

# DISTRICT FINANCIAL SERVICES INSIGHTS

## *Restricted Maintenance Account and Proposition 51*

Education Code (EC) section 17070.75 requires school districts to deposit 3 percent of total general fund expenditures to the restricted maintenance account (resource 8150.) This requirement was amended by AB 104, and adjusts the requirements for school districts as follows:

### **2016-17**

Deposit the lesser of:

- 2014-15 amount

OR

- 3% of total general fund expenditures

### **2017-18 through 2019-20**

Deposit the greater of:

- The lesser of 2014-15 amount OR 3% of total general fund expenditures

OR

- 2% of total general fund expenditures

Proposition 51 contains a provision to apportion funds as the Education Code read on January 1, 2015, which was before AB 104 was passed. This means that in the fiscal year after a district receives Proposition 51 funding, they must deposit the full 3% of total general fund expenditures in to the RMA. Prop 51 funding is expected in 2017-18, so this will likely affect district budgets beginning in 2018-19.

This is also a good time to review the language of EC 17070.75 (a)(2)(A), which states that school districts must

deposit in to the account “a minimum amount equal to or greater than 3 percent of the total general fund expenditures of the applicant school district, including other financing uses, for that fiscal year.” We often receive questions about the calculation of the required amount for the RMA. The SACS Criterion 7 pre-populates the Required Minimum Contribution on line 1 of the Interim reports with the amount from the Adopted Budget SACS report; however, this amount should only be used for budgeting purposes. The Ed Code does not use the term budget, and the expectation is that the contribution to resource 8150 is made at year-end, based on final actual general fund expenditures.

## *Using Independent Contractors in the Classroom*

When using independent contractors in the classroom, a district should refrain from using the term “teacher” and instead use docent, consultant, expert or other title. Under IRS regulations, a teacher who is giving direct instruction to students is not an independent contractor. Additionally, teachers are required to be certificated by the Commission on Teacher Credentialing.

Follow these steps to ensure you are in compliance. The Independent Contractor shall:

1. Not be left alone with the students at any time and must provide instruction in the present of a teacher. (Commission on Teacher Credentialing)
2. Provide their own materials, control their own work schedule, and be paid on their terms.

## **IMPORTANT / UPCOMING DATES AND DEADLINES**

### **IMPORTANT DATES**

April 24, 2017 P2 Attendance Reports

### **WORKSHOPS**

Apr. 28, 2017 Public Works Workshop  
May 1, 2017 Retirement Reporting Workshop  
May 24, 2017 FA Year-end Closing Workshop  
June 6, 2017 Retirement Reporting Workshop

### **FUTURE DEADLINES - PROP 39:**

June 30, 2018 LEA's final encumbrance  
August 1, 2018 Final Expenditure Plan Submission  
June 30, 2020 Final date all projects must be complete

3. Work on a project basis. Generally, independent contractors perform a specific scope and move on. Therefore, if they are contracted year after year for the entire school year or 180 days, there may be an employer-employee relationship established.
4. Provide services to other agencies or the general public. If they only work for you, they are not likely an Independent Contractor.

## Change Orders

Public Contract Code section 20118.4 provides as follows:

If any change or alteration of a contract governed by the provisions of Article 3 (commencing with Section 17595) of Chapter 5 of Part 10.5 of the Education Code is ordered by the governing board of the district, the change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

- (1) The amount specified in Section 20111 or 20114 whichever is applicable to the original contract; or
- (2) Ten percent of the original contract price.

This provision applies to all contracts and contracts entered into pursuant to Section 17595-17606 of the Education Code.

Note that the 10 percent rule applies to deductive change orders as well as additive ones as found in 18 Ops.Cal.Atty.Gen. 1, 3 (1951).

"In concluding that a school district could not, under competitive bidding laws, let a contract for a school building which was different from that called for in the "call for bids," the Attorney General noted as follows:

It would result in a contract for a lesser building than that bid upon by all of the parties. Furthermore, from the standpoint of other contractors, such a practice, if permissible, might mean that other prospective bidders are caused to refrain from submitting a bid. For example, if a building estimated to cost \$100,000 was advertised for, but the final agreement calls for a \$65,000 building [because after receipt of the bids the board deleted certain specifications in order to downsize the project and its cost], then it is quite conceivable that many contractors might have bid on the job who did not feel capable of handling a job 35 percent larger. 18 Ops.Cal.Atty.Gen. 1, 3 (1951).

The Attorney General then concluded that the effect of letting a contract for work to be done which is different from that called for in the published notice calling for bids is the same as letting a contract for which no bids have been called and violates the statutory competitive bidding requirement. See also 73 Ops.Cal.Atty.Gen. 417, 423 (1990)."

<http://www.calstrs.com/sites/main/files/file-attachments/ed2017-01.pdf>

This directive notifies employers of changes to education code sections contained in chapter 218, statues of 2016 (senate bill 1352), which affect employers and became effective January 1, 2017, except where otherwise indicated.

Please make a note of these new requirements on page 2.

- Permissive membership (es350) effective day first of month the day after the form is signed. Due to CalSTRS within 30 days.
- Retirement system election (es372) due to CalSTRS within 30 days.

Please ensure these forms are being sent into the retirement reporting unit, room 605 as soon as they are signed by your employees.

## Commercial Warrants Updates Workshop Materials

The PowerPoint for the workshop has been posted at:

- ➔ [www.sdcoe.net](http://www.sdcoe.net)
- ➔ Click on "Programs and Services"
- ➔ Business Services
- ➔ District Financial Services
- ➔ [Commercial Warrants](#)

The link is listed under "References" below "Workshop Materials"