet and a checklist for the project file to make sure that all closing requirements are met before the project is closed.

Special Tests and Provisions – Environmental Oversight & Reviews

The recipient must also comply with environmental review requirements before the State can release funds. There are four types of environmental review categories which project activities can fall into: 1) exempt, 2) categorically excluded, 3) environmental assessment, and 4) environmental impact statement. Depending on which category the recipient falls into, different procedures and documents are required. Prior to the completion of the environmental review, only costs for CDBG funded activities that are exempt from environmental review are eligible. After completion of the review, all approved project costs are eligible.

EDFA BONDING PROGRAM – ADMINSTRATIVE/INTERNAL CONTROLS

EDFA BONDING PROGRAM - PROCESSES

Purpose

The EDFA Pooled Loan Bond Program is designed for more capital intensive projects. The Pooled Loan Bond Program provides small businesses access to larger capital markets for tax-exempt or taxable bond issuances. The program can fund projects individually or pool them to help lower the cost of the bond issuance. One of the biggest advantages of this program is a long-term loan with a fixed interest rate. This benefit is passed on to borrowers through the South Dakota Economic Development Finance Authority's "A+" rating by Standard and Poor's. By maintaining an "A+" rating, the Authority is able to offer a lower interest rate to the applicant. The South Dakota Economic Development Finance Authority (EDFA or "The Authority") is responsible for making credit decisions for the EDFA Pooled Loan Bond program (SDCL 1-16B-14, SDCL 1-16B- 15)

Administration of the Finance Authority

The SD Economic Development Finance Authority (EDFA) consists of 7 members appointed by the Governor. Members serve a four-year term and terms of members are staggered. No more than five members of the board may be members of the same political party (SDCL 1-16B-8). These members do not need to be approved by the Legislature.

An Executive Committee of this board has been established and consists of the 4 officers (Chairman, Vice-Chairman, Treasurer and the Secretary) of the Board. The purpose of this Executive Committee is to perform functions authorized by the Board between meetings.

"All staff services required by the South Dakota Economic Development Finance Authority shall be provided by the Governor's Office of Economic Development, and all expenses incurred in carrying on the work of the authority, including the per diem and travel expenses of the authority board, payment of bond premiums which may be required of its officers and members, and any other items of expense, shall be paid out of funds appropriated or otherwise made available to the Governor's Office of Economic Development" (SDCL 1-16B-11).

The day to day operations of the EDFA Pooled Loan Bond Program are provided by the Governor's Office of Economic Development (GOED). There is no final commitment of EDFA Pooled Loan Bond funds without specific authorization by the authority. Thus, only the authority may make a loan to the applicant. However, the authority permits Executive Management at GOED to structure proposals, preliminarily committing funds as part of normal business practices. These proposals are communicated to the authority and accounted for in the fund's financial position.

Costs paid by GOED relating to the EDFA are mainly payroll and travel expenses for GOED employees. Fees charged by the Escrow Agent, fees paid for asset management (investment) advisory, and fees paid for lawyer services are paid from the interest earnings in the General Fund account located at The First National Bank in Sioux Falls (FNB). If there are not enough funds available in the General Fund account at FNB to pay these expenses, the funds appropriated or otherwise made available to GOED would be used. See section 19 of the Capital Reserve Fund, Pledge and Escrow Agreement relating to fees. All other expenses, (processing fees, etc.) are charged to the borrower. The borrower may finance in cost of issuances up to 2% of the issue amount into the bond package.

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FNB is the trustee for all pooled loan bonds issued by the EDFA. EDFA can also act as the conduit and issuer for stand alone issuances in which the bond counsel for the borrowers chooses their trustee.

The Application Process

The applicant must submit a formal application to GOED. The application must be complete before the EDFA will review it. The application (which has been formalized and is available from GOED) was constructed to provide more than the basic requirements spelled out in SDCL GOED 1-16B-40. Upon receipt of the application, a copy is sent to the EDFA's underwriter (Dougherty & Co. LLC) and bond counsel (Dorsey and Whitney, LLP). Bond counsel will draft the Inducement Resolution, which needs to be approved by the EDFA with a complete credit analysis.

Loan Approval Process

The EDFA meets monthly. Borrower applications are reviewed and a decision is made on whether to approve, disapprove or require changes before granting preliminary loan approval. If preliminary approval is granted, 5 copies of the inducement resolution will have to be dated and signed by the Chairman and a public Tax Equity and Fiscal Responsibility (TEFRA) hearing will be set. Once the inducement resolution is passed (preliminary loan approval has been granted) the borrower can begin to incur eligible project costs. The preliminary approval is not a formal commitment by the EDFA, however it is a positive sign that the EDFA will fund the project provided nothing changes such as management or operations.

The TEFRA hearing involves publishing a legal advertisement in a statewide circulated paper to include the Argus Leader, Rapid City Journal, the town paper the project is located in and the Pierre Capital Journal where the hearing is held. The notification must be published in a certain form and they have to send us an affidavit of publication. The hearing must not be held sooner than 14 days from date of publication and no later than 30 days from the date of publication. If there are no objections at the public hearing the project can proceed.

After the approval of inducement resolution, a copy will be submitted to South Dakota Housing & Development (so that they can track all tax-exempt bond allocations in the state). Even if the project may not commence that year, a notification must be sent notifying them know for the following year so funds can be allocated. A request is made for allocation on both pooled and stand alone tax-exempt issues, but not taxable.

A request for allocation from the Governor can be made as soon as the final costs are completed. All tax-exempt bonds have to be authorized by the Governor prior to their issuance. This is required because the Internal Revenue Code of 1986 established a state ceiling for qualified private activity bonds applicable to the State of South Dakota for any calendar year. The Certificate of Governor authorizes and approves the issuance. Bond Counsel drafts the request for allocation. GOED staff works with Governor's Staff to obtain signed Certificate of Governor.

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS

EDFA BONDING PROGRAM - PROCESSES

There are different covenant requirements depending on the borrower. Prior to having the final resolution being approved and the bonds being sold those covenants have to be negotiated and the bond documents including the official statement has to be drafted. All parties involved in the negotiating of covenants and drafting of the official statement include: the Trustee (First National Bank), Underwriter (Dougherty & Company, LLC), Underwriter Counsel (Perkins Coie), EDFA, Authority counsel (Dorsey and Whitney), Borrower, Borrower Counsel, AG Office (Jeff Halem) and the interim construction lender are on the distribution list to review the documents.

For each issuance, the pool is re-rated by Standard and Poors rating agency. Perkins Coie submits the information to the Rating Agency. Perkins Coie drafts the Official statement with assistance from GOED and the trustee. This is then submitted to the rating agency. Perkins Coie needs current financial statements (FYE) on all companies in the pool to include their Certificate of No Default and personal financials on all guarantors. This is provided by GOED staff.

After all of the above is completed, the final resolution can be presented to EDFA for approval. Once approved the bonds can be sold and will sit in escrow with First National Bank until the project is completed. The borrower receives the interest income on these funds until they are released.

Loan Documents

The loan documents executed for the bond issuance generally include: bond offering documents, loan documents, closing documents of the EDFA which include the documents to perfect the lien on the appropriate collateral., closing certificates and documents of borrower, closing certificates of trustee and escrow agent, legal opinions and other miscellaneous documents such as rating letter from Standard and Poor rating agency, certificate of resident attorney, certificate and receipt for Series Bonds by Underwriter. These agreements contain the rights and responsibilities of the parties and the terms and conditions of the loan.

Capital Reserve Fund

A Capital Reserve Fund (CRF) was created to make the bonds more attractive to bond purchasers. The CRF will be used to pay bondholders when a borrower misses a loan payment or defaults on the loan (if the debt service reserve account is already depleted). The EDFA is allowed to issue bonds secured by the CRF for 8 times the amount of the capital reserve fund according to the General Bond Resolution. In other words, an 8:1 (bond:reserve) ratio exists. GOED refers to the bonds issued with the backing of the CRF as pooled bond issuances. SDCL 1-16B-30 sets the required amount to be in the Capital Reserve Fund. In December 2003, the CRF was increased from \$2.5 million to \$5 million. This was funded with monies accumulated in the EDFA General Account.

The General Bond Resolution states that the principal amount of the Bonds to be issued does not exceed \$10 million, or the principal of the Bonds then to be issued in excess of \$10 million

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS

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does not exceed 10% of the sum of the principal amount of such bonds and the principal amount of all outstanding bonds. The EDFA is allowed to issue bonds totaling \$300 million according to SDCL 1-16B-15. So although there isn't a stated limit for bond issues not secured by the CRF, the limit is the difference between \$300 million and the total of all outstanding bond issues.

The funding source for the original \$2.5mm CRF was a general appropriation. These funds were deposited at the First National Bank Sioux Falls – the escrow agent and trustee of these funds. Interest earned on the CRF account balance is retained by the Economic Development Finance Authority. According to SDCL 1-16B-31, any income from the CRF may be transferred to other funds or accounts to the extent the transfer does not reduce the amount of the CRF below the CRF requirement. If EDFA has a loan outstanding with the REDI fund then SDCL 1-16G-5 applies to the CRF. Administrative fees charged by the trustee are charged to the general fund account, but interest earned from the CRF may be transferred to the general fund account for use on administrative expenses but only after anything owed to the REDI Fund has been paid.

Arbitrage Requirements

Bond counsel works with Grant Thornton, LLP, who has been hired to prepare arbitrage reports each year. Separate reports are prepared for each individual bond series, and the borrower is responsible for the cost of the arbitrage report for their applicable bond issue.

Records Retention (Trustee)

A formalized records retention policy has been established to maintain records as long as the bonds and/or loans are outstanding.

Reporting Process

The Economic Development Finance Authority is required to prepare an annual report to include but not limited to: its operations and accomplishments, its receipts and expenditures during the previous fiscal year, its assets and liabilities at the end of the previous fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds and a schedule of the outstanding notes, amounts redeemed and incurred during the previous fiscal year. (1-16B-48)

GOED's Responsibilities (Pooled Bond Issuances)

GOED does a due diligence investigation on the applicant (loan application process) to determine whether the applicant is an acceptable credit risk. GOED is responsible for ensuring that the responsibilities of the other parties involved in the bond process are being performed. Once the loan has been approved and the bonds issued, GOED performs the following monitoring requirements. The GOED staff is responsible for gathering reports to be submitted by the borrower (see individual bond book for required reports and timing on submission) and performing an annual review on all borrowers/issuances as prescribed by EDFA loan review policy.

Underwriter's Responsibilities

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The underwriter's, Dougherty & Company, function is to determine if there are interested bond buyers. If the underwriter agrees to underwrite the bonds, they are required to buy any bonds they cannot sell. When an inducement resolution is issued (not backed by the CRF) the underwriter is only able to "sell" the merits of the applicant. When an inducement resolution is issued (backed by the CRF), the underwriter can also "sell" the backing of the CRF when selling the bonds.

If the underwriter cannot sell the bonds, EDFA may not give final approval for the bond issue. The final decision for approving a project is up to EDFA. The board's decision is limited to refusing to give final approval to projects the underwriter does not approve because without an underwriter the Finance Authority cannot issue bonds. Therefore, the underwriter does play a key role in the issuance of loans backed by the capital reserve fund.

Bond Counsel's Responsibilities

Bond Counsel is Dorsey & Whitney, LLP, who issues legal opinions concerning the General Bond Resolution, the Capital Reserve Fund Resolution, the Pledge and Escrow Agreement, Related Series Supplemental Resolutions, and loan agreements, and any other security instruments to which it is a party.

The EDFA relies on bond counsel to determine if all documents are written in accordance with applicable bond laws (meet tax exempt status criteria, etc.) and South Dakota laws. Bond counsel maintains a neutral relationship as they determine if documents are written in such a way that the interests of all parties are met. The bond counsel also serves as the EDFA's attorney.

Attorney General's Responsibilities

The AG's Office is the EDFA's legal counsel. Jeff Hallem is currently the EDFA's contacts at the AG's Office. The EDFA wants the AG's Office to review each document as they become available, but no opinion is received until the closing of the loan. An Attorney General Opinion is required on all secured bond issues before the bonds will be issued. The non-secured bond issues do not require an Attorney General Opinion.

Escrow Agent's and Trustee's Responsibilities

The escrow agent for the CRF and trustee for all pooled loan issuances is The First National Bank (FNB) in Sioux Falls. The escrow agent has the responsibility of accounting for the CRF and the Trustee is responsible for all accounts required to be maintained by the borrower. In order for a specific series of bonds to be secured by the CRF, the escrow agent must certify in writing to the trustee that the loan is subject to the benefits of the guaranty provided by the CRF. This is subject to an EDFA request that the escrow agent makes such certification. See section 6 of the Capital Reserve Fund, Pledge and Escrow Agreement.

The capital reserve fund is to be promptly invested and reinvested by the escrow agent upon the direction of an authorized officer of the EDFA in one or more Investment Obligations payable on demand or having final stated maturities not later than 24 months from the date of investment.

Beginning in FY99, the Finance Authority contracted with FNB to do the investing. FNB does not actually handle the money but rather acts as an investment advisor to the Finance Authority by

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making investment decisions. A set of Investment Instructions has been drafted for the escrow agent to follow when investing funds. See Investment Instructions in bond issue. In FY91, these investment instructions were amended. This amendment resulted from the changes in the tax codes from the 1954 Code to the 1986 Code. This changed the arbitrage rebate calculation from a present-value determination to a future-value determination. The First Amendment to Investment Instruction amends the original Investment Instructions in three respects:

1. It amends the method of calculation of arbitrage rebate amounts and segregation of such amount to conform to the regulations.
2. It clarifies that the Authority, and not the borrower, is responsible for causing the rebate calculations to be made. The cost of the calculations is a program expense payable by all borrowers.
3. The Authority has determined that if arbitrage rebate owes with respect to amounts on deposit in the Capital Reserve Fund, the Authority will be responsible for the payment of such rebate.

Any investment earnings and losses with respect to investment obligations deposited in the Capital Reserve Fund shall be credited to or against the CRF. The EDFA shall have no obligation to replace any investment losses sustained by the CRF. See section 11 of the Capital Reserve Fund, Pledge and Escrow Agreement.

The monthly bank statements, which are viewed on a website, contain YTD totals to GOED. They are also required to submit, within 45 days after the close of each fiscal year of the Authority, a copy of a report or statement for such fiscal year with respect to the capital reserve fund, including the following statements in reasonable detail: a statement of income, expenses and changes in balances of the Capital Reserve Fund for such period.

Borrower's Responsibilities

Each borrower is required to place 10% of the bond amount or one years worth of principal and interest in a loan reserve account (a.k.a. debt service reserve account or reserve account) with the trustee (Administrative Rule 68:01:01:03). The loan reserve account is accessed if the borrower misses loan payments. Interest earned on this account remains in the account. At the end of the loan period the balance in this account will be given back to the borrower. If the borrower wishes, the balance can be applied to the last payment. When a borrower defaults on a loan, the balance in the loan reserve account will be used to pay bondholders. If the bondholders are not paid in full with this money, the CRF will be used to pay the remainder of the borrower's debt. The bondholders can make claims for the remaining unpaid balance against the entire CRF not just the 1/8 reserve loan requirement. If the CRF has been depleted, the bondholders' only legal recourse is against the borrower.

Cost of Issuance to borrower

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Costs include bond counsel fee, underwriters counsel fee, authority counsel fee, rating agency fee, printing, trustee fee, underwriters discount of 2.5% and one year debt service deposited into a debt service reserve account (Administrative Rule 68:01:01:03). The total of all of these fees is estimated at 5% of the amount of the bond issuance.

Loan Disbursement Process/Application of Bond Proceeds

The FA will deposit the proceeds of the sale of each Series of the Bonds, less any Underwriter's compensation in the form of a discount, with the trustee. The trustee will then place the proceeds in a series of accounts (each borrower has their own series of accounts) as summarized in the Official Statement of the bond issue. Ten percent of the bond amount or one year of principal and interest is to be placed in a Loan Reserve Account to be used if the borrower should miss a payment or go into default. The portion of the proceeds to be disbursed to the borrower is placed in the Loan Account. The borrower provides the amount to be placed in the Cost of Issuance Account which will be used to pay the various issuance costs. Any funds remaining in the cost of issuance account after all costs are paid is either returned to the borrower or is applied to the borrower's payment.

Important Legal Documents

General Bond Resolution

This is the policy and procedure's manual for the pooled loan program bond process. It assures bondholders that each additional pooled loan program bond issue will meet the same minimum requirements relating to credit, etc.

Capital Reserve Fund Resolution

This document provides explanations of the purpose and functions of the capital reserve fund.

Capital Reserve Fund, Pledge and Escrow Agreement

This document is the agreement between the Finance Authority Board and FNB.

Series Supplemental Resolution

This document applies the General Bond Resolution to the particular borrower. It authorizes the issuance of each individual series bond issue.

Bond Purchase Agreement

This is the final document that binds the borrower, the finance authority and the underwriter.

Official Statement

This document provides a summary of how the bond process works. For pooled loan program bonds, it lists all the other pooled loan program bond issues covered by the Capital Reserve.

Loan Agreement

The agreement is between the Finance Authority and the borrower.

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Certificate of Official Action

The preliminary resolution is attached to this certificate.

Arbitrage Certification

This document certifies that the proceeds of the series issue will be utilized as follows within the meaning of applicable provisions of Section 148 of the Internal Revenue Code of 1986.

Investment Instructions

This document lists the requirements for investing funds held by the escrow agent.

Officers' Certificate

This document provides the borrower's assurances.

Certificate as to Capital Expenditures and use of Proceeds

This document lists how the borrower will use the proceeds of the bond issue.

Project Certificate

This document describes the project and the particular compliance items the project will follow, such as obtaining the necessary insurance.

Opinions of Bond Counsel

See sections 37, 38 and 39 of any individual issuance bond book for copies of this.

Attorney General's Opinion

See section 40 of any individual issuance bond book for copies of this.

Opinion of the Counsel for the Borrower

See section 41 of any individual issuance bond book for copies of this.

Opinion of the Counsel for the Underwriter

See section 42 of any individual issuance bond book for copies of this.

Certificate of Resident Attorney

See section 45 of any individual issuance bond book for copies of this.

Repayment of Loan

Loan repayments, additional charges on account of overdue loan repayments and certain other moneys are to be deposited upon receipt in the Related Series Revenue Account for the pooled loans. On the same day that the payment is received, the funds are then transferred to the

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Related Series Holding Account. The funds are held in the Holding Account until the next bond principal and/or interest payment, and during that time, the funds are invested. The interest earned in the Holding Account is then applied towards the borrower's 12th payment which consequently, reduces the amount of the borrower's 12th payment for that bond year. If a borrower misses a payment, the payment will be made from the Related Series Loan Reserve Account. The series of accounts mentioned above are summarized in the Official Statement.

For the stand-alone issuances, the borrower's payments are received in the related Bond Fund Account where the funds are invested until the next bond principal and/or interest payment is due to the bondholder. This interest earned can then be applied towards the borrower's 12th loan payment.

If a payment is missed, the trustee is required to contact the Finance Authority to notify them that a payment has not been made.

Payment to Bondholders

The trustee for the Finance Authority makes interest payments to bondholders on April 1, and October 1, of each year for the different bond series. Principal payments are made on April 1, of the year the bond comes due. The Official Statement's cover page shows the schedule of maturity dates for the bond issue. On the day that payment is due to the bondholder, the appropriate sum of money is transferred from the Related Series Holding Account to the Debt Service Fund, and then payment is made to the bondholder.

If a borrower is in default and the loan reserve account and capital reserve funds have been completely expended, the amount in the debt service fund from all the other borrowers would have to be prorated among all the bondholders including the bondholders of the defaulted borrower. This is pro-rata would be necessary because once the funds come into the debt service fund from each of the individual holding accounts, the funds lose their individual identity. This amendment was adopted for the benefit of the bondholders.

Monitoring Policies (Pooled Bonds)

GOED Staff has developed a master loan review tracking form which it uses to track all of its programs including the EDFA bond issues. Monthly monitoring reports are also generated such as the EDFA Watch List.

First National Bank also provides monthly statement of accounts for all the various EDFA related accounts to GOED on its web site, which is accessible by password only.

Allowance for Loan Losses

The allowance for loan losses is calculated by first classifying the outstanding principal balance of all problem, default, and non-accrual loans. The four classifying categories are watch, substandard, doubtful, and loss. The classification of the loan balance is determined by the board. The allowance for loan losses is then calculated as the sum of 3% of the "watch" amount, 12.5% of the "substandard" amount, 50% of the "doubtful" amount, and 100% of the "loss" amount. For all loans not classified on the watch list, 1% of the total principal is reserved.

Internal Control Policies of the Non-Secured Bonds Issuances

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The same basic legal documents are used for non-secured as they are for secured, except there is no General Bond Resolution or Series Supplemental Bond Resolution for these bond issues. These two documents establish the EDFA's responsibilities for the pooled loan program bond issues. No mention of the Capital Reserve Fund is made in any of the documents.

One new document (Trust Indenture) assigns the rights of the FA to the Trustee.

Defaulted Loans

If a loan goes into default (borrower discontinues loan payments) the board will declare it as such and the loan is then accelerated. The finance authority begins collection procedures on the loan either obtaining a payoff in full for the outstanding loan balance or by foreclosing on the collateral that was put up by the borrower. If payment is received in full, the board will call the bonds due by a resolution and the trustee is instructed to pay off the outstanding bonds principal and interest. If collateral is obtained, it is sold as soon as possible and the proceeds are used to accelerate the bonds. If the bonds are accelerated prior to disposal of the collateral, the finance authority in the past has obtained interim financing from the REDI fund to pay off the bonds until the collateral is disposed of. If the collateral does not cover the outstanding bonds principal and interest, the EDFA must cover the difference out of the capital reserve fund if it is a pooled loan. If it is a stand alone bond issue, the EDFA is not liable for any bond debt related to a defaulted loan.

Records Retention (GOED)

Under the Department of Tourism & State Development's Records and Destruction Schedule, TSD-24 states retention for 10 years after the loan has been paid off. The GOED Finance Division keeps the file in the office for future reference for 5 years and then sends to Records Management for 5 years.

Training

The EDFA Loan Officer is offered and encouraged to take advantage of many training opportunities. The skill level of the EDFA Loan Officer will dictate what opportunities are applicable for helping the Loan Officer increase his/her knowledge. Some specific training opportunities are:

- Any applicable course offered through the American Bankers Association.
- National Development Council - Economic Development Professional Training Program
- Specific software training (i.e. training for Moody's Financial Analyst Product – this product is used by the department to "spread" financials)

Financial Statements & Notes to the Financial Statements

A contract has been entered into with accounting firm Clausen Rice LLP, to compile monthly reports and to assist GOED in the preparation of the Annual Financial Statements and Notes to the Financial Statements. Documentation and posted entries are supplied to the accounting

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firm by GOED and other agencies per below. Audits are to be in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards. Annual Financial Report to include: Statement of Net Assets, Statement of Revenues, Expenses, and Changes in Fund Net Assets, Statement of Cash Flows, and Notes to the Financial Statements. The annual financial reports utilize a fiscal year end of June 30. The accounting firm will work with GOED Finance Division, Administration Director, The Trustee, and Bureau of Finance and Management to provide the required information for the annual financial report. GOED, with the assistance of the accounting firm, provides requested information to the Department of Legislative Audit for auditing purposes. The accounting firm provides quarterly compilation reports to GOED Finance Division.

Trustee provides the accounting firm with a year end amortization schedule breaking out short-term principal receivable and long-term principal receivable for the annual financial report.

GOED Finance Division and Trustee provides the accounting firm all statements and documentation used for tracking.

Audits

An audit of the EDFA is conducted by the Department of Legislative Audit in accordance with auditing standards generally accepted in the United State and the standards applicable to financial audits contained in Government Auditing Standards.

The audit encompasses all programs the Economic Development Finance Authority is charged with overseeing. The audit objective is the expression of an opinion by the Department of Legislative Audit on whether the EDFA's financial statements are fairly presented in all material aspects.

As part of the preparation for this audit, Finance staff and the contracted accountant (Clausen Rice LLP) will additionally ensure the accuracy of the financial statements and notes through the following controls:

- Compare amounts reported to the prior year,
- Investigate significant changes,
- Review for inconsistencies and inaccuracies,
- Identify potential changes for financial reporting during the fiscal year, and
- Ensure that all note disclosures and other information is properly reported.

The attached applicable checklist (labeled Exhibit A) provided by Legislative Audit will be useful in ensuring that all note disclosures and required information is properly reported.

Exhibit A

Management Discussion and Analysis

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|-----|--|-------|-------|-------|
| 1. | Does the MD&A: | | | |
| | a. precede the basic financial statements as RSI?
(Cod. 2200.106) | _____ | _____ | _____ |
| | b. discuss current-year results in comparison with the prior year,
placing emphasis on the current year? (Cod. 2200.107) OR | _____ | _____ | _____ |
| | c. a statement that a comparative analysis of government-wide
data will be presented in future years when prior year
information becomes available (implementation year only)? | _____ | _____ | _____ |
| | d. focus on the primary government, distinguishing between
information for the primary government and its component
units? (Cod. 2200.108) | _____ | _____ | _____ |
| | e. a reference to separately issued financial statements, if any,
for component unit(s)? (Cod. 2200.108) | _____ | _____ | _____ |
| 12. | Are the following items included in MD&A (Cod. 2200.109): | | | |
| | a. a brief discussion of the basic financial statements, including
the relationship of the statements to each other, and the
significant differences in the information they provide? | _____ | _____ | _____ |
| | b. condensed financial information derived from government-
wide financial statements comparing the current year to the
prior year, including, if relevant, the following: | | | |
| | 1) Total assets, distinguishing between capital and other
assets? | _____ | _____ | _____ |
| | 2) Total liabilities, distinguishing between long-term liabilities
and other liabilities? | _____ | _____ | _____ |
| | 3) Total net assets, distinguishing between amounts invested
in capital assets, net of related debt, restricted net assets
and unrestricted net assets? | _____ | _____ | _____ |
| | 4) Program revenues by major source? | _____ | _____ | _____ |
| | 5) General revenues, by major source? | _____ | _____ | _____ |
| | 6) Total revenues? | _____ | _____ | _____ |
| | 7) Program expenses, at a minimum by function? | _____ | _____ | _____ |
| | 8) Total expenses? | _____ | _____ | _____ |
| | 9) Excess (deficiency) before contributions to term and
permanent fund principal, special and extraordinary items,
and transfers? | _____ | _____ | _____ |
| | 10) Contributions? | _____ | _____ | _____ |
| | 11) Special and extraordinary items? | _____ | _____ | _____ |
| | 12) Transfers? | _____ | _____ | _____ |
| | 13) Change in Net Assets? | _____ | _____ | _____ |
| | 14) Ending Net Assets? | _____ | _____ | _____ |
| | c. an analysis of the overall financial position and results of oper-
ations (for both governmental and business-type activities) to
assess whether financial position has improved or deteriorated
during the year, including reasons for significant changes from
the prior year and important economic factors (such as changes | | | |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

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|--|-------|-------|-------|
| in the tax or employment bases) that significantly affected operations? | _____ | _____ | _____ |
| d. an analysis of balances and transactions of individual funds, including the reasons for significant changes in fund balances or fund net assets and whether restrictions, commitments, or other limitations significantly affect the availability of fund resources for future use? | _____ | _____ | _____ |
| e. an analysis of significant variations between original and final budget amounts and between final budget amounts and actual budget results for the General Fund, including reasons for those variations that are expected to have a significant effect on future services or liquidity? | _____ | _____ | _____ |
| f. a description of significant capital asset and long-term debt activity, including a discussion of commitments made for capital expenditures, changes in credit ratings, and debt limitations that may affect the financing of planned facilities or services? | _____ | _____ | _____ |
| g. a description of currently known facts, decisions, or conditions that are expected to have a significant effect on financial position (net assets) or results of operations (revenues, expenses, and other changes)? | _____ | _____ | _____ |

Financial Statements -- General

- | | | | |
|--|-------|-------|-------|
| 1. Is each financial statement properly referenced to the notes to the financial statements? (Cod. 2300.102) | _____ | _____ | _____ |
| 2. Are the financial statement titles presented properly in accordance with their contents (GAAP basis, cash basis, fund types included, and so on)? (AU 623.07) | _____ | _____ | _____ |

Proprietary Fund Financial Statements

- | | | | |
|--|-------|-------|-------|
| 1. Do the proprietary funds' financial statements include a statement of net assets or a balance sheet; a statement of revenues, expenses and changes in fund net assets (equity); and a statement of cash flows? (Cod.2200.161) | _____ | _____ | _____ |
| 2. Is each major enterprise fund in a separate column? (Cod. 1100.103b) | _____ | _____ | _____ |
| 3. Are all non-major enterprise funds reported in a single column? (Cod. 2200.162) | _____ | _____ | _____ |
| 4. Is a combined total column presented for all enterprise funds? ((Cod. 2200.162) | _____ | _____ | _____ |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

5. Are all internal service funds reported in a single column to the right of the total enterprise funds column? (Cod. 2200.165) _____

Statement of Fund Net Assets/Balance Sheet – Proprietary Funds

6. Are assets and liabilities classified as “current” and “long-term” (classified format)? (Cod. 2200.163) _____
- Are totals provided for both current and non-current liabilities? _____
7. Does the statement refrain from reporting designations of net assets in the statement of net assets? (Cod. 2200.164 & .122) _____
8. Are assets with use restrictions reported as restricted assets? (Cod. 2200.165) _____
9. Are restrictions on cash or investments properly disclosed, and are restricted amounts segregated from other cash items? (ARB 43, chapter 3A, par. 6) _____
10. Do assets equal liabilities plus net assets for each column of the Fund’s balance sheet? (Cod. 2200.153) OR, Do assets minus liabilities equal Net Assets? _____
11. Is the difference between assets and liabilities reported as “Net Assets” or “equity”? (Cod. 2200.161b, footnote 29) _____
12. Are “Net Assets” subdivided into the following categories as applicable (Cod. 2200.164):
- a. Net assets invested in capital assets, net of related debt? _____
 - b. Restricted net assets (distinguishing between major categories of restriction)? _____
 - c. separate restricted net assets into expendable and non-expendable categories, when related to permanent endowments? (Cod. 2200.166 & .169) _____
 - d. Unrestricted net assets? _____
13. Has the government refrained from reporting either contributed capital or retained earnings as elements of net assets? (Cod. 2200.164) _____

Statement of Revenues, Expenses, and Changes in Fund Net Assets/Equity—Proprietary Funds

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|-----|--|-------|-------|-------|
| 12. | Does this statement report: (Cod.2200.166) | | | |
| | a. revenues by major source? | _____ | _____ | _____ |
| | b. Revenues securing revenue bond issues? | _____ | _____ | _____ |
| 13. | Does this statement: (Cod.2200.166) | | | |
| | a. present a subtotal for operating revenues? | _____ | _____ | _____ |
| | b. present a subtotal for operating expenses? | _____ | _____ | _____ |
| | c. present a subtotal for operating income (loss)? | _____ | _____ | _____ |
| 14. | Does this statement distinguish between operating and non-operating revenues and expenses by: Cod.2200.166) | | | |
| | a. classifying revenues and expenses in a manner consistent with their treatment on the statement of cash flows? (Cod. 2200.168) | _____ | _____ | _____ |
| | b. reporting operating grants as non-operating revenues after the reported "operating income or loss" on the statement of revenues, expenses and changes in net assets for proprietary funds? (34 Q&A #1, Q-213) | _____ | _____ | _____ |
| 15. | Are the following reported separately: (Cod. 2200.166) | | | |
| | a. revenues from capital contributions? | _____ | _____ | _____ |
| | b. additions to the principal of permanent and term endowments? | _____ | _____ | _____ |
| | c. special items | _____ | _____ | _____ |
| | d. extraordinary items | _____ | _____ | _____ |
| | e. inter-fund transfers? | _____ | _____ | _____ |
| 16. | Are gains and losses that result from the early extinguishment of debt properly deferred and amortized as a component of interest expense in enterprise funds? (D20.108) | _____ | _____ | _____ |
| 17. | Do the beginning net assets on the statement of revenues, expenses and changes in fund net assets agree with the previous year's ending balances? (Cod. 2200.167) | _____ | _____ | _____ |
| 18. | Do ending fund net assets amounts on the statement of revenues, expenses and changes in fund net assets agree with the appropriate balances on the Statement of Net Assets? | _____ | _____ | _____ |
| 19. | If prior period adjustments are reported does an adequate explanation of the nature of the correction appear in the caption, or in a note to the financial statements? (APB 20, par. 37) | _____ | _____ | _____ |

Statement of Cash Flows

- | | | | | |
|-----|---|--|--|--|
| 20. | Does the Statement of Cash Flows use the four cash flow categories required by GASB 9, as applicable: (Cod. 2450.112) | | | |
|-----|---|--|--|--|

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|-----|---|-------|-------|-------|
| a. | Operating Activities? | _____ | _____ | _____ |
| b. | Non-capital Financing Activities? | _____ | _____ | _____ |
| c. | Capital and Related Financing Activities? | _____ | _____ | _____ |
| d. | Investing Activities? | _____ | _____ | _____ |
| | | | | |
| 21. | Is the "Direct Method" used, showing cash flows from operating activities in at least the following categories: (Cod.2450.128) | | | |
| a. | Cash receipts from customers? | _____ | _____ | _____ |
| b. | Cash receipts from inter-fund services provided? | _____ | _____ | _____ |
| c. | Other operating cash receipts (if any)? | _____ | _____ | _____ |
| d. | Cash payments to employees for services? | _____ | _____ | _____ |
| e. | Cash payments to suppliers for goods and services? | _____ | _____ | _____ |
| f. | Cash payments for inter-fund services used, including payments in lieu of taxes that are payments for, and equivalent to, services provided? | _____ | _____ | _____ |
| g. | Other operating cash payments, if any? | _____ | _____ | _____ |
| | | | | |
| 22. | Are other categories' cash flows properly separated, such as: (Cod. 2450.130 & .131) | | | |
| a. | are outlays for capital assets acquisitions reported separately from the proceeds from sales of capital assets? | _____ | _____ | _____ |
| b. | are proceeds of borrowings reported separately from repayments of debt principal? | _____ | _____ | _____ |
| c. | are payments for interest reported separately from reductions of debt principal? | _____ | _____ | _____ |
| d. | are gross amounts of inter-fund transfers presented separately, unless such items are eliminated in the other statements? | _____ | _____ | _____ |
| | | | | |
| 23. | Is the change in cash and cash equivalents during the year appropriately reconciled on the Statement? (Cod. 2450.127) | _____ | _____ | _____ |
| | | | | |
| 24. | Are cash and cash equivalents at the beginning and at the end of the period reported in such a manner that is easily traceable to similarly titled line items or subtotals shown on the proprietary funds statement of net assets (or balance sheet)? (Cod. 2450.105) | _____ | _____ | _____ |
| | | | | |
| 25. | Is a reconciliation of Operating Income to Cash Flows from Operating Activities presented as a separate schedule accompanying the Statement, and showing at a minimum changes in receivables, inventory, and payables? (Cod. 2450.129) | _____ | _____ | _____ |
| | | | | |
| 26. | Are Non-cash Investing, Capital and Financing Activities presented on the face of the Statement or in an accompanying Schedule? (Cod. 2450.132) | _____ | _____ | _____ |

Notes to the Financial Statements

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

Accounting Policies

1. Do the notes to the financial statements (notes) include a summary of significant accounting policies disclosing: (Cod. 2300.106)
 - a. information about component units including: (Cod. 2300.106a(2) and 2600.120)
 - 1) a description of the component units included in the financial reporting entity? _____
 - 2) a description of the relationship between component units and the primary government? _____
 - 3) a discussion of the criteria for including component units? _____
 - 4) an explanation of how they are reported? (blended or discretely presented) _____
 - 5) how separate component unit financial statements may be obtained? _____
 - b. If the entity is a component unit (or a fund) of another government, does the SSAP identify the primary government and describe the nature of the relationship? (Cod. 2300.106a(2) and 2600.124) _____
 - c. A description of the activities accounted for in the funds? _____
 - d. A description of the basis of accounting used. _____
 - e. the revenue recognition policies used in the governmental fund financial statements, including the length of time used to define the term "available" for purposes of revenue recognition in the governmental fund financial statements? (Cod. 1600.106 - .115, .130 & .134) _____
 - f. the policy for capitalizing assets (Cod.2300.106a(7)):
 - 1) are capitalization thresholds disclosed? _____
 - 2) are the estimated useful lives disclosed? _____
 - 3) are the method or methods used to compute depreciation with respect to each major class of depreciable assets disclosed? (APB 12, par. 5.d., and APB 22, par. 13)? _____
 - g. the policy for defining operating and non-operating revenues of proprietary funds? (Cod. P80.118) _____
 - h. the policy for applying FASB pronouncements issued after November 30, 1989 to business-type activities and to enterprise funds of the primary government? (Cod.P80.103) _____
 - i. the definition of cash and cash equivalents used in the statement of cash flows for proprietary funds? (2450.106 - .108) _____
 - j. the government's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net assets are available? (Cod. 1800.134) _____

Cash, Deposits and Investments

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|----|--|-------|-------|-------|
| 2. | Are restrictions on cash or investments properly disclosed?
(FASB 5, pars. 18 and 19, and Cod. 2300.106b) | _____ | _____ | _____ |
| 3. | Are the following disclosures made concerning legal or contractual provisions for deposits and investments (including repurchase agreements): (Cod. C20.103 - .106 and I50.124 - .125) | | | |
| | a. Brief description of the types of investments authorized by legal or contractual provisions for deposits and investments? (Q&A on GASB No. 3, Questions 14 and 15) | _____ | _____ | _____ |
| | b. Any significant differences in authorized investment types between the primary government and different funds, fund types, or component units whose investment activity is material in relation to the reporting entity's investment activity? (Q&A GASB No.3, Question 16) | _____ | _____ | _____ |
| | c. Significant violations during the period of legal and contractual provisions related to deposits and investments? (Cod. C20.106 & I50.125) | _____ | _____ | _____ |
| 4. | Do the notes disclose the following as of the balance sheet date and during the period:
<u>Credit Risk:</u> | | | |
| | a. If the entity has deposits at the end of the period that are exposed to custodial credit risk, was the amount of those balances disclosed, the fact that they are uninsured and the basis of custodial credit risk they are exposed to? (GASB C20.107) | _____ | _____ | _____ |
| | b. If the entity is exposed to foreign currency risk, was a disclosure made identifying the U.S. dollar balances of such deposits or investments, organized by currency denomination? (GASB C20.108, I50.133) | _____ | _____ | _____ |
| | c. A brief description of the entity's deposit policies that are related to custodial credit risk of foreign currency investments or identify that there is no deposit or investment policy. (GASB C20.109, I50.126) | _____ | _____ | _____ |
| | d. Losses recognized during the period due to default by counterparties to deposit transactions and amounts recovered from prior-period losses if not separately displayed on the operating statement? (GASB C20.110) | _____ | _____ | _____ |
| | e. For investments held at the end of the period exposed to custodial credit risk, did the disclosure identify the investment's type, the reported amount, how the investments are held, and, the credit quality ratings of the investments in debt securities? (GASB I50.127-128) | _____ | _____ | _____ |
| | f. Concentration of credit risk by identifying, by the amount and issuer, any investments in any one issuer that represent over 5 percent of the total investments. (GASB I50.129) | _____ | _____ | _____ |
| | <u>Interest Rate Risk</u> | | | |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- g. Information about the interest rate risk of the debt instruments organized by investment type using one of following disclosure methods; a) Segmented time distribution, b) Specific identification, c) Weighted average maturity, d) Duration, e) Simulation model, and the terms of investments with fair values that are highly sensitive to changes in interest rates. (GASB 150.130-132) _____
5. Does the investment note disclose: (150.119)
- a. the methods and significant assumptions used to estimate the fair value of investments, unless quoted market price is used? _____
- b. the policy for determining which investments, if any, are reported at amortized cost? _____
- c. for any investments in external investment pools that are not SEC registered:
- 1) a brief description of any regulatory oversight for the pool? _____
- 2) whether the fair value of the position in the pool is the same as the value of the pool shares? _____
- d. any involuntary participation in an external investment pool _____
- e. the methods and significant assumptions used to estimate the fair value of the investment in the pool, when the pool does not provide fair value information? _____
- f. any income from investments associated with one fund that is assigned to another fund? _____

Receivables

6. Unless separately disclosed on the face of the financial statements are all material categories of receivables separately reported:
- a. Grants? (GASB 38, par. 13) _____
- b. Interest? _____
- c. Leases? (Cod. L20) _____
- d. Inter-fund amounts in the fund financial statements? (Cod. 1300.120, Cod. 2300.106 o., & GASB 38, par. 14)
1. by individual major fund? _____
2. by non-major governmental funds in the aggregate? _____
3. by non-major enterprise funds in the aggregate? _____
4. by internal service funds in the aggregate? _____
5. by fiduciary fund type? _____
6. the purpose for inter-fund balances? _____
7. Inter-fund balances that are not expected to be repaid within one year from the financial statement date? _____
7. Do inter-fund loans appear to be collectible (reported at fair value), or if not, are they written down and treated as inter-fund transfers? (ASLG par. 9.08) _____

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

Inventories

8. Is the basis for stating inventories disclosed, including the cost flow assumption applied? (ARB 43, ch. 3A, par. 9; ARB 43, ch. 4, pars. 4-16; and APB 22, par. 13) _____

Capital Assets

9. Are the following disclosed:
- a. major classes of capital assets for governmental activities and for business-type activities? (Cod. 2300.111) _____
 - b. capital assets that are not being depreciated: (Cod. 2300.111)
 - 1. Land and land rights _____
 - 2. Infrastructure assets under the modified approach? _____
 - 3. Inexhaustible works of art or historical treasures? (GASB 34, par. 29) _____
10. During the infrastructure reporting transition provisions, do the notes describe the infrastructure assets being reported and those that are not? (Cod. 1400.128) _____
11. Do the notes disclose the changes in capital assets including: (Cod. 2300.112)
- a. beginning and ending balances with accumulated depreciation presented separately from historical cost, by major class? _____
 - b. capital acquisitions? _____
 - c. sales or other dispositions of capital assets? _____
 - d. current depreciation expense, with disclosure of the amounts charged to each function in the statement of activities? _____

Liabilities

12. If not separately disclosed on the face of the financial statements, are significant categories of liabilities reported separately: (GASB 38, par. 13)
- a. accounts payable? _____
 - b. accrued expenses? _____
 - c. notes payable? _____
 - d. customer deposits _____
 - e. interest payable? _____
 - f. inter-fund payables? (GASB 1300.110) _____
 - g. amounts owed to officers and employees? _____
 - h. revenue bonds? _____
 - i. obligations under capitalized leases? _____

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|-----|---|-------|-------|-------|
| 13. | Do the notes disclose the changes in short-term debt? (GASB 38, par. 12) | _____ | _____ | _____ |
| 14. | Does the short-term debt note disclose the purpose for which short-term debt was issued? (GASB 38, par. 12) | _____ | _____ | _____ |
| 15. | Do the notes disclose the changes in general long-term debt? (Cod. 2300.106 m. & 2300.114) | _____ | _____ | _____ |
| 16. | Do the notes distinguish between long-term liabilities to be repaid by governmental activities, and by business-type activities? (Cod. 2300.111) | _____ | _____ | _____ |
| 17. | Does the long-term liabilities disclosure include: (Cod. 2300.114) | | | |
| | a. bonds payable? | _____ | _____ | _____ |
| | b. notes payable? | _____ | _____ | _____ |
| | c. loans payable? | _____ | _____ | _____ |
| | d. leases payable? | _____ | _____ | _____ |
| | e. compensated absences liability? | _____ | _____ | _____ |
| | f. claims and judgments liability? | _____ | _____ | _____ |
| 18. | If an advance refunding occurred in the current period, do the notes disclose a general description of the transaction that includes: | | | |
| | a. the difference in cash flows required to service the new debt versus the old debt? (Cod. D20.111) | _____ | _____ | _____ |
| | b. the economic gain or loss resulting from the advance refunding? (Cod. D20.111) | _____ | _____ | _____ |
| 19. | Does the long-term debt note provide a general description of any prior period advance refundings of debt, including the total unpaid bonds for any refunded bond issues? (Cod. D20.114 & ASLGU par. 11.31) | _____ | _____ | _____ |
| 20. | Do the notes describe the individual debt issues outstanding, including interest rates, final maturity, the fund servicing the debt, and significant bond covenants? (ASLGU par. 11.31) | _____ | _____ | _____ |
| 21. | Do the notes disclose authorized unissued bonds? (Cod. 2300.106 m. & f., and 2300.901 III.B.7.f.) | _____ | _____ | _____ |
| 22. | Do the notes disclose the principal and interest requirements to maturity, presented separately for each of the next five years, and in five year increments thereafter? (Cod. 2300.106 (i) and 1500.118) | _____ | _____ | _____ |
| 23. | Does the debt amortization note indicate terms by which interest | | | |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- rates change for variable debt? (Cod. 1500.118) _____
24. Are the following disclosures made concerning conduit debt:
 (Cod. C65.102)
- a. a general description of conduit debt transactions? _____
 - b. the aggregate amount of all conduit debt obligations
 outstanding at the balance sheet date? _____
 - c. a clear indication that the issuer has no obligation for the debt
 beyond the resources provided by related leases or loans? _____
25. For operating leases with initial or remaining non-cancelable lease
 terms in excess of one year, were the following disclosures made:
 (Cod. 2300.106(j), L20.125, SFAS 13 par. 16b)
- a. future minimum lease payments for each of the next five years
 and in five-year increments thereafter? (Cod. L20.125) _____
 - b. the total amount of minimum rentals to be received under
 non-cancelable subleases as of the date of the latest balance
 sheet? _____
 - c. has disclosure been made of rental expense for each period
 for which a statement of activity is presented, with separate
 amounts for minimum rentals, contingent rentals, and sublease
 rental income? (Note: rental payments for leases with terms
 of one month or less which were not renewed may be
 excluded.) (SFAS 13, par. 16c) _____
26. Have the following disclosures been made about capital leases:
 (Cod. 2300.107(h), Cod. L20.125, & SFAS 13, pars. 10 & 16)
- a. the gross amount of assets in the balance sheet recorded
 under capital leases and the accumulated amortization by
 major classes according to nature or function? _____
 - b. the lease obligations classified as current and long-term? _____
 - c. future minimum lease payments for each of the next five
 years and in five-year increments thereafter? (SFAS 13,
 pars. 10 & 16a) _____
27. Do the notes disclose the detail of construction and other
 significant commitments? (Cod. 2300.106 (k)) _____

Pensions & Other Employee Benefits

28. Does the SDRS note include the following disclosures:
 (Cod. P20.117)
- a. name of plan and identification of the plan as a cost-sharing
 multiple employer defined benefit PERS? _____
 - b. types of benefits? _____
 - c. authority under which benefits are established or amended? _____

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | | |
|-----|--|-------|-------|-------|
| d. | whether the plan issues a stand-alone financial report? | _____ | _____ | _____ |
| e. | how to obtain the report? | _____ | _____ | _____ |
| f. | authority under which the obligations to contribute to the plan of plan members, employer(s), and other contributing entities are established or may be amended? | _____ | _____ | _____ |
| g. | required contribution rates of active members? | _____ | _____ | _____ |
| h. | required contribution rates of the employer, in dollars or as a percentage of current-year covered payroll (for cost-sharing plans, disclose the required contributions in dollars and the percentage of that amount contributed for the current year and each of the two preceding years? | _____ | _____ | _____ |
| 29. | If a defined contribution plan is maintained, were the disclosures required by Cod. P20.121 - .123 made? | _____ | _____ | _____ |
| 30. | Regarding Post-retirement benefits (OPEB), do the notes provide: (Cod. P50.105) | | | |
| a. | a description of the OPEB provided? | _____ | _____ | _____ |
| b. | the employer and participant obligations to contribute, quantified in some manner? | _____ | _____ | _____ |
| c. | a description of the statutory and contractual or other authority under which OPEB provisions and obligations to contribute are established? | _____ | _____ | _____ |
| d. | a description of the accounting and financing or funding policies followed? | _____ | _____ | _____ |
| e. | the actuarial cost method and the significant actuarial assumptions used to determine funding requirements, and the method used to value plan assets? | _____ | _____ | _____ |
| 31. | If not adequately identified on the financial statements, do the notes disclose the annual cost of Special Termination Benefits? (Cod. T25.102) | _____ | _____ | _____ |

Fund Equity

- | | | | | |
|-----|---|-------|-------|-------|
| 32. | Are encumbrances outstanding disclosed by reporting a fund balance reserve for encumbrances, or making the disclosure in a note? (Cod. 1700.128 d.) | _____ | _____ | _____ |
| 33. | Do the notes discuss fund balance designations? (Cod. 1800.141) | _____ | _____ | _____ |
| 34. | Do the notes disclose the deficit fund balances/net assets of individual non-major funds? (Cod. 2300.106 n) | _____ | _____ | _____ |

Segment Information – Enterprise Funds

- | | | | | |
|-----|---|-------|-------|-------|
| 35. | Do the notes disclose the required segment information on | _____ | _____ | _____ |
|-----|---|-------|-------|-------|

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

individual enterprise activities, where outstanding revenue bonds exist: (Cod. 2500.101)

- | | | | |
|--|-------|-------|-------|
| a. types of goods or services provided? | _____ | _____ | _____ |
| b. condensed statement of net assets: | | | |
| 1. Current assets, capital assets, other assets, amounts due from other funds or component units, and total assets? | _____ | _____ | _____ |
| 2. current liabilities, long-term liabilities, amounts payable to other funds or component units, and total liabilities? _____ | _____ | _____ | _____ |
| 3. restricted (showing expendable and nonexpendable), unrestricted, and invested in capital assets? _____ | _____ | _____ | _____ |
| c. condensed operating statement showing: | | | |
| 1. operating revenues (by major source)? | _____ | _____ | _____ |
| 2.. operating expenses (except depreciation)? | _____ | _____ | _____ |
| 3. depreciation, depletion and amortization expense? | _____ | _____ | _____ |
| 4. operating income or loss? | _____ | _____ | _____ |
| 5. Non-operating revenues and expenses (with separate reporting of major revenues and expenses)? | _____ | _____ | _____ |
| 6. capital contributions and additions to permanent and term endowments? | _____ | _____ | _____ |
| 7. Special and extraordinary items? | _____ | _____ | _____ |
| 8. Transfers? | _____ | _____ | _____ |
| 9.. change in net assets? _____ | _____ | _____ | _____ |
| 10. Beginning net assets? | _____ | _____ | _____ |
| 11. Ending net assets? | _____ | _____ | _____ |
| d. condensed statement of cash flows showing: | | | |
| 1. Net cash provided (used) by: | | | |
| A. operating activities? | _____ | _____ | _____ |
| B. non-capital financing activities? | _____ | _____ | _____ |
| C. Capital and related financing activities? | _____ | _____ | _____ |
| D. Investing activities? | _____ | _____ | _____ |
| 2. beginning cash and cash equivalents? | _____ | _____ | _____ |
| 3. ending cash and cash equivalents? | _____ | _____ | _____ |

Other Required Note Disclosures

- | | | | |
|--|-------|-------|-------|
| 36. Do the notes disclose material violations of finance-related legal and contractual provisions? (Cod. 1200.112) | _____ | _____ | _____ |
| 37. Do the notes identify the actions taken or to be taken to address significant violations of finance-related legal or contractual provisions? (GASB 38, par. 9) | _____ | _____ | _____ |

Other Possible Note Disclosures

- | | | | |
|---|--|--|--|
| 38. Are related party transactions disclosed properly?
(Cod. 2300.107 (g) & SFAS 57) | | | |
| a. Are notes and/or accounts receivable from officers, employees, | | | |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

	or affiliated enterprises shown separately and not included under a general heading, such as notes receivable or accounts receivable (ARB43, ch1A par. 5)	_____	_____	_____
	b. Is the nature of the relationship disclosed?	_____	_____	_____
	c. Are the transactions described with enough information for a reader to understand the effects on the financial statements?	_____	_____	_____
	d. Is the dollar amount of the transactions disclosed?	_____	_____	_____
39.	Do the notes disclose the detail of any litigation and significant contingent liabilities? (Cod. 2300.106(d); 1500.110; & C50.115)	_____	_____	_____
40.	Do the notes disclose the detail of any significant subsequent events (conditions that did not exist at the balance sheet date, but arose after that date)? (Cod. 2300.106 (f), FASB 5, par. 11 & AU 560.05 - .07 and .09)	_____	_____	_____
41.	Are substantial doubts as to the entity's ability to continue as a going concern adequately disclosed in the notes or/and the Independent Auditor's Report? (AU 341.10)	_____	_____	_____
42.	Are entity risk management activities properly disclosed? (Cod. 2300.107 (a) & Cod. C50.141))			
	a. Is a description included of the risks of loss to which the entity is exposed and the ways in which those risks of loss are handled (i.e., purchase of commercial insurance, participation in a public entity risk pool, risk retention/self-insurance)?	_____	_____	_____
	b. Is a description included of significant reductions in insurance coverage from coverage in the prior year by major category of risk, and an indication of whether the amount of settlements exceeded insurance coverage for each of the past three fiscal years?	_____	_____	_____
	c. If an entity participates in a risk pool, a description of the nature of the participation, including the rights and responsibilities of both the entity and the pool?	_____	_____	_____
	• Note: The SD PEPL risk pool increased its reinsurance to cover claims between \$250,000 and \$1 million (increased from \$100,000 in FY2002).			
	d. If an entity retains the risk of loss (self-insures), are the following disclosures made:			
	1. is a description included of the basis for estimating the liabilities for unpaid claims? (GASB 30 requires this disclosure include the entity's policy of including or excluding other incremental costs in its basis.) (GASB 30, par. 10)	_____	_____	_____
	2. The carrying amount for unpaid claims that are reported at present value in the financial statements and the range of discount rates used to discount those liabilities?	_____	_____	_____

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | |
|--|-------|-------|-------|
| 3. The aggregate outstanding amount of claims liabilities for which annuity contracts have been purchased in the claimants' names and for which the related liabilities have been removed from the balance sheet? | _____ | _____ | _____ |
| 4. A reconciliation of changes in the aggregate liabilities for claims (including IBNR claims) for the current fiscal year and for the prior fiscal year (see Q&A on GASB No. 10, Question 103)? | _____ | _____ | _____ |
| e. If an internal service fund is used to account for risk financing activities, is there a disclosure of any deficit fund balance of the internal service fund? (GASB 10, par. 67) | _____ | _____ | _____ |
| f. If a governmental or similar trust fund is used to account for risk financing activities, is the amount of claims and judgments calculated for the year disclosed? (GASB 17, par.6) | _____ | _____ | _____ |
| g. If the entity participates in a public entity risk pool in which there is a transferring of risk, are the following disclosures made: | | | |
| 1. The nature of any loss contingency and an estimate of the possible range of loss, or a statement that such an estimate cannot be made, if the pool is allowed to make additional assessments to its members, with respect to assessment amounts that are probable but not reasonably estimable, or are reasonably possible? (GASB 10, par. 69) | _____ | _____ | _____ |
| 2. The nature of any loss contingency and an estimate of the possible range of loss, or a statement that such an estimate cannot be made, if it appears that the pool will not be able to meet its obligations and it is probable or reasonably possible that the entity will be required to pay its own obligations if the pool fails. (GASB 10, par. 70) | _____ | _____ | _____ |

Other

- | | | | |
|--|-------|-------|-------|
| 43. Are non-exchange transactions that are not recognizable because they are not measurable disclosed? (GASB 33, par. 11) | _____ | _____ | _____ |
| 44. If inter-fund eliminations were made, are they disclosed, unless apparent from headings in the financial statements? (Cod. 2300.107 (p)) | _____ | _____ | _____ |

Other Single Audit Items

- | | | | |
|--|-------|-------|-------|
| 1. Was the schedule of expenditures of federal awards prepared in the prescribed DLA, or other acceptable format? At a minimum, does the Schedule include: (A-133 § __.310(b)) | | | |
| a. list individual federal programs by federal agency and, for a cluster, list the individual federal programs within a cluster of programs? | _____ | _____ | _____ |

EDFA BONDING PROGRAM – ADMINISTRATIVE/INTERNAL CONTROLS
EDFA BONDING PROGRAM - PROCESSES

- | | | | |
|--|-------|-------|-------|
| b. the name of the pass-through entity and identifying number assigned by the pass-through entity, if any? | _____ | _____ | _____ |
| c. provide total federal awards expended for each individual federal program and the CFDA number or other number when a CFDA number is not available? | _____ | _____ | _____ |
| d. include notes describing the significant accounting policies that were used in preparing the Schedule? | _____ | _____ | _____ |
| e. the amount passed on to sub-recipients? | _____ | _____ | _____ |
| f. the value of federal awards expended in the form of: | | | |
| 1) non-cash assistance? | _____ | _____ | _____ |
| 2) federal insurance in effect during the year? | _____ | _____ | _____ |
| 3) loans or loan guarantees outstanding at year end? | _____ | _____ | _____ |
| 3. Do the amounts on the schedule of expenditures of federal awards agree with the amounts on the financial statements where possible? (SOP 98-3 par. 5.5) | _____ | _____ | _____ |

**Internal Control
Future Fund
FY2008**

Source: Ann Gesick-Johnson – Workforce Development Program
Dale Knapp – University Assistance, Technical Assistance and Technical Institute Assistance
Marty Davis - Administrative Services Director(Finance Officer)

Procedures: I discussed the internal controls for the Future Fund with the above Tourism and State Development (TSD) employees. From the SDCL review on PA-0.1, the following SDCL's relate to the Future Fund:

Creation and Revenue Source for the Future Fund

SDCL 61-5-24.2 created in the state treasury a special revenue fund to be known as the employer's investment in South Dakota's Future Fund. Expenditures from this fund are subject to the provisions of chapters 4-7, 4-8A and 4-8B.

SDCL 61-5-24.1 states that the source of funding shall come from the employer's investment in South Dakota's future fee, hereafter "investment fee," on wages as defined by this title.

Purpose of the Future Fund

SDCL 61-5-24.2 states that the Future Fund will be used for purposes related to research and economic development for the state.

The Future Fund was established in 1987. The Future Fund was created in the state treasury as a special revenue fund to be known as the employer's investment in South Dakota's future fund. The purpose of the fund is to promote and fund research and economic development in the state. The dollars that created the Future Fund came from the Unemployment Insurance Fund. The South Dakota legislature provided that Future Fund monies were to be used for research and economic development related purposes.

Future Fund Awards

There are four types of projects that are awarded through the Future Fund: University Assistance, Technical Assistance, Technical Institute Assistance and Workforce Development.

Dale enters all projects for the University Assistance, Technical Assistance and Technical Institute Assistance programs onto a database on his computer. The projects are categorized on the database according to the following numbering system: University Assistance and Technical Assistance - 1000-1999; and Technical Institute Assistance - 2000-2999. The governor/department initiates the awards for these programs. The governor/department relays the information on the project to be funded and the amount of the grant to Dale Knapp. Dale then draws up the grant agreement with any stipulations that the governor/department may have requested. The grant

**Internal Control
Future Fund
FY2008**

agreement is reviewed by Marty Davis then submitted to the department secretary for signature. There is no guidance for these two programs except for the SDCL above.

Workforce Development

Ann Gesick-Johnson oversees the workforce development program. This program funds industry-education partnerships through which customized training programs and short-term, job-specific training are delivered. This program was started in FY96. A website, <http://www.sdreadytowork.com/fi/workforce/index.asp>, was designed with general information specific to the SD Workforce Development Program and is included on PA-2/2-10. This program requires a 50% match from the recipient. Ann keeps track of all grant recipients on a database the same way Dale does. The numbers assigned to the Workforce Development program range from 3000-3999. A copy of one page of a printout from Ann's database is shown on PA-2/11. The Casto project will be used in our walk through as described below.

All awards are given in the form of grants. Ann will review the application for approval and then forward the application to the TSD Secretary for his/her signature.

Payment Process

For most of the projects, TSD reimburses the recipients after they receive the required documentation on how the funds were spent in accordance with the project agreement entered into. On occasion, however, a project may receive advance funding.

Monitoring Process

TSD does monitor to determine that required reports are being submitted. For workforce development, short term projects, only a final report is required. For workforce development projects longer than three months, both interim and final reports are required. The interim reports indicate how the project is coming along. The final report to be submitted at the completion of the project contains the results of the project. Budgetary information may also be requested, but TSD is more interested in the results of the project.

Requests for payment are reviewed by TSD staff to determine the funds are being used for the purpose specified in the agreement letter. Most awards are given on a reimbursement basis, support for the expenditures is required by GOED to monitor for allowability. TSD also monitors to ensure that any unspent funds are returned to the state. TSD also reviews the supporting documentation to verify the funds were spent as stated in the agreement. A monthly report is maintained by TSD staff to verify expenditures.

Miscellaneous

An internal control walkthrough was performed on project #3013 – Casto Travel, Inc. This is a Workforce Development Project project. The program application is included

**Internal Control
Future Fund
FY2008**

on PA-2/11-21. It lists a description of the project, the time period it will take place in and the estimated cost of the project. The Commissioner approved a grant of \$50,000. A letter of agreement and cover letter (PA-2/22-24) was sent out on August 20, 1997. A monitoring form was prepared for the project (PA-2/25-30). Casto Travel Inc. was within the Letter of Agreement Commitment Guidelines (PA-2/23) for the program. Payment was made on 4/14/98 (PA-2/21a). Ann Gesick-Johnson added that: "Western Dakota Technical Institute first received the funds and then forwarded them to Casto, Inc." A copy of the final report has been included on PA-2/31-33. The report summarizes all of the expenses incurred and lists the employees trained as required by the letter of agreement. The report shows that all employees involved in the program were being paid over the eight dollar per hour threshold by the completion of the training.

We will not perform a walkthrough on the other types of programs since the procedures and forms are all very similar.

Revolving Economic
Development and Initiative
Fund Policy

REDI

The purpose of the REDI Fund is to provide loans to any for-profit business or non-profit business (including businesses organized as cooperatives) that is either a start-up business, existing business, or an existing business which is relocating or expanding in or to South Dakota or any for-profit or non-profit economic development corporation and will create "primary jobs" in South Dakota.

REDI Policy
9/12/2012

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Internal Controls

Purpose

The purpose of the REDI Fund is to provide loans to any for-profit business or non-profit business (including businesses organized as cooperatives) that is either a start-up business, existing business, or an existing business which is relocating or expanding in or to South Dakota or any for-profit or non-profit economic development corporation and will create "primary jobs" in South Dakota. Primary jobs are defined as jobs that provide goods and services which are primarily exported from the state, that gain market share from imports to the state, or that meet an unmet need in the area and result in the creation of new wealth.

History

The Revolving Economic Development and Initiative (REDI) Fund is a corner staple of the GOED's financing programs. Created in 1987 under the Mickelson administration, the REDI Fund aimed to diversify South Dakota's economy, increase capital investment, and create long-lasting, quality, stable jobs for South Dakotans.

To raise funds for the venture, a 1-cent sales tax was passed by the State Legislature in 1987. In effect for 10 months, the tax hike created a \$40 million pool of money known as the (REDI) Fund. The \$40 million was expected to create just under 13,000 jobs, but the program exceeded all expectations. As of December 31, 2011, the fund stands at \$92,343,837 and has created 30,210 direct jobs.

Requirements

The REDI Fund provides up to 45 percent of a project's total cost. Companies should secure interim (construction) financing, matching funds for permanent financing and be able to provide a 10 percent minimum equity contribution before applying to the Board of Economic Development for a REDI Fund loan. The REDI loan program offers fixed rate interest which is currently 2%. Loans may be amortized up to 20 years on land and buildings and up to 10 years on equipment, with a balloon payment due after five years.

Costs eligible for participation may include:

- the purchase of land and the associated site improvements
- construction, acquisition or renovation of buildings
- the purchase and installation of machinery and equipment
- other specific costs as approved by the board that are not specifically ineligible under ARSD

68:02:01:38

Costs that are NOT eligible include:

- refinancing of existing debt
- short-term, interim financing for the construction or acquisition phase of a project
- trade receivables
- inventory
- other working capital needs
- preliminary design stage costs which include, but are not limited to, market research, written cost estimates, development of business plan
- preliminary product development costs

Administration of REDI Fund

The Board of Economic Development members are appointed by the Governor (SDCL 1-16G-1). These board members do not need to be approved by the Legislature. The board is authorized by the Legislature to set the criteria for making loans from the REDI Fund. Thus, board members decide which business loans meet the REDI Fund purpose and qualify as eligible projects. Through the implementation of Senate Bill 235, four nonvoting members were appointed to the Board of Economic Development including two members from the Senate and two members from the House of Representatives.

An Executive Committee of this board has been established and consists of the 4 officers (Chairman, Vice-Chairman, Treasurer and the Secretary) of the Board. The purpose of this Executive Committee is to perform functions authorized by the Board between meetings.

Also, the board adopted rules changes to establish a credit committee. The credit committee has the powers and the duties described in ARSD 68:02:01:56

The day to day operations of the REDI Fund are handled by the Governor's Office of Economic Development (GOED). There is no final commitment of REDI Fund money without specific authorization by the board. Thus, only the board may make a loan to the applicant. However, the board permits Executive Management at GOED to structure proposals, preliminarily committing REDI funds as part of normal business practices. These proposals are communicated to the board and accounted for in the REDI Fund financial position statement presented to the board each month.

Application Process

The applicant must submit a formal application to GOED (ARSD 68:02:01:35). Application forms shall be provided by the GOED and must be completed and signed before an application is presented to the

board. Applications can be found at

<http://sdreadytowork.com/media/docs/Finance/LoanProgramsApplication.doc>.

GOED assists applicants in completing the application by answering questions or concerns. A business plan is a portion of the completed application. See ARSD 68:02:01:35, for a listing of the necessary items to be included in the business plan.

A major part of the application process is that the applicant secures matching funds. Generally, this requires the applicant to obtain an acceptable letter of commitment from a lending institution or other funding sources who will provide the matching funds (ARSD 68:02:01:35). All Admin Rules for REDI Loans may be found at <http://legis.state.sd.us/rules/PrinterRule.aspx?Rule=68:02:01>.

Commercial and financial information contained in the application is considered confidential (SDCL 1-16G-11).

Application Arrives at GOED

A loan officer from GOED will input financial information into Moody's analytic software which provides key financial reports to be used in the approval decision. At minimum, the loan officer will prepare a Loan Presentation Summary (LPS), Collateral Analysis (CA), and a Composite Credit Rating (CCR). Other documents such as Contracts and Personal Financial Statements (PFS) may be included in the applicant's file. If personal guarantors are required, the loan officer will pull credit history from credit bureaus. Templates for LPS, CA, CCR, and PFS are in the appendix.

Loan Approval Process

A meeting of the board will be held within 30 days after a complete application is received by the GOED loan officer. Borrower applications are reviewed and a decision is made on whether to approve, disapprove, or require changes before granting loan approval. ARSD 68:02:01:40 lists some of the factors the board uses to determine if a loan should be made. These factors are not mandatory and board decisions are final. The applicant cannot appeal the board's decision.

Upon acceptance of the borrower's application, the board executes various loan documents which generally include a commitment letter, loan agreement, security agreement, mortgage, promissory note, and an employment agreement with the borrower. These agreements contain the rights and responsibilities of the parties and the terms and conditions of the loan. The loan agreement also provides the security/mortgage positions of the lender and the board. A security agreement is signed identifying the REDI Fund's specific collateral (other than real estate) securing the loan. The employment agreement was developed late in FY88. The purpose of the employment agreement is to allow the Board the option of calling the loan or raising the interest rate if the borrower is not meeting its employment projections,

and it also identifies the amount of liquidated damages. A promissory note is also executed with the borrower. This note is the final document to be signed. Once signed, the loan is considered complete and the funds can be disbursed.

The maturity of the loan may not be more than 10 years (although it can and typically is shorter – 5 years) with regular payments amortized over not more than 20 years (ARSD 68:02:01:48). The balance of the loan is considered due in full not later than 10 years after the funding date of the loan. The borrower is responsible for arranging other financing when the loan becomes due. If the borrower is unable to obtain financing, the borrower may apply before the loan due date for extension of the loan by the board at an interest rate and time period to be set by the board. See ARSD 68:02:01:48 for criteria used to determine the interest rate.

The interest rate was initially set at three percent and is currently two percent. Once a loan had been issued, the interest rate will remain fixed for the entire loan period unless the board acts to adjust the interest rate for non-compliance of loan provision by the borrower, or provides for a rate increase after a certain amount of time when making the initial loan decision. The board may also waive or lower the interest rate if the project has significant economic development or job creation impact.

Loan Disbursement Process

Bankwest, the current REDI Fund loan servicing agent, notifies GOED when a loan is ready to close and provides wiring information and instructions (Bank Name, ABA#, Account Name, Account #, Amount, and Date to be ACH/Wired). The GOED Finance Division provides the wiring information and instructions referencing the REDI loan number to the Administration Director. The Administration Director or designee prepares a journal voucher and submits to the State Auditor's Office for approval and processing with the State Treasurer's Office to transfer the funds.

Repayment of Loan

The borrower is generally required to make monthly payments to the servicing agent. Effective May 1, 1998, Bankwest, Inc. was contracted as the loan servicing agent for the REDI Fund (currently the contract is renewed annually). The REDI Fund loan servicing agent is required to submit payments monthly, except for balloon payments which are required to be submitted as received, to the State Treasurer's Office. There is no longer a contract between GOED and the State Treasurer's Office to maintain REDI Fund loan balance information. Starting in FY93 and continuing today it is considered one of the State Treasurer's responsibilities to receive REDI Fund payments. Along with the monthly payment, the REDI Fund loan servicing agent submits an Investors Remittance Journal. On this journal, the REDI Fund loan servicing agent identifies the loan number, the effective date of each payment, the due date, the principal, and interest applied, and the remaining balance.

At the time the State Treasurer's Office receives the remittance journal; GOED Finance is supplied with the same information. A Cash Receipts Transmittal is prepared and submitted online in MSA. The information received from the REDI Fund loan servicing agent is then entered into the Financial Accounting System Loan Portfolio System (FAS), by GOED Finance Staff (Finance Director and the Loan Specialist). The Finance Director and Loan Specialist have access to this system. Monthly the GOED Finance Division reconciles the REDI Fund loan servicing agent's remittance report against the newly built FAS (this is done to verify the correct application of principal and interest for payments reported by the REDI Fund loan servicing agent).

The year to date totals including loans receivables are further reconciled with the REDI Fund excel report that is prepared by the Administration Director and reconciled with the MSA.

As a final check, the GOED Finance Division (Finance Director and Loan Specialist) maintains the GOED.REDI Accounting System for MSA, an excel spreadsheet. This spreadsheet is used to track and report the principal balance of all REDI loans outstanding as funds are disbursed and received at the State's checking account at First Premier Bank. This excel spreadsheet is compared to the REDI Fund loan principal balances shown by the Administration Director's REDI Fund excel report. If there are differences, GOED will contact the REDI Fund loan servicing agent and resolve the differences. Once reconciled, the GOED Finance Division provides all monthly reports and supporting documentation to Clausen Rice LLP, contracted accounting firm, for inclusion in and preparation of the monthly financial statements and annual reports.

The REDI Fund loan servicing agent is responsible for monitoring all loan payments. The REDI Fund loan servicing agent works with the GOED Finance Division in reconciling differences that arise in the loan servicing agent's interest and principal calculations and GOED's interest and principal calculations as calculated by FAS. GOED can produce copies of the Transaction History Report for any particular time frame and a Loan Portfolio Report as of any date.

The REDI Fund loan servicing agent informs GOED when a borrower does not make a monthly payment, and then the REDI Fund loan servicing agent will contact the borrower to determine the reason for non-payment.

A balloon payment is generally required on the maturity of the loan. The REDI Fund loan servicing agent calculates the final payment; this calculation includes determining the amount applied to principal and the amount applied to interest. The final payment, including the principal and interest application, is verified with GOED Finance using FAS prior to having the REDI Fund loan servicing agent notify the borrower of the final payment amount. GOED asks the REDI Fund loan servicing agent to forward all loan documents

to the GOED. GOED's last request is to have the company file a final employment report, if applicable, so the office is able to gauge their success. The loan documents along with the note is released back to the company with the GOED keeping copies unless the security agreement covers another loan in which case it would not be released. A satisfaction of mortgage is then filed with the Register of Deeds, and UCC-3 is filed with the Secretary of State.

Origination Fees and Other Revenue

Currently a 1.5% origination fee is charged on each loan. The fee is paid at the time of loan closing by each borrower per board policy. There may be other revenue and/or reimbursement checks to be deposited into the REDI fund. The Administration division receipts any checks, endorses using the department endorsement stamp, prepares a cash receipts transmittal for approval, enters online, and forwards to the State Treasurer's Office for deposit. The REDI Fund excel report prepared by the Administration Director is reconciled monthly with MSA with the changes and additions in revenue. A copy of this report is provided to the Finance Division and the contracted accounting firm monthly. Beginning July 1, 2009 the origination fees and other revenues will be tracked by FAS and reconciled to the Administration Director's REDI Fund excel report on a monthly basis.

Monitoring Process

Borrowers are required to submit a balance sheet and an income statement no less than annually or as otherwise determined by the BED. The borrower's financial stability determines the regularity of reporting and whether the financials have to be compiled, reviewed or audited. Four reporting time frames have been established by GOED: monthly, quarterly, semi-annually, and yearly. Generally, new and existing loans are required to report financials annually and have at least "reviewed" financials. Deals that are experiencing problems or are in an industry experiencing problems may be required to report more frequently and be subject to providing "audited" financials.

Yearly loan reviews on all loans are performed by the REDI Fund loan servicing agent and presented to the BED per board policy. The frequency of the reviews set in board policy is based on the Standard Banking Industry Practices.

Loans classified to the "Watch List" will require a "full" loan review. "Full" loan reviews have to be presented to the board and accepted by the board (see Full Review Template Attached). Loans not classified on the "Watch List" will only require a "cursory" loan review. "Cursory" loan reviews have to be presented to the board, but are not required to have a motion of board acceptance.

The loans in the GOED portfolio will have their historical and pro forma financial information installed onto Moody's. Moody's is a financial analysis software package (Moody's Instructions Attached). Historical

financial information will be added as it is received. The various reports, financials and loan reviews will be generated and stored by the REDI Fund loan servicing agent (duplicate files are also maintained by GOED Finance).

The borrowers are required to submit Employment Reports semi-annually. GOED requires borrowers to submit employment reports at calendar year end and the state's fiscal year end. The reason for the state's year-end report is so GOED can tabulate up-to-date employment results.

The Secretary of State's Office is contacted to determine if the borrowers who are corporations are in good standing with the State. All corporations that have received REDI Loans are examined for good standing each year.

All the loans (including loan balance information, motions/notes related to the loan and employment statistics) are placed on the GOED Loan Database for monitoring by GOED Finance Staff. From this system, various reports can be and are generated. Multiple reports from this system are used to analyze the historical trends and results of the REDI Fund and its borrowers. The previously mentioned Financial Accounting System Loan Portfolio System (FAS) is used to verify current loans and the application of payments to the REDI reported to GOED Finance by the REDI Fund loan servicing agent (currently Bankwest).

A Loan Servicing and Monitoring Policy Handbook maintained in the GOED Finance Division notes the policies and procedures used by the Finance Division within the GOED when administering the REDI program. All GOED Finance Division employees and the REDI Fund loan servicing agent have access to the policy handbook and the administrative rules governing the REDI program.

Loan Defaults

GOED has two categories of loan defaults, technical and payment defaults. Technical defaults relate to REDI Fund Loan Program requirement defaults or other covenant violations. Payment defaults relate to failure of the borrower to make loan payments.

In loan default cases, the REDI Program's goal is to minimize its losses. In order to accomplish this, each case is handled separately. Therefore, there is no clear cut policy established. Some possible alternatives would include structuring a workout plan with the borrower, pursuing appropriate legal action to recover and liquidate collateral, and/or taking legal action against the borrower for any realized losses.

There are required lender laws and guidelines that GOED and the board must follow when a borrower defaults. SDCL's, the UCC, and court precedents specify the rights and responsibilities of all parties involved in loan default proceedings.

To monitor the loans with problems or that are in default, the Watch List is generated on a monthly basis by the REDI Fund loan servicing agent, and presented to the board on a monthly basis. This report documents the deficiencies noted, the corrective action plan to be taken, and the potential exposure of loss.

Liquidation specialist- GOED has contracted with Mike Snyders as a liquidation specialist to handle loan workouts and foreclosure proceedings in conjunction with GOED staff.

Allowance for Loan Losses

The allowance for loan losses is calculated by first classifying the outstanding principal balance of all problem, default, and non-accrual loans. The four classifying categories are watch, substandard, doubtful, and loss. The classification of the loan balance is determined by the board. The allowance for loan losses is then calculated as the sum of 3% of the “watch” amount, 12.5% of the “substandard” amount, 50% of the “doubtful” amount, and 100% of the “loss” amount. For all loans not classified on the watch list, 1% of the total principal is reserved.

Records Retention

Under the Department of Tourism & State Development's Records and Destruction Schedule, TSD-24 (Is this still the current policy) states retention for 10 years after the loan has been paid off. The GOED Finance Division keeps the file in the office for future reference for 5 years and then sends to Records Management for 5 years.

Reporting Process

The Board of Economic Development prepares an annual report by the first day of November each year. (SDCL 1-16G-10).

Development Corporations

It was noted during audit testing that REDI loans have been given out to Development Corporations rather than the actual companies providing the jobs. ARSD 68:02:01:34 states, “Any natural person or entity whose project will create or retain primary jobs is eligible to apply for a loan from the REDI fund.” The Development Corporations apply for the loan like any other company and are ultimately responsible for the loan. They provide financial statements and are evaluated by GOED as to whether or not they are a stable business to lend to. So far, loans have been made to the Development Corporations for the purchase of buildings. The buildings have then been leased to the company coming in and providing jobs. The company is responsible for submitting regular employment reports to GOED for monitoring.

A Development Corporation is normally formed by a city and has both a for-profit and a nonprofit arm. In the past, GOED only made loans to the for-profit side of the Development Corporations. The administrative rules have been changed to include nonprofit development corporations as eligible borrowers.

Administration Costs

The Board of Economic Development approves all invoices of \$1000 and over for payment after GOED Finance Division has verified that the invoices are correct and appropriate. Invoices received under \$1000 are verified and approved for payment by GOED (without board approval). The board is notified in the monthly meeting of any bills of this nature per board policy. Upon approval, the invoices are given to the Administration Division for payment processing. The payment vouchers are entered on the State's online accounting system, approved, and forwarded to the State Auditor's Office for payment via direct check or Wire/ACH transfer. The checks are distributed to the vendors by the State Auditor's Office. The payment vouchers are monitored by the Administration Division online until balanced; and once paid, an electronic report is received by the Administration Division through the State's Accounting System.

Capped Administrative Costs

The Finance Division's administrative costs are capped in that the expenses may not exceed the total interest earnings (loan interest and investment council interest) during the previous fiscal year. (SDCL 1-16G-24) The GOED submits an annual budget to the Legislature for "Other" spending authority to cover the costs for the Finance Division. The monthly and year to date expenditures are monitored by the Administration Director to make sure expenditures have not exceeded the appropriated and capped amount. The Administration Director prepares and updates a REDI excel report on a monthly basis reconciling with MSA the expenditures and interest earned. A copy of this report is given to the GOED Finance Division and the contracted accounting firm.

Time Reporting and Payroll

Each Finance Division employee enters online in the State's Time Keeping System their actual hours worked each pay period. The time reported for pay purposes may include regular hours worked, paid holidays, paid administrative leave, and other leave taken; such as, vacation, sick, and personal. Time worked and absences are paid after-the-fact. The individual time forms and leave requests are approved by the division director or designee. Finance Division loan program employees are paid out of REDI administration funds unless they have other program duties assigned, then they are paid per applicable time study rules. Payroll checks are direct deposited as directed by the employee by providing a completed ACH Direct Deposit Form or entering the information themselves on the self-service online, Self-Evident Application, website. Payroll distribution reports are reviewed by the Administration Director

to assure that all payroll charges are correctly charged. Payroll expenses are included in the monthly REDI Fund excel report that is provided to the Finance Division and the contracted accounting firm.

Training

The REDI Loan Officer is offered and encouraged to take advantage of many training opportunities. The skill level of the REDI Loan Officer will dictate what opportunities are applicable for helping the Loan Officer increase his/her knowledge. Some specific training opportunities are:

- Any applicable course offered through the American Bankers Association.
- National Development Council - Economic Development Professional Training Program
- Specific software training (i.e. training for Moody's Financial Analyst Product the department uses to "spread" financials)

Financial Statements & Notes to the Financial Statements

A contract has been entered into with accounting firm Clausen Rice LLP, to compile monthly reports and to assist GOED in the preparation of the Annual Financial Statements and Notes to the Financial Statements. Documentation and posted entries are supplied to the accounting firm by GOED and other agencies as indicated below. Audits are conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards. The Annual Financial Report includes the following: Statement of Net Assets, Statement of Revenues, Expenses, and Changes in Fund Net Assets, Statement of Cash Flows, and Notes to the Financial Statements. The annual financial reports utilize a fiscal year end of June 30. The accounting firm will work with GOED Finance Division, Administration Director, REDI Fund loan servicing agent, and Bureau of Finance and Management to provide the required information for the annual financial report. GOED, with the assistance of the accounting firm, provides requested information to the Department of Legislative Audit for auditing purposes. The accounting firm provides monthly compilation reports to GOED Finance Division.

The REDI Fund loan servicing agent provides the accounting firm with a year-end amortization schedule breaking out short-term principal receivable and long-term principal receivable for the annual financial report. This information is reconciled with GOED Finance Division's Financial Accounting System Loan Portfolio System (FAS).

Payments received by the REDI Fund loan servicing agent, but not yet transferred to the State Treasurer's Office as of June 30th are provided to the accounting firm to be included in the annual financial report.

GOED Finance Division provides the accounting firm all statements and documentation used for tracking of the REDI Fund loans on a monthly basis. Administration Director provides the accounting firm with accrued payables, accrued payroll, prepaids, encumbrances, annual and sick leave accrued liability, retirement contributions, due to other funds, motor fuel tax receivables, and operating expenditures for the annual financial report. This information is captured on the state's financial system.

Bureau of Finance and Management provides to GOED for the accounting firm the investment council interest, accrued leave liability, and securities lending transactions.

Audits

Two audits are conducted annually of the REDI Fund. One by the Department of Legislative Audit in accordance with auditing standards generally accepted in the United State and the standards applicable to financial audits contained in Government Auditing Standards.

The audit conducted by the Department of Legislative Audit encompasses all programs the Board of Economic Development is charged with overseeing. The audit objective is the expression of an opinion by the Department of Legislative Audit on whether the Board of Economic Development's financial statements are fairly presented in all material aspects.

The second audit is performed by the South Dakota Division of Banking. The Division of Banking audits the records of REDI Fund loans only and only the files kept by the REDI Fund Loan Servicing Agent (currently Bankwest). The audit objective is to test the accuracy and completeness of the files for REDI loans maintained and kept on file at the REDI Fund Loan Servicing Agent's place of business.

REDI Policies

Loan Structure

On real estate loans, the typical structure is a 5 year balloon payment on a 20 year amortization. On equipment loans, the typical structure is either 7 years fully amortized or a 5 year balloon payment on a 10 year amortization. The BED may exercise its discretion and restructure the loan terms when making a loan decision.

When REDI partners with an SBA 504 loan, the BED must follow SBA rules, to include the prohibition on early loan maturity. Under the current SBA rules, real estate loans amortized over 20 years may not mature before 10 years, and equipment loans amortized over 10 years may not mature before 7 years. Interest rates may increase after the first 5 years.

Interest rate

The standard interest rate is set and reviewed periodically for marketing of the program. BED reserves the right to adjust the rate when making a loan decision. As of April 10, 2012 the standard rate is 2% for a 5-year balloon. The rate is 2.5% for a 7-year balloon and for a 10-year balloon it is the standard rate for the first five years after loan closing, at which time the rate for years 6 through 10 is calculated at the then standard rate plus 1%.

For the purpose of including a default rate in the loan documents, as of May 8, 2012 the default rate shall be the contract rate plus 6%.

Environmental Concerns

BED may require the borrower to perform an environmental study or assessment at the borrower's expense if the project is considered to have a major impact on the surrounding area and/or the area's resources by BED. Standard "run of the mill" projects will typically not require an environmental review.

Guarantees

BED will require personal guarantees for owners exceeding 10% ownership. BED will require corporate guarantees from related businesses on a case by case basis.

Appraisals

BED will require an appraisal for new real estate loans prior to funding. The real estate appraisal must be conducted within 12 months prior to funding and the cost of the appraisal will be paid by the borrower. The board may require an appraisal for equipment loans prior to funding. If required by the board, the cost of the equipment appraisal will be paid by the borrower. Any subsequent appraisals are at BED's expense. The BED may use TAV (Tax Assessed Value) for follow up monitoring of loan. Title insurance and a survey will be required on all real estate loans. There will be no distinction between for-profit and non-profit entities when applying the appraisal policy. The BED may waive the appraisal requirement on a case by case basis.

Collateral Analysis (See Appendix for Blank Template)

The Collateral Analysis (CA) is used to determine the liquidation coverage ratio and the collateral coverage ratio. Assets are listed with their book value, liquidation value, prior liens, and GOED recovery amount. Real estate is discounted to 80% of appraised value. If special use real estate, then discount to 50% of appraised value. Equipment is discounted to 50% of appraised value (if an appraisal is required)

or cost. If special use equipment, then discount to 25% of appraised value (if an appraisal is required) or cost. Do not include the installation costs involved with the equipment when completing the CA. Updates to the CA for loan reviews are normally based on depreciated book value of equipment. Cash and cash equivalents are recorded as 100% of the value (Letters of Credit, Certificate of Deposits, etc.).

Loan Presentation Summary (See Appendix for Blank Template)

The Loan Presentation Summary (LPS) is a document used to introduce new loan applications to GOED staff and board members. The LPS outlines basic information regarding the following items:

- Location
- Project Description
- Principle Owners
- Sources and uses with notes
- Purpose of loan
- Company Employment Summary (Current – 3 year projection)

The main focus of the REDI program is broken down into the following three categories:

- Employment Numbers
- Wages/Benefits
- Community/Economic Impact

Composite Credit Rating (See Appendix for Blank Template)

The Composite Credit Rating (CCR) is a document used to outline the feasibility of the business being successful and adequately meeting the debt service. The CCR should cover the following items:

- Company Summary
- Character/Management Description (include bios and résumé)
- Capital – ratios, net worth, returns
- Projected Cash Flow
- Credit – liquidity, profitability ratios
- Competition/Market

Loan Review (See Appendix for Blank Template)

Loan Reviews (LR) are completed annually on companies to evaluate their performance. Loan reviews are used to determine if the borrower should be placed on the Watch List or taken off of the Watch List due to improved performance. Follow the Loan Review Process Checklist attached in the appendix.

Employment Reporting

Borrowers are required to submit employment reports annually, which show the number of Full-Time Equivalents (FTE's) for each year. FTE creation and retention is one of the primary objectives of the REDI Fund. The actual employment numbers are compared to the projections each year. If the numbers are within 20%, they are considered acceptable. If the numbers have over 20% deviation, corrective action is taken.

Employment reports will be submitted twice per year for the periods ending June 30 and December 31. These reports must be submitted within 20 days after the end of the reporting period.

Credit Quality

Adversely classified loans are those loans classified as substandard, doubtful, or loss. The BED tracks credit quality through two ratios. The first ratio is the amount of adversely classified loans divided by net loans receivable; this ratio should not exceed 12% with a target of 8%. The second ratio is the amount of adversely classified loans divided by net assets; this ratio should not exceed 6% with a target of 4%.

Loan Documents

The BED's Credit Committee will periodically review and make changes to the standard loan documents. Counsel has the right to make immaterial changes to appease borrowers on a case by case basis.

Fees – Loan Organization

Loans carry a 1.5% origination fee along with other applicable appraisal and closing fees. The BED may vote to reduce this fee on a case by case basis.

Minimum Wage

The minimum wage requirement for REDI loans is currently \$10.50/hour as of July 2012. Requirement may be waived if jobs created are located in extreme rural areas. State labor data is used for comparison purposes.

Tribal Entities

**STATE OF SOUTH DAKOTA
BOARD OF ECONOMIC DEVELOPMENT**

**POLICY RELATING TO
REVOLVING ECONOMIC AND DEVELOPMENT FUND LOANS
TO TRIBAL ENTITIES**

It is the continuing policy of the Board of Economic Development ("BED") to make credit decisions based on the goals of the Revolving Economic Development and Initiative Fund ("REDI Fund") program and based on sound lending judgment. The goal of the REDI Fund program is to promote economic development within the state. SDCL 1-16G-3.

The use of sound lending judgment requires the BED to consider the borrower's ability to repay the loan, the adequateness of the collateral for the loan (if any) and the BED's ability to enforce its loan documents and collect the loan in the event of a default. When applying its lending judgment to REDI Fund loans, the BED attempts to apply generally-accepted commercial lending standards, tempered by the economic development and job-creation goals of the REDI Fund program.

Contracting with South Dakota Indian tribes and tribally-chartered entities presents challenges relating to the enforceability of BED's loan documents that generally do not exist when dealing with non-Indian entities. Those challenges include dealing with the tribes' sovereign immunity, the lack of tribal commercial codes (or where they do exist, the lack of clear precedent interpreting those codes), how to create and perfect a security interest in collateral and tribal court vs. state court jurisdiction.

It is the stated policy of the BED that applications from, and loans to, Indian tribes and tribally-controlled or -chartered entities will be considered and made in the same manner as any other application or loan. Such applications and loans will be evaluated and made applying sound business and lending judgment, tempered by the economic development and job-creation goals of the REDI Fund program. The BED's consideration and making of such applications and loans must, however, also take into account the BED's interest in assuring itself that it can collect a loan and realize on collateral securing the loan in the event of a default.

Accordingly, the BED hereby adopts the following policy with respect to loans to Indian tribes and tribally-chartered or -controlled entities:

1. Waiver of Sovereign Immunity. Indian tribes are absolutely immune from suit unless that immunity is abrogated by Congress or is waived. That immunity includes immunity from suit for commercial activities, whether those activities take place on or off the reservation. Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc., 523 US 751 (US 1998). That same immunity applies with equal force to tribally-chartered or -controlled entities other than the tribe itself. Hagen v. Sisseton-Wahpeton Community College, 205 F3d 1040 (8th Cir. 2000). If a borrower is immune from suit, the BED

would have no means to enforce its loan documents and collect a loan in the event of a default.

Accordingly, it must be a condition of any loan to an Indian tribe or tribally-chartered or -controlled entity that such tribe or tribal entity execute a valid and enforceable waiver of its sovereign immunity. This waiver may be limited, but must be sufficiently explicit and broad to allow the BED to bring and maintain a suit to enforce its loan documents, realize on its collateral and collect its loan.

2. Applicable Law. The Uniform Commercial Code has been adopted in South Dakota and throughout the country. As its name implies, it is intended to create uniformity in commercial law throughout the country. Although courts have construed some provisions of the UCC differently in different states, it has for the most part succeeded in establishing general uniformity throughout the country. This uniformity and predictability is important to lenders, as they can make lending decisions with a good understanding of their rights and remedies in the event of a default.

Some Indian tribes in South Dakota have adopted versions of the Uniform Commercial Code, and some have not. Even in those cases where a version of the UCC has been adopted by an Indian tribe, it has occurred only recently. Therefore, there is not a well-established body of law surrounding and interpreting the provisions of the code, and therefore the predictability sought by lenders is still lacking.

Accordingly, in the interest of predictability in terms of enforcement of BED's loan documents, it must be a condition of a loan to an Indian tribe or tribally-chartered or -controlled entity that South Dakota law apply to the interpretation and enforcement of BED's loan documents.

3. State Court Jurisdiction. Pursuant to SDCL 3-21-10¹, the BED does not have the authority to submit the state to the jurisdiction of any court other than the state courts of South Dakota. Because an agreement that a suit *against* an Indian tribe or tribal entity must be brought in tribal court carries with it the potential for a counter-claim against the BED in tribal court brought under tribal law, the BED believes it is precluded by the provisions of SDCL 3-21-10 from agreeing that its loan documents may be enforced anywhere other than in the state courts of South Dakota. Accordingly, it must be a condition of a loan to an Indian tribe or tribally-chartered or -controlled entity that any lawsuit relating to the loan and related documents must be brought in the state courts of South Dakota and the borrower must consent to the jurisdiction of those courts.

¹ 3-21-10. Liability - Immunity from lawsuits in federal court.

No waiver of state immunity by statute or, where permitted, by any officer or agent of the state may constitute or be interpreted as a waiver of the state's immunity from lawsuits in federal court or the courts of any jurisdiction other than the South Dakota Unified Judicial System.

Appendix

LOAN PRESENTATION SUMMARY

Date Created	
Date Revised	
Loan Officer	
Company	
Website	
Project Location	
Business	
Years in Business	
Principals	

Purpose of Loan

Project Summary

SOURCES:		Note	USES:		Note
REDI			Land		
Bank			Building		
Cash			Equipment		
TOTAL			TOTAL		

Guarantors

Note Outside Book Net Worth

NOTES (COMMENTS, TERMS, CONDITIONS, etc.)

EMPLOYMENT SUMMARY

	2011	2012	2013	2014
Managers				
Prof/Tech				
Clerical				
Sales				
Service				
Production				
TOTAL FTE's				
TOTAL PTE's				

Dollars loaned per job retained/created = \$X/X = X

PROGRAM CRITERIA RATING

Employment:

Wages/Benefits:

Community:

COMPOSITE CREDIT RATING

Date Created	
Date Revised	
Loan Officer	
Company	

COMPANY SUMMARY

CHARACTER/MANAGEMENT

CAPITAL

	2009	2010	2011	PROJ 2012	PROJ 2013
Debt/Equity					
Tangible Net Worth ('000s)					
Cash Flow Coverage					
ROA					
ROE					

CREDIT/LIQUIDITY/PROFITABILITY (in '000s)

	2009	2010	2011	PROJ 2012	PROJ 2013
Current Ratio					
Quick Ratio					
Working Capital					
Gross Margin (%)					
SG&A (%)					
Net Margin (%)					
Sales					

CASH FLOW				
	2010	2011	2012	2013
Net Profit(EBT)				
+Depreciation and Amortization				
+Interest Expense				
+Rent Savings				
+ Other Savings				
- Dividends				
Total Cash Flow Available for D/S				
-Existing Debt Service				
Remaining Cash Available for New Debt Service				
New REDI D/S				
Other D/S				
TOTAL PAYMENTS				
DCR				

COMPETITION/MARKET

RECOMMENDATION

Loan Review Process Checklist

Loan reviews are completed annually following the company's fiscal year end.

1. _____ Check file for the year-end financial along with personal financials if there are personal guarantors. The financials can be audited, company prepared or tax returns. Personal guarantees need to use a financial statement that they can obtain from any local bank and it must be signed. Pull credit bureaus.
2. _____ Spread the company's financials in Risk Analyst. After the financials are spread print the Historical reports. Most of the time current portion of long term debt is not broken out and is included under the current liabilities that the borrower provides and you need to work with the bank to obtain. Three years of spreads are analyzed.
3. _____ Review the spreads, watch for items that are red flags and note them so that when you call the borrower you can discuss with them.
4. _____ Write up your loan review. Most of the files have loan reviews from past and you can use those as templates. Your write up consists of a company summary, financial summary, information from the borrower, collateral analysis, employment information and recommendation. You can get the UCC information and employment information from Access. The employment report should be in the file or ask the Loan Servicing Agent for it if the information in the system is not current. Your recommendation should be regarding whether or not to put them or keep them on the watch list and when to conduct the next loan review.
5. _____ Call the Treasurer to verify that that taxes are current as well as the Equalization Office for each County to get the assessed value if our collateral is real estate. Complete a collateral analysis. If the collateral is equipment, use the book value. Verify that the UCC is filed and not lapsed on any equipment loan and verify that we have a recorded mortgage and final title work in all files that have real estate as collateral.
6. _____ Check the Secretary of State website to verify that the Company is in Good Standing.
7. _____ Contact the borrower to set up a good time to go and do a site visit. Have your questions with you at the time you call or go to the site visit. Ask the borrower if there is any information/changes that need to be updated to the board.
8. _____ Verify that the insurance is current on the collateral.
9. _____ Take loan review to committee. Make changes as needed and present to board. Full loan reviews must be approved by the board. cursory reviews are completed and put in the file unless a classification change is recommended.

LOAN REVIEW REPORT

Borrower		Date of Review	
Lender		Date Last Review	
Review Officer		Date Loan Closed	
Loan Amount		Statement Date	
Current Balance		Statement Period	
Balloon Amount		Statement Quality	
Maturity Date		Loan Status	

COMPANY DESCRIPTION

FINANCIAL SUMMARY

	2009	2010	2011
Current Ratio			
Quick Ratio			
Working Capital	\$	\$	\$
Sales	\$	\$	\$
Operating Expense	\$	\$	\$
Net Profit	\$	\$	\$
Sales Growth			

	2009	2010	2011
LTD/NF Assets			
Tan. Net Worth	\$	\$	\$
ROA			
ROE			
Debt/Worth			

COLLATERAL

Personal or Corporate Guarantors	2011 Net Worth
	\$

Compliance Review

Financial Statement	
Personal Financial Statement	
Employment Reports	
Insurance Coverage	

Employment Review (in FTEs)

Beginning Employment	
Current Employment	
Projected Employment	
Current Average Production Wage	\$

Recommendation:

Collateral Analysis

DATE CREATED	
DATE REVISED	
LOAN OFFICER	
REVIEW OFFICER	
COMPANY	

	Note	Book Value	Liquidation Value	Prior Liens	GOED
Land & Building	1	\$ -	\$ -	\$ -	\$ -
Equipment	2	\$ -	\$ -	\$ -	\$ -
TOTAL		\$ -	\$ -	\$ -	\$ -

NET LIQUIDATION PROCEEDS	(A)	\$ -
LESS APEX LOAN BALANCE	(B)	\$ -
LIQUIDATION CUSHION		\$ -
LIQUIDATION COVERAGE RATIO	(A/B)	0%
NET COLLATERAL VALUE*	(C)	\$ -
COLLATERAL COVERAGE RATIO	(C/B)	0%

Net collateral value equals the book value of the asset minus prior liens

NOTES (Comments, terms, conditions, etc.)

GOED Organizational Chart
Coming soon.

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68:02:01:33. Definitions. Terms used in this chapter mean:

- (1) "Applicant," any natural person, for-profit entity, or non-profit entity that has completed a REDI fund loan application;
- (2) "Board," the Board of Economic Development;
- (3) "Borrower," an applicant who has been awarded a REDI fund loan;
- (4) "Credit committee," a committee made up of members of the board appointed by the chair of the board with the powers described in § 68:02:01:56;
- (5) "Equity," capital that has no guaranteed or mandatory return which must be invested in the project in any event and which has no definite timetable for repayment to the equity holder;
- (6) "GOED," the Governor's Office of Economic Development;
- (7) "Preliminary design stage," that portion of the project associated with market research studies identifying the project scope and need, compilation of the business plan, written initial cost estimates, written site options and description, and obtaining the commitments of the lenders;
- (8) "Primary jobs," jobs derived from businesses that bring new income into an area, stimulate other local businesses, or assist a community to diversity and stabilize its economy;
- (9) "Project," the new business; retention, relocation or expansion of an existing business; or other endeavor which will create or retain primary jobs;
- (10) "REDI fund," the revolving economic development and initiative fund;
- (11) "Total project costs," the direct costs associated with the purchase of land, necessary site development and improvements, construction or acquisition and remodeling of buildings and works necessary to the operation and protection of the project, purchase and installation of machinery and equipment, purchase or development of intellectual property rights, fees for services, approved in-kind contributions, adequate working capital financing, and any other cost approved by the board.

Source: 34 SDR 68, effective September 13, 2007; 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#), [1-16G-8](#), [1-16G-28](#).

Law Implemented: SDCL [1-16G-5](#), [1-16G-8](#).

68:02:01:34. Eligibility requirements. Any natural person or entity whose project will create or retain primary jobs is eligible to apply for a loan from the REDI fund.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(6).

Law Implemented: SDCL 1-16G-5, 1-16G-8(6).

68:02:01:35. Application requirements -- Screening. Application forms shall be provided by GOED and shall be completed and signed before an application is presented to the board. GOED shall screen all

applications for completeness and eligibility upon receipt. No incomplete or ineligible applications may be presented to the board. Applications shall include the following information:

- (1) Applicant's name and address;
- (2) Names, addresses, résumés, and references of owners, investors, and management of the business;
- (3) Articles of incorporation and bylaws or other agreements that describe the legal operation or structure of the business;
- (4) Name and address of the owner or operator of the business during the term of the loan;
- (5) A business plan which contains information regarding the products or services to be offered by the applicant; job descriptions with attendant salary or wage information by job category; employee benefit package; educational requirements by job category; and methods of accounting, financing, marketing, sales, merchandising, and other disciplines proposed to be used for business growth and expansion;
- (6) Letters of commitment from all funding sources;
- (7) Up to three years of historical balance sheets, cash flow statements, and income statements or federal tax returns;
- (8) Pro forma balance sheets, cash flow statements, and income statements for the greater of three years or the term of the loan;
- (9) A statement of licensing requirements;
- (10) A statement that addresses the effect of the business on the tax base of the area of the project and other positive and negative effects of the project on the area;
- (11) Assurance of compliance with local zoning laws and building codes and that the necessary public utilities are available or will be available when needed by the project;
- (12) Approximate construction date, construction completion date, and the date by which the project will be fully operational;
- (13) Documentation that the preliminary design stage has been completed; and
- (14) Any other information as requested by the board in order to make a sound loan decision.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(7).

Law Implemented: SDCL 1-16G-5, 1-16G-8(7).

68:02:01:36. Loan amounts. Unless waived by the affirmative vote of two-thirds of the members of the board present and voting, a loan made pursuant to this chapter may not exceed the original principal amount of \$1,000,000. Unless waived by the affirmative vote of two-thirds of the members of the board

present and voting, a loan made pursuant to this chapter may not exceed 45 percent of the total project cost.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL 1-16G-5, 1-16G-8(10).

68:02:01:37. Equity contribution. The applicant shall provide an equity contribution of a minimum of 10 percent of the total project costs as determined by the board. The requirement may be waived by the affirmative vote of two-thirds vote of the members of the board present and voting if the equity contribution is not necessary to secure the interests of the board. In-kind contributions and completed work may be applied toward the equity contribution and total project costs if, in the judgment of the board, such in-kind contributions and completed work contribute substantially to the project. Costs associated with the preliminary design stage may not be considered as equity contribution except for board-approved intellectual property and innovative technology research and development expenses. The applicant shall provide proof of the existence or availability of the equity contribution.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL 1-16G-5, 1-16G-8(10).

68:02:01:38. Use of loan proceeds. Loan proceeds may be used for any portion of the total project costs. Except as otherwise provided in this chapter, loan proceeds may not be used for costs associated with the preliminary design stage. Loan proceeds may not be used to finance or refinance the cost of the preliminary design stage. Except for the refinancing of third party interim loans incurred for the project, loan proceeds may not be used to pay existing debt.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(9).

Law Implemented: SDCL 1-16G-5, 1-16G-8(9).

68:02:01:39. REDI loan as take-out financing. Unless otherwise specifically provided in the resolution or motion approving the loan, the applicant shall use the loan to pay off interim financing incurred for the project.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(9).

Law Implemented: SDCL 1-16G-5, 1-16G-8(9).

68:02:01:40. Factors for board action. When making a decision on an application, the board may, in addition to other factors necessary to make a prudent loan decision, consider the following:

(1) Project impact factors;

- (a) Economic impact of primary jobs created or retained;
- (b) Net economic effect of increasing or stabilizing the economy on the community, area, and state;
- (c) Competitive effect on existing businesses;
- (d) Support of the public entities of the community and area;

- (e) The amount of the owner's equity contributed to the project;
- (f) The effect of the project on the environment, health, and safety of the people in the community, area, and state;
- (g) Compatibility with economic development plans of the area and state;
- (h) Type of business;
- (i) Payroll, pay structure, and employee benefit structure; and
- (j) Number of jobs created or retained.

(2) Business feasibility factors:

- (a) The potential success of the business and the potential for creating quality jobs and the growth of those jobs;
- (b) The character, experience, management record, and background of the applicant;
- (c) The capacity of the applicant to repay the loan. In determining the capacity of the applicant, the board shall consider the following:
 - (i) The amount of the loan;
 - (ii) The economic feasibility of the project;
 - (iii) The ability of the applicant to service the debt from cash flow of operations, capital, or collateral;
 - (iv) The financial status of the project, business plan, and applicant;
 - (v) The satisfaction of engineering, legal, and environmental regulations; and
 - (vi) The availability of necessary public utilities;
- (d) The total capitalization of the project, which includes all capitalization subordinated to the REDI fund;
- (e) The amount, terms, and conditions of the loan and their compatibility with the needs of the business and the REDI fund; and
- (f) The availability of sufficient collateral to secure the interests of the REDI fund.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(8).

Law Implemented: SDCL 1-16G-5, 1-16G-8(8).

68:02:01:41. Board action on applications. Within 30 days after GOED receives a complete application, the board shall either approve the application as requested, disapprove the application for modification, approve the application contingent on the realization of certain defined conditions, or disapprove the application. If the application is disapproved or disapproved for modification, the reasons shall be transmitted to the applicant in writing. The applicant whose application has been disapproved may submit another application that addresses the reason for disapproval. The board may extend the time for consideration of an application for up to 50 additional days by advising the applicant of the extension in writing.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(7).

Law Implemented: SDCL 1-16G-5, 1-16G-8(7).

68:02:01:42. Acceptance and time restrictions of applicant. The applicant must comply with any conditions required by the board before the application is approved. Within six months after the official loan approval by the board, the applicant must accept the approval in writing or the approval is void. Within six months after written acceptance, the applicant must commence the project. All loan proceeds must be disbursed within one year after approval by the board. The board or credit committee may extend the time for completion of the project and the final disbursement of loan proceeds if mitigating circumstances prevent completion of the project and the applicant has made a diligent effort so to do. The applicant shall submit any request for extension by the monthly loan application deadline prior to the expiration of the six-month period for completion of the project. The board or credit committee may establish the length of the extension period based on the mitigating circumstances.

Source: 34 SDR 68, effective September 13, 2007; 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

Law Implemented: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

68:02:01:43. Review of financial status. After the loan is approved but before the loan is closed, the board or GOED may conduct an overall review of the applicant's financial status. The review may include an analysis of all assets and liabilities and an analysis of the applicant's ability to repay the loan and comply with the loan covenants. The board may withdraw the commitment at any time if a material adverse change occurs.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

Law Implemented: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

68:02:01:44. Loan agreement -- Employment agreement -- Security. After the application for a loan is approved, the board and the borrower shall execute a loan agreement, employment agreement, and any other loan documents required by the board. The loan agreement shall contain the rights and responsibilities of the parties and the terms and conditions of the loan. The requirements to secure the loan shall be included in the loan agreement. The employment agreement shall establish the number of primary jobs to be created or retained and the damages payable by the borrower if those jobs are not created or retained.

A loan may be secured or unsecured. A secured loan may be secured by a lien on the interest of the borrower in real and personal property, whether tangible or intangible, as deemed necessary by the board to adequately collateralize the loan.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL 1-16G-5, 1-16G-8(10).

68:02:01:45. Borrower reporting requirements. The borrower shall submit to the board annually the following information:

- (1) Employment report;
- (2) Federal tax returns or periodic financial statements, or both, as requested by the board; and
- (3) Other information which the board or GOED deems necessary to determine the financial condition of the borrower and conformance to loan covenants.

The board may require that the financial statements be compiled, reviewed, or audited by an independent accountant at the borrower's expense.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(5).

Law Implemented: SDCL 1-16G-5, 1-16G-8(5).

68:02:01:46. Inspection by the board and retention of records. During the term of the loan, the board or GOED may inspect construction; inspect the borrower's operations, books, and records; and request the borrower to provide accounting records, payments, and invoices to ensure compliance with the terms of the loan agreement and the borrower's ongoing ability to repay the loan. The borrower shall retain accounting and tax records for the term of the loan or for a period of three years, whichever is longer.

The board may contract for project monitoring and servicing during the planning, construction, and operation of the project and the borrower's business.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(5).

Law Implemented: SDCL 1-16G-5, 1-16G-8(5).

68:02:01:47. Additional notification requirements. The borrower shall provide the board with written notice within 10 business days of any changes in top level management of the borrower's business or of any plans for sale, public offering, or lease of the business. Any sale, public offering, or lease of the business requires the prior written approval of the board. If the notification and prior approval requirements of this section are not satisfied, the board may call the loan immediately due and payable.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(5).

Law Implemented: SDCL 1-16G-5, 1-16G-8(5).

68:02:01:48. Maturity and interest rate. The maturity of the loan may not be more than five years from the date of loan closing, with payments amortized over not more than 20 years. Upon the affirmative vote of two-thirds of the members of the board present and voting, the board may at the time the loan is approved establish a longer maturity for the loan, but in no event may the original maturity date be more than 10 years from the date of loan closing.

The standard interest rate for REDI loans shall be established by the board from time-to-time and published on the GOED website. The board may deviate from the standard interest rate based on the economic impact of the project, nature and extent of collateral, risk, and other prudent lending criteria.

The board shall consider the following when establishing the standard interest rate:

- (1) State and national market interest rates;
- (2) State and national economic conditions;
- (3) The solvency and balance of the REDI fund; and
- (4) Other economic or business information necessary to fulfill the board mission to promote economic development in South Dakota.

The borrower is responsible for arranging other financing when the loan is due. If the borrower is unable to obtain financing, the borrower may apply before the loan due date for extension of the loan by the board at an interest rate and time period established by the board. The borrower shall submit any application for extension by the monthly loan application deadline prior to the loan maturity date.

Source: 34 SDR 68, effective September 13, 2007; 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

Law Implemented: SDCL [1-16G-5](#), [1-16G-8\(7\)\(10\)](#).

68:02:01:49. Default. If the borrower violates any of the terms of the loan agreement, the other loan documents, this chapter, or other applicable law, the board may declare the loan in default. Upon default, the board may do one or more of the following:

- (1) Declare the entire principal amount then outstanding and interest accrued thereon immediately due and payable
- (2) Increase the interest rate to the default rate established in the loan documents;
- (3) Take possession of the collateral;
- (4) Repair, maintain, and operate the collateral, or sell, lease, or otherwise dispose of the collateral to another person or entity; or
- (5) Take any other action considered appropriate by the board to protect the interest of the board and the REDI fund.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL [1-16G-1.1\(6\)](#), [1-16G-5](#), [1-16G-8\(10\)](#).

68:02:01:50. Delegation of administrative functions. The GOED shall perform the administrative functions of the creation, processing, and review of loan applications; the preparation and negotiation of loan agreements; the review of the financial status of an applicant; loan servicing; and other functions necessary to expedite and assist it in the performance of its duties. Notwithstanding any assurance, guarantee, communication, or representation made to the contrary, there is no commitment of the REDI fund without specific authorization by the board. Only the board may make an award from the REDI fund to an applicant.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(5\)\(7\)](#).

Law Implemented: SDCL 1-16G-5, 1-52-3.2, 1-52-3.3, 1-52-5.

68:02:01:51. Official forms. The board may from time-to-time establish official forms of loan documents, including a loan agreement, promissory note, mortgage, security agreement, employment agreement, and such other documents, certifications, and agreements as the board deems necessary and appropriate. GOED may consent on behalf of the board on a case-by-case basis to any non-substantive modification or to any modification necessary to conform the official forms to the terms of the loan as established by the board.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL 1-16G-5, 1-16G-8(10).

68:02:01:52. Conflicts of interest. No member of the board or GOED staff may participate in or vote upon a decision of the board relating to an application or loan servicing action relating to a borrower in which that individual has a direct personal or financial interest.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL 1-16G-5, 1-16G-8(7).

Law Implemented: SDCL 1-16G-5, 1-16G-8(7).

68:02:01:53. Confidentiality. The board, any committee of the board, and the GOED shall, to the extent it constitutes or contains trade secrets or commercial or financial information relating to the operation of an applicant or borrower, maintain as confidential any document, materials, information, or data received or generated by the board, any committee of the board, or the GOED in connection with a proposed or pending application for a REDI loan or an existing REDI loan. If requested by the applicant, the fact that an application has been proposed or is pending shall be maintained as confidential until such time as the application is considered by the board for approval. Any meeting of the credit committee shall be conducted in accordance with SDCL chapter [1-25](#) and SDCL 1-16G-11.

Source: 34 SDR 68, effective September 13, 2007; 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(7\)](#).

Law Implemented: SDCL [1-16G-5](#), [1-16G-11](#).

68:02:01:54. Pre-existing loans. Any loan made prior to September 13, 2007, shall be administered based upon the law in effect at the time the loan was approved by the board.

Source: 34 SDR 68, effective September 13, 2007.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(10\)](#).

Law Implemented: SDCL 1-16G-5, 1-16G-8(10).

68:02:01:55. Banking Commission examination. The board shall request the South Dakota Banking Commission to make an annual examination of the board's lending policies and procedures and the documentation and classification of loans in the REDI fund loan portfolio, including loans made under chapter 68:02:02 of this article.

Source: 34 SDR 68, effective September 13, 2007; 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#).

Law Implemented: SDCL [1-16G-5](#).

68:02:01:56. Credit committee -- Other committees. The chair shall appoint and may remove the members of the credit committee. The credit committee has the powers and duties described in this chapter and such other powers and duties as the board may delegate to it. The board may establish other standing or ad hoc committees as the board deems appropriate. The chair shall appoint and may remove the members of committees established by the board.

Source: 39 SDR 16, effective August 6, 2012.

General Authority: SDCL [1-16G-5](#), [1-16G-8\(7\)](#).

Law Implemented: SDCL [1-16G-5](#).

SD Works– ADMINISTRATIVE/INTERNAL CONTROLS

Purpose

The purpose of the SD Works Working Capital Loan Fund is to provide loans to any for-profit business that is either a start-up business existing business in SD as well as a business expanding from out of State into South Dakota. Dakota Works is designed to compliment South Dakota's existing fixed asset lending programs by providing working capital and other revolving credit facilities.

Administration of the Dakota Works Working Capital Loan Program

GOED will form a seven member loan committee that will meet monthly to decide which loans meet the SD WORKS program guidelines as eligible projects. The Commissioner of GOED will be a member of this committee. These members do not need to be approved by the Legislature.

The day to day operations of the SD WORKS Program will be handled by the Governor's Office of Economic Development (GOED). There is no final commitment of Dakota Works money without specific authorization by the loan committee. Thus, only the loan committee can make the loan to the applicant. However, the loan committee permits Executive Management at GOED to structure proposals, preliminarily committing SD WORKS funds as part of normal business practices. These proposals are communicated to the loan committee and accounted for in the fund's financial position statement presented to the committee each month.

The Application Process

The applicant must submit a formal application to GOED. The application must be complete before the loan committee will review it. GOED assists applicants in completing the application by answering questions or concerns.

A major part of the application process is that the applicant secures matching private funds to meet the 10:1 leverage requirement. Generally, this requires the applicant to obtain an acceptable letter of commitment from a lending institution or other funding sources who will provide the matching funds.

The information contained in the application and all other information pertaining to the applicant is considered confidential (SDCL 1-16G-11).

LOAN APPROVAL PROCESS

The loan committee meets monthly or more if needed. Borrower applications are reviewed and a decision is made on whether to approve, disapprove or require changes before granting loan approval. Loan committee decisions are final. Commitment letters are executed by the Commissioner of GOED, or in his absence may be executed by any member of the review committee.

Upon acceptance of the borrower's application, the loan committee executes various loan documents which generally include commitment letter, loan agreement, security

agreement, mortgage and promissory note with the borrower. These agreements contain the rights and responsibilities of the parties and the terms and conditions of the loan. The loan agreement also provides the security/mortgage positions of the lender and the loan committee. A security agreement is signed identifying the fund's security interest in the loan. This note is the final document to be signed. Once signed, the loan is considered complete and the funds can be disbursed.

The borrower is responsible for arranging other financing when the loan becomes due. If the borrower is unable to obtain financing, the borrower may apply before the loan due date for extension of the loan by the loan committee at an interest rate and time period to be set by the loan committee.

The interest rate has been initially set at three percent. Once a loan had been issued, it will have the same interest rate for the entire loan period unless the loan committee acts to adjust the interest rate for non-compliance of loan provisions by the borrower. The loan committee may also waive or lower the interest rate by a two-thirds vote if the project has significant economic development or job creation impact.

Loan Disbursement Process

Borrower notifies GOED when a loan is ready to close and provides the wiring information and instructions (Bank Name, ABA#, Account Name, Account #, Amount, and Date to be ACH/ Wired). The GOED Finance Division provides the wiring information and instructions referencing the SD WORKS loan number to the Administration Director. The Administration Director or designee prepares a journal voucher and submits to the State Auditor's Office for approval and processing with the State Treasurer's Office to transfer the funds. The loan review committee chair or designee will sign all the loan docs as the second signature.

Repayment of Loan

Bankwest, loan servicing agent, will be required to submit payments monthly to the State Treasurers Office. Along with the monthly payment, the loan servicing agent submits an Investors Remittance Journal. On this journal, the loan servicing agent identifies the loan number, the effective date of each payment, the due date, the principal and interest applied, and the remaining balance.

At the time the State Treasurer's Office receives the remittance journal; GOED Finance is supplied with the same information. A Cash Receipts Transmittal is prepared and submitted online in MSA. The information received from the loan servicing agent is then entered into the Financial Accounting System Loan Portfolio System (FAS/PORTFOL), by GOED Finance Staff (Loan Specialist). The Finance Director and Loan Specialist have access to this system. Monthly the GOED Finance Division reconciles the loan servicing agent's remittance report against the newly built FAS/PORTFOL (this is done to verify the correct application of principal and interest for payments reported by the loan servicing agent).

The year to date totals including loans receivables are further reconciled with the fund's excel report that is prepared by the Administration Director and reconciled with MSA.

As a final check, the GOED Finance Division (Loan Specialist) maintains the GOED Accounting System for MSA, an excel spreadsheet. This spreadsheet is used to track

and report the principal balance of all loans outstanding as funds are disbursed and received at the State's checking account at First Premier Bank. This excel spreadsheet is compared to the SD WORKS fund loan principal balances shown by the Administration Director's SD WORKS excel report. If there are differences, GOED will contact the contracted loan servicing agent and resolve the differences. Once reconciled, the GOED Finance Division provides all monthly reports and supporting documentation to Clausen Rice LLP, contracted accounting firm, for inclusion in and preparation of the monthly financial statements and annual reports.

The contract loan servicing agent is responsible for monitoring all loan payments. The Contract loan servicing agent works with the GOED Finance Division in reconciling differences that arise in the loan servicing agent's interest and principal calculations and GOED's interest and principal calculations as calculated by FAS/PORTFOL/Portfol. GOED can produce copies of the Transaction History Report for any particular time frame and a Loan Portfolio Report as of any date.

The Contract loan servicing agent informs GOED when a borrower does not make a monthly payment, and then the Contract loan servicing agent will contact the borrower to determine the reason for non-payment.

Origination Fees and Other Revenue

Currently a 1.5% origination fee of the loaned amount is paid by each borrower per loan committee policy. There may be other revenue and/or reimbursement checks to be deposited into the account with loan servicing agent as well. The check is received and verified for the correct amount and purpose by the GOED Finance Division during the loan closing process. The Administration division receipts the check, endorses using the department endorsement stamp, prepares a cash receipts transmittal for approval, enters online, and forwards to the State Treasurer's Office for deposit. The Contract excel report prepared by the Administration Director is reconciled monthly with MSA with the changes and additions in revenue. A copy of this report is provided to the Finance Division and the contracted accounting firm monthly. The origination fees and other revenues will be tracked by FAS/PORTFOL/Portfol and reconciled to the Administration Director's Contract excel report on a monthly basis.

Monitoring Process

Borrowers are required to submit a balance sheet and an income statement at least annually. The borrower's financial stability determines the regularity of reporting and if the financials have to be compiled, reviewed or audited. Four reporting time frames have been established by GOED: monthly, quarterly, semi-annually, and yearly. Generally, new and existing loans are required to report financials annually and have at least "reviewed" financials. Deals that are experiencing problems or are in an industry experiencing problems may be required to report more frequently and be subject to providing "audited" financials.

Yearly loan reviews on all loans are performed by the Contract loan servicing agent and presented to the Loan committee per policy. The frequency of the reviews set in loan committee policy is based on the Standard Banking Industry Practices.

Loans classified to the "Commissioner's Watch List" will require a "full" loan review. "Full" loan reviews have to be presented to the loan committee and accepted by the loan committee. Loans not classified on the "Commissioner's Watch List" will only require a

“cursory” loan review. “Cursory” loan reviews have to be presented to the loan committee, but are not required to have a motion of loan committee acceptance.

The loans in the GOED portfolio will have their historical and pro forma financial information installed onto Moody’s (a financial analysis software package). Historical financial information will be added as it is received. The various reports, financials and loan reviews will be generated and stored by the Contract loan servicing agent (duplicate files are also maintained by GOED Finance).

The borrowers are required to submit Employment Reports annually. The employment numbers are used in our annual report for job creation totals.

The Secretary of State's Office is contacted to determine if the borrowers who are corporations are in good standing with the State. All corporations that have received loans are examined for good standing each year.

All the loans (including loan balance information, motions/notes related to the loan and employment statistics) are placed on the GOED Loan Database for monitoring by GOED Finance Staff. From this system, various reports can be and are generated. Multiple reports from this system are used analyze the historical trends and results of the Contract and its borrowers. The previously mentioned Financial Accounting System Loan Portfolio System (FAS/PORTFOL) is used to verify current loans and the application of payments remitted to GOED Finance by the Contract loan servicing agent.

Loan Defaults

GOED has two categories of loan defaults. Technical defaults relate to Loan Program requirement defaults. Payment defaults relate to failure of the borrower to make loan payments.

In loan default cases, the SD WORKS Program goal is to minimize its losses. In order to accomplish this, each case is handled separately. Therefore, there is no clear cut policy established. Some possible alternatives would include foreclosing on the borrower's assets and offering them for sale to other Program participants and taking legal action against the borrower for any realized losses.

There are required lender laws and guidelines that GOED and the Loan committee must follow when a borrower defaults. SDCL's, the UCC, and court precedents specify the rights and responsibilities of all parties involved in loan default proceedings.

To monitor the loans with problems or that are in default, the Commissioner's Watch List is generated on a monthly basis by the Contract loan servicing agent, and presented to the loan committee on a monthly basis. This report documents the deficiencies noted, the corrective action plan to be taken, and the potential exposure of loss.

Allowance for Loan Losses (ALL)

The allowance for loan losses is calculated by first classifying the outstanding principal balance of all problem, default, and non-accrual loans. The four classifying categories are watch, substandard, doubtful, and loss. The classification of the loan balance is determined by the loan committee. The loans will be placed on the watch list at the review committee's discretion. The allowance for loan losses is then calculated as the

sum of 3% of the “watch” amount, 12.5% of the “substandard” amount, 50% of the “doubtful” amount, and 100% of the “loss” amount.

Records Retention

Retention of Records: The Participating State shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Allocation for a period of three years from the date of submission of the final quarterly report.

Reporting Process

Loan Servicing Agent prepares online quarterly and annual reports as required by Treasury. These are completed on the SSBCI reporting system. The reports are then printed off and signed by GOED commissioner. The fully executed reports are uploaded to the website.

GOED’s Marketing Department also prepares an annual report each year which includes the SD WORKS loan program.

Administration Costs

The SD WORKS committee approves all invoices of \$1000 and over for payment after GOED Finance Division has verified that the invoices are correct and appropriate. Invoices received under \$1000 are verified and approved for payment by GOED (without loan committee approval). The loan committee is notified in the monthly meeting of any bills of this nature per loan committee policy. Upon approval, the invoices are given to the Administration Division for payment processing. The payment vouchers are entered on the State’s online accounting system, approved, and forwarded to the State Auditor’s Office for payment via direct check or Wire/ACH transfer. The checks are distributed to the vendors by the State Auditor’s Office. The payment vouchers are monitored by the Administration Division online until balanced; and once paid, an electronic report is received by the Administration Division through the State’s Accounting System.

Capped Administrative Costs

The Department submits an annual budget to the Legislature for Federal “Other” spending authority to cover the costs for the program. The monthly and year to date expenditures are monitored by the Administration Director to make sure expenditures have not exceeded the appropriated and capped amount set out in the Treasury’s allocation agreement. She also verifies that they are in compliance with OMB Circular A-87. The Administration Director prepares and updates an excel report on a monthly basis reconciling with MSA the expenditures and interest earned. A copy of this report is given to the GOED Finance Division and the contracted accounting firm, Clausen and Rice Accountants.

Time Reporting and Payroll

Each Finance Division employee enters online in the State’s Time Keeping System their actual hours worked each pay period. The time reported for pay purposes may include regular hours worked, paid holidays, paid administrative leave, and leave taken; such as, vacation, sick, and personal. Time worked and absences are paid after-the-fact. The individual time forms and leave requests are approved by the division director or designee. The SD WORKS loan program employees will be paid out of administration funds. Payroll checks are direct deposited as directed by the employee by providing a completed ACH Direct Deposit Form or entering the information themselves on the self

service online, Self Evident Application, website. Payroll distribution reports are reviewed by the Administration Director to assure that all payroll charges are correctly charged. Payroll expenses are included in the monthly Contract excel report that is provided to the Finance Division and the contracted accounting firm.

Financial Statements & Notes to the Financial Statements

A contract has been entered into with accounting firm, Clausen Rice LLP, to prepare monthly and annual financial statements and notes in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards. The annual financial report is by calendar year end of each year. The accounting firm will work with GOED Finance Division, Administration Director, Contract loan servicing agent, and Bureau of Finance and Management to provide the required information for the annual financial report.

The Contract loan servicing agent provides the accounting firm with a year end amortization schedule breaking out short-term principal receivable and long-term principal receivable for the annual financial report. This information is reconciled with GOED Finance Division's Financial Accounting System Loan Portfolio System (PORTFOL AND FAS/PORTFOL)

GOED Finance Division provides the accounting firm all statements and documentation used for tracking of the Contract loans on a monthly basis.

Audit

An audit can be requested by the US Office of Inspector General as spelled out in our contract with US Department of Treasury. Also, files can be requested and periodically reviewed by the Department of Treasury upon completion of our annual reports.

Statement on Standards for Consulting Services No. 1



Consulting services that CPAs provide to their clients have evolved from advice on accounting-related matters to a wide range of services involving diverse technical disciplines, industry knowledge, and consulting skills. Most practitioners, including those who provide audit and tax services, also provide business and consulting services to their clients.

Consulting services differ fundamentally from the CPA's function of attesting to the assertions of other parties. In an attest service, the practitioner expresses a conclusion about the reliability of a written assertion that is the responsibility of another party, the asserter. In a consulting service, the practitioner develops the findings, conclusions, and recommendations presented. The nature and scope of work is determined solely by the agreement between the practitioner and the client. Generally, the work is performed only for the use and benefit of the client.

Historically, CPA consulting services have been commonly referred to as consulting services, management advisory services, business advisory services, or management services. A series of Statements on Standards for Management Advisory Services (SSMASs) previously issued by the AICPA contained guidance on certain types of consulting services provided by members. This Statement on Standards for Consulting Services (SSCS) supersedes the SSMASS and provides standards of practice for a broader range of professional services, as described in paragraph.

This SSCS and any subsequent SSCSs apply to any AICPA member holding out as a CPA while providing Consulting Services as defined herein.

Definitions



Terms established for the purpose of the SSCSs are as follows:

Consulting Services Practitioner - Any AICPA member holding out as a CPA while engaged in the performance of a Consulting Service for a client, or any other individual who is carrying out a Consulting Service for a client on behalf of any Institute member or member's firm holding out as a CPA.

Consulting Process - The analytical approach and process applied in a Consulting Service. It typically involves some combination of activities relating to determination of client objectives, fact-finding, definition of the problems or opportunities, evaluation of alternatives, formulation of proposed

action, communication of results, implementation, and follow-up.

Consulting Services - Professional services that employ the practitioner's technical skills, education, observations, experience, and knowledge of the consulting process.¹

- Consultations, in which the practitioner's function is to provide counsel in a short time frame, based mostly, if not entirely, on existing personal knowledge about the client, the circumstances, the technical matters involved, client representations, and the mutual intent of the parties. Examples of consultations are reviewing and commenting on a client-prepared business plan and suggesting computer software for further client investigation.
- Advisory services, in which the practitioner's function is to develop findings, conclusions, and recommendations for client consideration and decision making. Examples of advisory services are an operational review and improvement study, analysis of an accounting system, assisting with strategic planning, and defining requirements for an information system.
- Implementation services, in which the practitioner's function is to put an action plan into effect. Client personnel and resources may be pooled with the practitioner's to accomplish the implementation objectives. The practitioner is responsible to the client for the conduct and management of engagement activities. Examples of implementation services are providing computer system installation and support, executing steps to improve productivity, and assisting with the merger of organizations.
- Transaction services, in which the practitioner's function is to provide services related to a specific client transaction, generally with a third party. Examples of transaction services are

insolvency services, valuation services, preparation of information for obtaining financing, analysis of a potential merger or acquisition, and litigation services.

- Staff and other support services, in which the practitioner's function is to provide appropriate staff and possibly other support to perform tasks specified by the client. The staff provided will be directed by the client as circumstances require. Examples of staff and other support services are data processing facilities management, computer programming, bankruptcy trusteeship, and controllership activities.
- Product services, in which the practitioner's function is to provide the client with a product and associated professional services in support of the installation, use, or maintenance of the product. Examples of product services are the sale and delivery of packaged training programs, the sale and implementation of computer software, and the sale and installation of systems development methodologies.

Standards for Consulting Services



The general standards of the profession are contained in [Rule 201](#) of the AICPA Code of Professional Conduct and apply to all services performed by members. They are as follows:

Professional competence - Undertake only those professional services that the member or the member's firm can reasonably expect to be completed with professional competence.

Due professional care - Exercise due professional care in the performance of professional services.

Planning and supervision - Adequately plan and supervise the performance of professional services.

Sufficient relevant data - Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.

The following additional general standards for all Consulting Services are promulgated to address the distinctive nature of Consulting Services in which the understanding with the client may establish valid limitations on the practitioner's performance of services. These Standards are established under Rule 202 of the AICPA Code of Professional Conduct.

Client Interest - Serve the client interest by seeking to accomplish the objectives established by the understanding with the client while maintaining integrity and objectivity.¹

Understanding with Client - Establish with the client a written or oral understanding about the responsibilities of the parties and the nature, scope, and limitations of services to be performed, and modify the understanding if circumstances require a significant change during the engagement.

Communication with Client - Inform the client of (a) conflicts of interest that may occur pursuant to interpretations of [Rule 102](#) of the Code of Professional Conduct,^{2 3} (b) significant reservations concerning the scope or benefits of the engagement, and (c) significant engagement findings or events.

Professional judgment must be used in applying Statements on Standards for Consulting Services in a specific instance since the oral or written understanding with the client may establish constraints within which services are to be provided. For example, the understanding with the client may limit the practitioner's effort with regard to gathering relevant data. The practitioner is not required to decline or withdraw from a consulting engagement when the agreed-upon scope of services includes such limitations.

Consulting Services for Attest Clients - The performance of Consulting Services for an attest client does not, in and of itself, impair independence.^{3 4} However, members and their firms performing attest services for a client should comply with applicable independence standards, rules and regulations issued by the AICPA, the state boards of accountancy, state CPA societies, and other regulatory agencies.

Effective Date - This Statement is effective for engagements accepted on or after January 1, 1992. Early application of the provisions of this Statement is permissible.

Footnotes



The definition of Consulting Services excludes the following:



1. Services subject to other AICPA Technical Standards such as Statements on Auditing Standards (SASs), Statements on Standards for Attestation Engagements (SSAEs), or Statements on Standards for Accounting and Review Services (SSARs). (These excluded services may be performed in conjunction with Consulting Services, but only the Consulting Services are subject to the SSCS.)
2. Engagements specifically to perform tax return preparation, tax planning/advice, tax representation, personal financial planning or bookkeeping services; or situations involving the preparation of written reports or the provision of oral advice on the application of accounting principles to specified transactions or events, either completed or proposed, and the reporting thereof.
3. Recommendations and comments prepared during the same engagement as a direct result of observations made while performing the excluded services.

2. Article III of the Code of Professional Conduct describes integrity as follows:

"Integrity requires a member to be, among other things, honest and candid within the constraints of client confidentiality. Service and the public trust should not be subordinated to personal gain and advantage. Integrity can accommodate the inadvertent error and the honest difference of opinion; it cannot accommodate deceit or subordination of principle."

Article IV of the Code of Professional Conduct differentiates between objectivity and independence as follows:

"Objectivity is a state of mind, a quality that lends value to a member's services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest. Independence precludes relationships that may appear to impair a member's objectivity in rendering attestation services."

3. Rule 102-2 on Conflicts of Interest states, in part, the following:

"A conflict of interest may occur if a member performs a professional service for a client or employer and the member or his or her firm has a significant relationship with another person, entity, product, or service that could be viewed as impairing the member's objectivity. If this significant relationship is disclosed to and consent is obtained from such client, employer, or other appropriate parties, the rule shall not operate to prohibit the performance of the professional service..."

4. AICPA independence standards relate only to the performance of attestation services; objectivity standards apply to all services. (See footnote no.2)

Association of Certified Fraud Examiners



Professional Standards for Certified Fraud Examiners

Adopted for Public Comment by the Board of Regents on January 26, 2012

Professional Standards for Certified Fraud Examiners

Introduction

The Association of Certified Fraud Examiners (ACFE) is an association of professionals comprised of Certified Fraud Examiners (CFEs) and Associate Members (Associates) who have made a commitment to work together for the common goal of detecting and preventing fraud, waste, and abuse. Fraud, waste, and abuse occur in all industries and organizations, both public and private. Fraud, however, is inherently secretive, complex, and difficult to deal with. The complexity and difficulty of detecting and preventing fraud requires and demands that anti-fraud professionals operate and conduct themselves with the highest level of ethical conduct and professionalism.

The ACFE, along with the ACFE Board of Regents (Board) and the ACFE Professional Standards and Practices Committee (Committee), have developed a set of Professional Standards for Certified Fraud Examiners (Standards) to help guide CFEs to meet the challenges encountered in the anti-fraud profession. These Standards express basic principles of ethical behavior to guide CFEs in fulfilling their professional duties and obligations. All CFEs shall be required, and all Associates shall strive, to adhere to these standards.

Purpose of the Standards

The ACFE is committed to the advancement of the anti-fraud profession and the growth and development of its members. Every CFE, regardless of position, industry, or profession, should exhibit and maintain a core set of professional anti-fraud standards that are representative of the ACFE and the CFE designation.

The purpose of the Standards is to:

- Provide a set of core values and expectations with regard to professional conduct for CFEs where ethics, integrity, and professionalism are the cornerstones of the CFE designation.
- Establish minimum requirements for CFEs when interacting and communicating with clients/employers.
- Provide a basic framework of expectations for CFEs by outlining common principles that are applicable to all fraud examiners.
- Remind CFEs of their duty to adhere to the Standards.
- Encourage CFEs to report violations of the Standards to the ACFE.

The Standards are comprised of five core elements and expectations for CFEs:

- Standards of Professional Conduct
- Standards of Client Interaction and Communication
- Standards of Examination
- Standards of Reporting
- Standards of Enforcement

Applicability of the Standards

The Standards apply to all CFEs. All Associate members should strive to adhere to the Standards.

The ACFE understands and respects the fact that CFEs work in every industry, profession, and trade around the world and that the laws and standards of practice for CFEs can vary based on their particular circumstances. As a result, there may be instances where CFEs encounter a conflict between the Standards and other requirements imposed by their professions/industries/jurisdictions. When CFEs are subject to codes or standards from other professional organizations or licensing bodies that conflict with these Standards, they should follow the more stringent requisites.

In addition, CFEs must abide by all laws, regulations, and court orders to which they are subject. If there is a conflict between the Standards and any law, regulation or valid court order, the provisions of the law, regulation, or court order should be followed.

The Standards were drafted by the ACFE Professional Standards and Practices Committee. The Committee will continually review and recommend updates to the Standards based on comments and feedback received from ACFE members, the ACFE Staff, and the Board of Regents.

Questions, comments or suggestions as they relate to the Standards can be directed to:

The Association of Certified Fraud Examiners
Attn: Professional Standards Committee Liaison
716 West Avenue
Austin, TX 78701

1.0 – Standards of Professional Conduct

Section 1.1 – Integrity

CFEs shall conduct themselves with integrity, knowing that public trust is founded on integrity. CFEs shall not sacrifice integrity to serve the client, the employer, or the public interest.

Guidance

Integrity can be defined as an adherence to moral and ethical principles; soundness of moral character; honesty. These are traits that CFEs are expected to uphold. CFEs should be mindful that the integrity they exhibit reflects not only on them, but also on the ACFE and the anti-fraud profession in general. Part of the ACFE's core mission is to inspire public confidence in the integrity, objectivity, and professionalism of CFEs. If a CFE fails to act with integrity, then public confidence in the ACFE itself may be diminished.

Section 1.2 – Truthfulness

CFEs shall be truthful in their communications, findings, and professional dealings. This standard does not prohibit the use of lawful investigative techniques, covert examinations, and interviewing techniques that have been deemed acceptable in a court of law.

Guidance

CFEs should act in a truthful manner. Personal character is a quality that is demonstrated through truthfulness, and truthfulness is manifested through providing services with the highest degree of integrity.

In short, CFEs should uphold truthfulness in their actions, words, and deeds, and they should always be dedicated to finding and reporting the truth, regardless of the desired outcome.

There are many facets to the anti-fraud profession and CFEs provide a variety of services in a multitude of settings. CFEs commonly provide testimony and report their findings in legal and non-legal matters such as criminal and civil trials, arbitrations, bankruptcy proceedings, legislative hearings, and other legal or equitable proceedings, and they must be truthful when doing so. Any exaggeration or embellishment, if uncovered, will likely reduce the CFEs credibility and persuasiveness. Moreover, the use of false statements, half truths, and misrepresentations by a CFE could cause the innocent to be punished or cause the guilty to go free. A CFE's word can hold great weight, and this should not be taken lightly.

Additionally, CFEs often must report their findings and communicate the results of an engagement with a client or employer, and such communications must be accurate. Providing inaccurate results will affect the credibility of the underlying engagement and the CFE.

1.2.1 – Truthfulness in Courts of Law, Hearings, and Other Dispute Resolution Bodies

1.2.1.1 – False Statements

CFEs shall not knowingly make a false statement when testifying under oath.

1.2.1.2 – Court Compliance

CFEs shall comply with lawful orders of the courts or other dispute resolution bodies.

1.2.2 – Truthfulness in Communicating Results

CFEs shall not knowingly make a false statement when reporting findings or communicating the results of an engagement with a client/employer.

Section 1.3 – Objectivity

CFEs shall maintain objectivity in discharging their professional responsibilities at all times. CFEs shall not be influenced to misrepresent, skew, suppress, or fabricate any information or findings.

Guidance

CFEs should strive to safeguard any examination from the influences of the personal feelings or interests of others involved and focus on the facts of the case. For CFEs, objectivity refers to the ability to conduct examinations without being influenced by one's own personal feelings or the personal feelings and motives of others. An objective CFE makes decisions and renders opinions that are based on fact and are free from bias, prejudice, and personal interpretations.

CFEs must maintain objectivity to report findings accurately. A CFE who fails to work freely and objectively does a disservice to the anti-fraud profession and the CFE designation.

1.3.1 – Reporting Objectivity Issues

CFEs shall immediately report to their client/employer, or remove themselves from an examination when their objectivity becomes so diminished that it could significantly impact the outcome or findings of the examination.

Section 1.4 – Conflicts of Interest

Prior to accepting a professional engagement, CFEs shall investigate for actual and/or potential conflicts of interest. If actual conflicts of interest and/or potential conflicts of interest arise at any time before or during an engagement, CFEs shall disclose such conflicts to their employers or prospective clients as soon as the conflicts are known to the CFE.

Guidance

An *actual conflict of interest* exists when a member's ability to act objectively, or in the best interests of his client/employer, will be impaired by any current, prior, or future relationship with parties relevant to the engagement. An example of an actual conflict of interest might include being asked to conduct a fraud examination of someone with whom you have strong personal or business ties, such as a relative, a friend, or a business partner. A *potential conflict of interest* exists when a member's private interest could result in a conflict of interest in the future. An example of a potential conflict of interest might include being asked to conduct an examination of a Company A when you have business interests in an entity that is a supplier of Company A and derives a substantial amount of its revenue from Company A.

1.5.1 – Mitigation of Actual and Potential Conflicts of Interest**1.4.1.1 – Actual Conflicts of Interest**

CFEs shall refrain from conducting any examination where an actual conflict of interest exists until such a time when the actual conflict of interest no longer exists or when informed consent is obtained from all affected parties.

1.4.1.2 – Potential Conflicts of Interest

In situations where potential conflicts of interest exist, CFEs should take all necessary steps to ensure that an actual conflict of interest does not materialize. This could include reassigning personnel, tasks, job duties, and/or responsibilities. CFEs should also refrain from conducting any examination until the potential conflict has been disclosed to the client/employer and informed consent has been obtained.

Section 1.5 – Discreditable Acts

CFEs shall not commit discreditable acts, and shall always conduct themselves in the best interests of the reputation of the profession.

Guidance A *discreditable act* is any act conducted by a CFE that would be reasonably expected to diminish his/her trustworthiness or integrity. Examples of discreditable acts include but are not limited to perjury, fabricating evidence, excluding relevant evidence, lying about or fabricating professional qualifications, and so on.

CFEs are routinely called on to investigate allegations of wrongdoing and report findings in matters involving fraud, corruption, and other violations of the law. A CFE's findings and opinions are often given great weight by employers, law enforcement authorities and the courts.

CFEs who commit discreditable acts tarnish their reputation, the reputation of the ACFE, and the public perception of the CFE designation. Therefore, CFEs should strive to live by the spirit as well as the letter of the law, and they should seek to serve as role models for ethics, integrity, and honesty.

1.5.1 – Criminal Acts

CFEs shall not commit criminal acts or knowingly induce others to do so.

Guidance

CFEs operate in many different jurisdictions and under varying circumstances and conditions, but regardless of where they live or operate, CFEs are expected to comply with the law and avoid engaging in criminal conduct. Generally speaking, this standard is meant to apply to felony offenses (those punishable by more than one year in prison) or crimes of moral turpitude.¹ Examples of the categories of criminal acts that would rise to a violation of this standard include but are not limited to: corruption, bribery, illegal gratuities, extortion, asset misappropriation, larceny, forgery, financial statement fraud, identity theft, perjury, and computer fraud. In some circumstances, other crimes may constitute a violation of this standard depending on their severity. For example, reckless or intentional misconduct that endangers the life or safety of another, even if it is not a felony offense, might violate this Standard.

Minor infractions that do not involve any aspect of moral turpitude, such as traffic violations, are not covered by this standard, although CFEs should strive to obey all laws at all times.

All cases involving the application of this standard will be decided by the ACFE Board of Regents at its own discretion on a case-by-case basis.

Section 1.6 – Professional Competence

CFEs shall be competent in their respective areas and disciplines, and they shall not accept assignments where competence is lacking. In some circumstances, it may be possible to meet the requirement for professional competence by use of consultation or referral.

Guidance

Professional competence refers to an individual's knowledge, skills, and overall capability to perform the duties of a CFE. Competency, however, is not the same as perfection. Everyone makes mistakes and CFEs are no different, but CFEs must diligently discharge their professional responsibilities, and they should not accept any matters which they are not competent to handle. CFEs, however, may accept matters where the requisite level of competence can be achieved by reasonable preparation.

¹ Section 5.07 of the ACFE Bylaws defines a crime of moral turpitude as one that calls into question the integrity and judgment of the offender and includes but is not limited to offenses such as bribery, fraud, corruption, solicitation, embezzlement, theft by a fiduciary or trustee, or theft by trick, deceit or false pretenses.

CFEs should refrain from taking cases in which they lack the knowledge, skills, or experience to provide competent services unless they can obtain the necessary expertise to establish competence prior to the engagement, or they associate with someone of established competence in the field in question. A CFE may have significant expertise in one area of practice but lack competence to handle other types of cases. For example, a CFE whose sole experience is in health care fraud should refrain from taking a bankruptcy fraud case unless he/she can obtain the necessary expertise to establish competence prior to the engagement, or he/she is able to hire, engage, or consult with other professionals who do have the requisite competence. However, if the CFE does rely on third party expertise in this manner, doing so does not absolve the CFE of his/her responsibilities to oversee the engagement and to ensure that competent services are delivered to the client/employer. At a minimum, the CFE must have sufficient expertise to determine if those operating under his/her direction have the requisite knowledge, skills, and abilities to perform their assigned tasks.

1.6.1 – Continuing Education

CFEs shall maintain the minimum amount of continuing professional education required by the ACFE.

Guidance

CFEs shall continually strive to increase the level of competence and effectiveness of their professional services by maintaining appropriate continuing professional education (CPE). CPE requirements are set by the ACFE Board of Regents and are subject to change. These requirements are published by ACFE on its website. It is the CFE's responsibility to know what CPE requirements have been established by the Board of Regents. CFEs must maintain the minimum levels of CPE as dictated by the Board and must certify their compliance with CPE requirements.

Section 1.7 – Due Professional Care

CFEs shall exercise due professional care in the performance of their services. Due professional care requires diligence, critical analysis, and professional skepticism in discharging professional responsibilities.

Guidance

Due professional care can be defined as the care that a reasonable person in the same profession and in the same situation would exercise to achieve the desired results.

The standard of due professional care requires that CFEs utilize techniques and approaches that are accurate, professional, ethical, and legal when compared to others in the profession. A useful question to ask when considering whether one has exercised due professional care

is: If another CFE with expertise in this field was brought in to critique my work, would that CFE generally utilize the same or similar approaches and make the same or similar decisions in conducting the examination? If the answer is no, then it is possible that the primary CFE was not utilizing due professional care.

Section 1.8 – Confidentiality

CFEs shall not disclose confidential or privileged information obtained during the course of a professional engagement without the express permission of the client/employer or another appropriate authority.

Guidance

Due to the nature of the anti-fraud profession, CFEs often will come into contact with sensitive, privileged, or otherwise confidential information. It is imperative that CFEs maintain integrity and trustworthiness and safeguard such information from unauthorized viewing or disclosure.

CFEs must maintain confidentiality regarding the sharing of information outside of the scope of their responsibilities until directed by an appropriate authority to turn over confidential information. The appropriate authority could be the client/employer, a judicial or legislative body, or an investigative review board, depending on the circumstances.

1.8.1 – Unauthorized Use of Confidential Information

CFEs shall not use sensitive, privileged, or otherwise confidential information obtained during the course of a professional engagement for their own personal benefit or profit or for the benefit of their family members, friends, or business associates.

Guidance

When a CFE is made privy to a client/employer's sensitive, privileged, or otherwise confidential information, such information must be used only in furtherance of his/her professional responsibilities. Any other use of confidential information, without the client/employer's knowledge and consent, is prohibited—particularly if such use is for the CFE's personal benefit. For example, a CFE who uses a client's customer database to promote his/her own services would be in violation of this standard. The same would be true of a CFE who buys or sells stock based on confidential financial information that he/she obtained during a fraud examination or other professional engagement.

2.0 – Standards of Client/Employer Interaction and Communication

Every client and every professional engagement is unique in terms of circumstances, scope, expectations, compensation, subject matter, and so on. But regardless of the differences, there are several standards to which CFEs should adhere in order to ensure that there is mutual understanding with clients/employers regarding the terms and conditions of the engagement. Proper planning, communication, on-going assessment and follow-up with the client/employer are essential to CFEs and to the success of the engagement.

Section 2.1 – Initial Scope Agreement

At the beginning of a fraud examination, CFEs shall reach an agreement with those retaining them (client or employer) about the scope and limitations of the fraud examination and the responsibilities of all parties involved.

Guidance

The initial scope agreement is the most critical piece of pre-engagement communication CFEs have with the client/employer. The initial scope may consist of a formal written contract, a client engagement letter, or in some circumstances an oral understanding with the client/employer. Examples of basic information that should be considered in the initial scope agreement include:

- Predication and/or allegation/concern to be investigated
- Timeliness or urgency of the engagement
- Compensation
- Requirements for status updates and ongoing communication
- Final report guidelines and/or format
- Confidentiality requirements
- Authorized contact(s) for the client/employer who can approve changes to the scope of the examination.
- Expertise and/or resources (e.g., equipment, software, etc.) required for the examination
- Supporting assistance, if any, needed from the client/employer
- Expected completion date or timeline
- Specific responsibilities of the CFE, client/employer, and other parties involved in the engagement

It is generally preferable for the initial scope agreement to be in writing in order to clarify the terms and help preclude subsequent disagreements or confusion as to the nature of the engagement or the expected outcome. However, in some circumstances it may not be practical to enter into a written agreement with the client/employer. Oral agreements are not prohibited, but when they are used it is recommended that the CFE document the terms and

conditions in his/her own notes or file and make every effort to communicate the CFE's understanding of the engagement's key terms to the client/employer in a clear and unambiguous manner.

In no case should a CFE guarantee an outcome for the client/employer. The results of the engagement should always be based on the facts uncovered during the engagement.

Section 2.2 – Ongoing Communication

Throughout the engagement, CFEs shall communicate openly with those retaining them about the status of the engagement. Whenever the scope or limitations of a fraud examination or the responsibilities of the parties change significantly, a new understanding shall be reached with the client/employer.

Guidance

This standard seeks to serve three purposes. First, ongoing communication will help ensure that the CFE keeps the client/employer informed about the progress of the engagement. Second, communication will provide assurance to the client/employer that the CFE is performing his/her duties in accordance with the initial scope agreement. Third, it will enable the CFE and client/employer to make necessary changes to the scope or focus of the engagement as new facts or information becomes known.

CFEs should be cognizant of changes in scope where the engagement grows outside of the original concerns or issues, particularly when such changes will likely increase the costs or length of the examination. In such instances, the CFE should openly communicate the changes to the client/employer. This allows the CFE along with the client/employer to:

- Assess how to continue from a monetary and legal standpoint.
- Protect CFEs from complaints that the final engagement costs were larger than originally agreed upon or that the engagement lasted longer than expected.
- Ensure that CFEs have adequate predication to delve into new areas that arise during an engagement.

This standard does not necessarily require that CFEs and their clients/employers enter into a new, written scope agreement every time the scope of an engagement changes. As noted in Standard 2.1, the scope of an engagement can be amended based on an oral understanding. But when the scope is amended based on an oral understanding, the CFE should document the revised terms and conditions in his/her file and make every effort to communicate the CFE's understanding of the revised terms of the engagement to the client/employer in a clear and unambiguous manner.

Section 2.3 – Consideration of Client Cost

CFEs should always be cognizant of the ongoing cost to the client/employer during the course of professional engagements.

Guidance

The costs of a professional engagement can expand quickly. If, during the course of an engagement, it becomes reasonably apparent that the costs of the engagement will materially exceed those authorized under the original agreement with the client/employer, the CFE should not proceed until the client/employer has approved the cost change.

Section 2.4 – Conscious Disregard for Responsibilities

CFEs shall not knowingly neglect or disregard their responsibilities owed to clients/employers during the course of engagements.

Guidance

CFEs are expected to hold themselves accountable to the promises and agreements they make to clients/employers. CFEs who purposefully fail to deliver promised services, work product, or documentation cast a shadow on the CFE designation.

Section 2.5 – Awareness of Client/Employer Manipulation

CFEs shall remain alert and vigilant to the possibility that the client/employer has retained the services of the CFE to further a fraudulent or unethical business dealing.

Guidance

CFEs should always be aware of the motives of clients/employers. In most instances these motives are positive and constructive; i.e. identify fraud, waste and abuse, remove wrongdoers, or improve a business. In instances where the motives are less than honorable, a CFE could become an unwitting pawn in advancing a client/employer's inappropriate goals, i.e. misdirection from a larger fraud, targeting a scapegoat to conceal the misdeeds of another, or retaliating against whistleblowers and other innocent parties. If a CFE becomes reasonably certain that the motives of the client are fraudulent or unethical and that the CFE's services are being utilized for inappropriate purposes, the CFE should resign the engagement or report the CFE's concerns about the client/employer's improper motives, provided that such a report does not violate the CFE's duty of confidentiality to the client/employer.

Section 2.6 – Duty to Self-Report Material Errors and Omissions

CFEs shall notify their clients/employers of any situation or circumstance in which the CFE generated any material errors or omissions in association with the engagement.

Guidance

This Standard is an extension of Standard 1.2 – Truthfulness, which requires CFEs to be truthful in their communications, findings, and professional dealings. A CFE who knowingly fails to notify his client/employer of a material error or omission and thereby allows the client/employer to proceed based on incomplete or inaccurate information does not fulfill his/her duty of truthfulness to the client.

3.0 – Standards of Examination

Section 3.1 – Fraud Examinations

CFEs shall conduct fraud examinations in a legal, professional, and thorough manner. The CFE's objective shall be to obtain evidence and information that is complete, reliable, and relevant.

Guidance

Fraud examination refers to a process of resolving allegations of fraud from inception to disposition, and it is the primary function of the anti-fraud professional. The fraud examination process encompasses a variety of tasks that include taking statements, analyzing and reviewing relevant records and documents, interviewing individuals, writing reports, testifying to findings, and assisting in the detection and prevention of fraud.

Every fraud examination is different and may demand a different approach and methods of deployment. Examinations can take different directions, requiring expertise covering various disciplines, and can present a variety of legal considerations. Regardless of the challenges posed by fraud examinations, CFEs should remain professional and conduct the examination in a complete and thorough manner. CFEs should not cut corners, make leaps of faith or broad assumptions, or allow others to influence the outcome of their examinations. CFEs should strive to present facts in an impartial, unbiased, and fair manner.

While this standard requires CFEs to conduct thorough examinations and obtain evidence that is complete, it does not require CFEs to expand the scope of their engagements to follow every evidence trail or perform services not contemplated by the client/employer. A CFE will not violate this standard if he/she fails to collect evidence or follow leads that are outside the scope of the examination agreed upon by the CFE and client/employer, but the CFE must, within the defined scope of work for the engagement, make every effort to obtain evidence that is complete, reliable, relevant, and thorough.

If, during the course of a fraud examination, a CFE determines that he/she cannot conduct a legal, professional, and thorough examination due to limitations imposed by the client/employer, the CFE should raise these concerns with the client/employer and document such communications. If scope limitations are such that the CFE reasonably believes the end result of the examination will be misleading or inaccurate (for example, if a client directs a CFE to examine only transactions made by one employee where evidence suggests that others may have been involved in a fraud), then the CFE may be required to resign the engagement, depending on the circumstances.

Section 3.2 – Examination Preparation

CFEs' professional services should be adequately planned. Planning controls the performance of a fraud examination from inception through completion, and it involves developing strategies and objectives for performing the agreed upon services.

Guidance

Preparation is a critical step in any fraud examination. Often the success or failure of the examination can be attributed simply to the planning phase.

Before accepting a professional engagement, CFEs should ask a series of questions designed to prepare them for the examination. Some example questions include:

- Do I have the right expertise to conduct this examination?
- Do I have adequate resources to conduct this examination, including intellectual resources, physical resources, and monetary resources?
- Do I have documented policies and procedures on how my staff and I will conduct the examination, interview individuals, handle evidence, report our findings?
- Where are the information, documents, and data pertinent to the examination housed? Do I have the expertise to export and analyze it?
- Who are the relevant parties, potential witnesses, subject matter experts, and possible suspects? Who do I interview first, last? Which individuals might have ulterior motives?
- Might there be involvement by the media? How will I handle media requests for information about the case?

CFEs should never accept and begin fraud examinations without ensuring that they are adequately prepared for what may lie ahead. Proper planning can lead to a successful examination and the delivery of professional services.

Section 3.3 – Predication

CFEs shall establish predication at the outset of a fraud examination and continuously reevaluate predication as the examination proceeds. Members shall strive for efficiency in their examination.

Guidance

Predication is the totality of circumstances that would lead a reasonable, professionally trained, and prudent individual to believe a fraud has occurred, is occurring, and/or will occur. In other words, predication is the basis upon which an examination is commenced. CFEs should not conduct fraud examinations without proper predication. As a fraud examination progresses and as new information emerges, the CFE should continually re-evaluate whether there is adequate predication to take each additional step in the examination.

This standard applies only to the conduct of fraud examinations as that term is defined by these Standards and does not bar CFEs from accepting other forms of engagements in circumstances where predication is lacking. For example, predication is not required for a CFE to conduct a risk assessment, to provide consulting services or to conduct a non-forensic internal or external audit.

Section 3.4 – Use of Third Parties

When a third party performs work at the request of, or under the supervision of, a CFE, the CFE shall adequately supervise the work of the third parties. The extent of supervision required will vary depending on the complexities of the work and the qualifications of the third parties.

Guidance

In some situations, it might be necessary to employ outside specialists in a particular field to assist with a fraud examination. And although *Standard 1.6 – Professional Competence* provides that it is permissible for CFEs to retain third-party services to assist in an examination, that Standard does not absolve CFEs of the overall responsibilities for supervising the engagement. CFEs must direct and supervise the work that is done on their behalf and ensure that third parties adhere to and follow the same standards required of CFEs.

3.4.1 – Accuracy of Third Party Work

The CFE shall assume responsibility for the accuracy and completeness of the work performed by assistants, subordinates, consultants, or other individuals employed or directed by the CFE. The work performed by third parties under direction of the CFE must satisfy these Standards.

Section 3.5 – Document and Evidence Collection

CFEs should apply appropriate procedures addressing how documents and evidence are collected, generated, maintained, reported, and safeguarded during an examination.

Guidance

In most fraud examinations, CFEs will confront significant amounts of information, some of which might be relevant to the examination and some which might not. Evidence can be defined as all the information that influences a decision-maker in reaching decisions. *Relevant evidence* is evidence that tends to make some fact in issue more or less likely than it would be without the evidence. For example, in a check forgery examination, a piece of notebook paper showing an employee had practiced writing the signature that was forged on the fraudulent check might be relevant to show that the employee was preparing to convert the forged check.

CFEs should strive to thoroughly review, identify, collect, and report on all information and evidence that is relevant to the examination. CFEs must be competent in their abilities to know what information and evidence is relevant and what is not. If, during a fraud examination, the CFE determines that the amount of relevant information is more than the CFE can manage in a cost effective and professional manner, the CFE should seek additional resources or support and promptly report the change in scope to his/her client/employer.

A CFE's work product may vary with the circumstances of each fraud examination. The extent of documents and evidence that needs to be collected, generated, maintained, reported, and safeguarded is subject to the needs and objectives of the CFE, client/employer.

If the client/employer has appropriate procedures addressing how documents and evidence are to be collected, generated, maintained, reported and safeguarded, then the CFE should adhere to the client/employer's procedures. But in circumstances where the client/employer does not have appropriate procedures, the CFE should establish and adhere to procedures that adequately preserve and establish the authenticity of the collected documents and evidence relevant to the examination.

3.5.1 – Documentation Control

CFEs shall be cognizant of the chain of custody including origin, possession, and disposition of relevant evidence and material. CFEs shall strive to preserve the integrity of relevant evidence and material.

Guidance

Once relevant evidence is identified during an examination, the CFE must ensure that the evidence is properly acquired and safeguarded.

CFEs must be aware of the potential for litigation in any fraud examination, and because documents make up so much of the evidence in fraud cases, CFEs should employ appropriate collection practices so that relevant documents obtained in an examination will later be accepted by a court of law. Appropriate collection practices are especially important for electronic data, which is often more susceptible to inadvertent or intentional alteration than tangible information.

Accordingly, employing appropriate evidence collection practices is critical to every fraud examination. Accidentally deleting a hard drive containing relevant evidence, over-writing critical files, or spilling coffee on an original, forged document could alter the outcome of an examination and affect any future disciplinary or legal action that the client/employer may wish to pursue.

Some examples of document control considerations are:

- *Protect the evidence integrity* (i.e., protect the ability to show that the evidence has not been altered or damaged) by establishing how original documents will be acquired, used, protected, and analyzed.
- *Adhere to record retention guidelines* that establish the length of time that paper and electronic work product and evidence will be kept after the examination is

completed. The record retention policies might also include guidelines on how evidence is to be catalogued, recorded, tracked and destroyed.

- *Maintain chain of custody* procedures when necessary. The chain of custody is both a process and a document that memorializes who has had possession of an object and what that party has done with it. The chain-of-custody document records the route that evidence takes from its initial possession until its final disposition. Establishing the chain of custody for a document ensures that the item has not been altered or changed from the time it was collected through its production in court.

3.5.2 – Exculpatory and Inculpatory Evidence

CFEs shall consider both exculpatory and inculpatory evidence.

Guidance

CFEs are tasked with uncovering and reporting all facts and evidence relevant to an examination and this includes both exculpatory and inculpatory evidence.

Exculpatory evidence is evidence which tends to show that shows an individual is not guilty, had no criminal intent, and/or was justified in his or her actions. For example, in an inventory theft case, travel records showing that an employee was out of town when the thefts occurred would tend to exculpate that employee from charges that he personally removed the items from the warehouse.

Inculpatory evidence is evidence that helps establish the guilt of an individual. Returning to the inventory theft example, video footage showing the inventory manager taking items from inventory and placing them in his car would tend to incriminate the manager and thus would be considered inculpatory evidence.

CFEs must be truthful in their findings (see Standard 1.2 -- Truthfulness), they must maintain objectivity in their professional responsibilities at all times (See Standard 1.3 – Objectivity), and they must base their opinions and conclusions on the facts of the case. Therefore, before rendering any opinions or conclusions, CFEs must consider all relevant evidence, regardless of which side the evidence favors or what it proves or disproves.

When considering evidence, CFEs may decide how much weight should be given to various pieces of evidence. This standard does not prohibit CFEs from making judgments about the relative quality or persuasiveness of evidence, and it does not prohibit CFEs from rendering opinions that may be contradicted by some evidence. CFEs, however, cannot refuse to consider evidence because it tends to favor one possible conclusion over another. Often, CFEs will encounter evidence that exculpates a particular individual and additional evidence that inculpates that same individual. When a CFE faces such circumstances, the CFE should report that

he/she considered the contradictory evidence and explain the reasons why he/she gave more weight to one type of evidence than the other.

3.5.3 – Destruction of Evidence

CFEs shall at no time intentionally tamper with, destroy, fabricate, or alter evidence that is relevant to an examination.

3.5.4 – Exclusion of Evidence

CFEs shall not intentionally exclude any information or evidence that would change the outcome of the findings, or the report on the findings, of an examination.

3.5.5 – Deceptive Misrepresentation

CFEs shall not misrepresent, skew, suppress, or fabricate any information or findings of an examination.

Section 3.6 – Potential for Witness Bias and Motive

CFEs should be alert to the possibility of conjecture, deceit, unsubstantiated opinions, and bias among witnesses and others.

Guidance

Witness statements can be very important to fraud examinations. Frequently, witness testimony is an important element in determining facts. Witness testimony is often used to fill in the gaps of the paper record, and it may be the only way to introduce certain documents into evidence. Moreover, witness testimony can corroborate witness' accounts, provide leads for questioning, support witness testimony, and give CFEs a better understanding of the underlying facts. Also, the evidence provided by a witness can lead to a suspect's confession, particularly when multiple witnesses are available.

Given the importance of witness testimony, CFEs must be aware that witnesses might be motivated by something other than the quest for truth. Accordingly, CFEs should be cognizant of the potential motives witnesses might have for lying, and they should strive to protect the examination from witness bias and motive.

Some possible improper motives of witnesses include:

- A witness might be motivated to cover up his/her own wrongdoing or deflect suspicion away from himself/herself.
- A witness might be motivated by a grudge he/she has against the suspected wrongdoer.
- A witness might be motivated to protect others from getting in trouble.
- A witness might be motivated to avoid confrontation.

- A witness might be motivated to fabricate reasons for terminating the suspected wrongdoer.
- A witness might be motivated to deflect blame for the wrongdoing.
- A witness might be motivated to see the perceived perpetrators suffer punishment.

Section 3.7 – Examination Findings Supported by Evidence

CFEs' conclusions shall be supported with evidence that is relevant, reliable, and sufficient.

Guidance

CFEs must use relevant, reliable, and sufficient evidence to support their findings and conclusions. *Relevant evidence* is evidence that tends to make some fact in issue more or less likely than it would be without the evidence. Evidence that has no relationship to any of the issues in the case is irrelevant. *Reliable evidence* is evidence that it comes from a reasonably credible source. Evidence is *sufficient* to support a CFE's findings and conclusions where the weight of the evidence is such that a reasonable professional could draw the same or a similar conclusion to that of the CFE.

3.7.1 – Free from Influence

Examination findings and conclusions shall be free from influence by the personal feelings or interests of the CFE, client/employer, or any other parties involved. Findings and conclusions shall not be influenced by, or fabricated on behalf of, the client/employer or other interested parties.

4.0 – Standards of Reporting

CFEs must report the results of fraud examinations to the clients/employers, but because CFEs operate in different industries, countries, markets, professions and cultures, and under different sets of circumstances, no single report format can cover every examination. Nonetheless, there are basic standards for reporting to which CFEs should adhere.

Section 4.1 –Form of the Examination Report

CFEs' reports may be oral or written. The report should adequately represent the facts and findings of the examination and be free from bias and misleading information.

Guidance

Although most fraud examination reports will be written, an oral report may be preferable in some cases. Whether the CFE's client/employer is best served by an oral or written report will depend on the facts of each situation, and it is a matter that should be discussed with the client/employer's management and with legal counsel.

In determining whether to provide a written or oral report, those making the decision should consider a number of factors, including:

- A written report provides for easy review of the examination, which can provide valuable aid in deciding what action, if any, to take in attending to the situation.
- A written report provides tangible evidence concerning what was reported, but it can provide a guide for adverse parties.
- A written report commits its author to a particular version of the facts that may be contradicted by later discoveries.
- Oral reports are less susceptible to legal discovery than written reports.
- Oral reports provide the best protection against waiver of legal privileges or protection against legal discovery because any distribution of a written report increases the possibility that available protections will be waived.

Although the results of an examination can be communicated in various ways, written reports are the most common method. Such reports are normally used for internal reporting purposes, but they may also be a formal report to the court, a report to a prosecutor or law enforcement agency, or a report to an insurance company in support of a claim

Where possible, a written report documenting the examination's findings is preferred, but not required.

Regardless of whether the examination report is written or oral, it must be accurate and all facts should be reported without bias. Reports are designed to communicate the examiner's specific activities and findings, to comply with policies and procedures, and, in some cases, to satisfy legal requirements. Accordingly, the information in a report must be accurate so that its end users will know what transpired.

Section 4.2 – Content of the Examination Report

CFEs' reports shall be based on information that is relevant, reliable, and sufficient to support the facts, conclusions, opinions, and/or recommendations contained therein. Reports shall be confined to subject matter, principles, and methodologies within the CFE's area of knowledge, skill, experience, training, and/or education, or the knowledge, skill, experience, training and/or education of third parties operating under the CFE's direction and in accordance with these Standards.

Guidance

In general, the purpose of examination reports is to establish and document relevant facts, reach appropriate conclusions based on the available evidence, and determine an appropriate response. Accordingly, CFEs must base their reports on relevant facts (i.e., facts that tend to make the existence of any fact at issue more probable or less probable than it would be without the evidence). When a CFE is drafting a report, he should not guess or make assumptions. Also, examination reports shall be based on reliable information (i.e., information comes from a reasonably credible source). Finally, examination reports shall be based on information sufficient to support a CFE's findings and conclusions.

Section 4.3 – Opinions

No opinion shall be expressed regarding the legal guilt or innocence of any person or party.

Guidance

CFEs must be cautious about stating opinions.

Generally, in a reporting context, a CFE's job is to present the evidence in his/her report along with reasonable conclusions derived therefrom. Such evidence might establish a convincing case pointing to the guilt or innocence of a particular party, but reports should not include opinions regarding the guilt or innocence of any party involved. Determining whether a person is guilty or innocent of a crime is not a decision for CFEs; it is a decision that is reserved for a judge or jury.

The ACFE Code of Professional Ethics specifically prohibits CFEs from making statements of opinion as to guilt or innocence of any person or party involved in an examination. Specifically, Article Five of the Code of Professional Ethics states: "A fraud examiner, in conducting examinations, will obtain evidence or other documentation to establish a reasonable basis for any opinion rendered. No opinion shall be expressed regarding the guilt or innocence of any person or party."

Similarly, CFEs should be careful not to include any statement of opinion as to the integrity or veracity of any witness, even if they are convinced that a witness is being untruthful. Instead, CFEs should demonstrate truthfulness, or lack thereof, through conflicting facts or statements.

Opinions regarding technical matters, however, generally are permitted if the CFE is qualified as an expert in the matter being considered. For example, a permissible opinion might address the relative adequacy of an entity's internal controls. Likewise, a permissible opinion might discuss whether financial transactions conform to generally accepted accounting principles.

As a general rule, no opinions, other than opinions on technical matters, should be included in examination reports.

Although opinions generally should be avoided, CFEs may draw reasonable conclusions based on the evidence, but they must be very circumspect when doing so. Conclusions are based on observations of the evidence, whereas opinions call for an interpretation of the facts. For example, a CFE might conclude that the suspect employee stole money, misrepresented a transaction, or concealed funds. There is no prohibition in the Code of Professional Ethics on expressing such conclusions, provided the conclusions have a reasonable basis in fact.

5.0 – Standards of Enforcement

The continued advancement of the CFE designation as a standard of integrity, honesty, and professionalism in the anti-fraud profession, and the continued advancement of the CFE designation requires that all CFEs adhere to these Standards.

Section 5.1 –Reporting Violations

CFEs are required to report their own violations of these Standards to the ACFE, and they are encouraged to report any violations by other members. Any individual may report violations of these Standards by a third party.

Guidance

CFEs or third parties wishing to file a grievance against a CFE for violating these Standards may do so by sending a written statement of their complaint to the attention of the ACFE associate general counsel, who is responsible for investigating disciplinary complaints. There is no specific form the complaint must take; a letter or email is fine. The complainant should include a full explanation of the alleged misconduct along with any documentary evidence the complainant may have to support the allegations. Complaints may be sent to the following address:

The Association of Certified Fraud Examiners
Attn: Carrie Kelly, Associate General Counsel
716 West Avenue
Austin, TX 78701
ckelly@ACFE.com

For more information on ACFE disciplinary procedures, visit www.acfe.com.

Section 5.2 – Penalties

CFEs who knowingly violate these Standards may be subject to sanctions by ACFE up to and including termination of membership and loss of CFE designation.