

# ENTHEOS ACADEMY

EXCELLENCE • SERVICE • LEADERSHIP

## 3101 PROCUREMENT

### **I. Purpose**

- A. The purpose of this policy is to establish standards-governing the initiation, authorization, and review of all expenditures of the school.

### **II. Scope**

- A. These policies, guidelines, and procedures are applicable without exception to all funds owned or administered by Entheos.
- B. All expenditures of Entheos are to be consistent with applicable state and federal laws and regulations; any restrictions, rules, or regulations placed on the use of the funds by donors and granting agencies; and prudent management practices.
- C. Expenditures must be reasonable and necessary for carrying out the programs and activities of Entheos, and are to be documented in a way which clearly substantiates such reasonableness and necessity.
- D. This policy applies to all Entheos administration, licensed educators, staff, students, organizations, and individuals that initiate, authorize, or process cash disbursements on behalf of the school. The scope also includes all activities at the school and in all locations where Entheos activities and school funds are expended.
- E. It is expected that in all dealings, Entheos employees will act in an ethical manner that is consistent with the school's code of ethics, the Utah Educators' Standards, the Public Officers' and Employees' Ethics Act, and State procurement law in as much as these apply and are binding on charter schools.

### **IV. Definitions**

- A. "Annual Cumulative Threshold" means the maximum total annual amount that Entheos can expend to obtain procurement item(s) from the same vendor during the fiscal year (July 1—June 30).
- B. "Contract Administrator" means a person who administers a current contract, on behalf of Entheos, including making payments relating to the contract, ensuring

compliance with the contract, auditing a contractor in relation to the contract, or enforcing the contract (Utah Code 63G-6a-2304.5).

- C. “Gratuity” means anything of value, including money, a loan at an interest rate below the market value or with terms that are more advantageous to the person receiving the loan than terms offered generally on the market, an award, employment, admission to an event, a meal, lodging, travel, or entertainment for which a charge is normally made (Utah Code 63G-6a-2304.5).
- D. “Hospitality Gift” means a promotional or hospitality item, including a pen, pencil, stationery, toy, pin, trinket, snack, nonalcoholic beverage, or appetizer. This does not include money, a meal, a ticket, admittance to an event, entertainment for which a charge is normally made, travel, or lodging (Utah Code 63G-6a-2304.5).
- E. “Individual Procurement Threshold” means the maximum amount that Entheos can expend to obtain a single item/service from one vendor at one time without requiring competitive purchasing (Utah Code 63G-6a-408).
- F. “Interested Person” means a person interested in any way in the sale of a procurement item or insurance to Entheos (Utah Code 63G-6a-2304.5).
- G. “Kickback” means a gratuity given in exchange for favorable treatment in a pending procurement or the administration of a contract (Utah Code 63G-6a-2304.5).
- H. “Procurement Participant” means a person involved in:
  - 1. Administering, conducting, or making decisions regarding a standard procurement process.
  - 2. Making a recommendation regarding the award of a contract or regarding a decision to obtain a procurement item for a particular person.
  - 3. Evaluating a quote, bid, or response.
  - 4. Awarding a contract or otherwise making a decision to obtain a procurement item from a particular person (Utah Code 63G-6a-2304.5).
- I.
  - A. “School Funds” means money, funds, and accounts, held, or administered by Entheos Academy. “Single Procurement Aggregate Threshold” means the maximum amount that Entheos can expend to obtain any combination of individual procurement items or services from one vendor at one time (UCA 63G-6a-408).
  - B. “Small Purchase” means the procurement of goods or services for which the total cost is less than \$50,000.
  - C. “Staff Budgets” means funds allocated to recipient teachers or groups of teachers to purchase classroom or expedition supplies, adventure supplies and services, books for classrooms, and supplemental curriculum.

**V. Policy**

- A. Wherever possible, duties such as custody of purchase cards and blank checks, initiating expenditures, approving expenditures, maintaining documentation, issuing checks, and reconciling records should be segregated among different individuals.
- B. When segregation of duties is not possible due to the small size and limited staffing of Entheos, compensating controls such as management supervision and review of cash disbursement records by independent parties should be implemented.
- C. Individual board members shall not approve procurement transactions outside the specific requirements in this policy.
- D. All checks or check stock, credit/purchase cards, access to bank accounts and statements, etc. shall be secured and controlled by accounting and administrative personnel.
- E. The executive director is responsible for all school expenditures, including but not limited to the following methods of payment:
  - 1. Checks
  - 2. Credit card purchases (including the state P-card ‘purchasing card’)
  - 3. Transfers
  - 4. Payroll documentation
  - 5. Journal entries
- F. All purchases require the prior approval of the executive director or a campus director.
- G. Recurring bills shall be pre-authorized by the board and placed on a monthly bills list, which is maintained by the Business Manager and updated as needed by the executive director.
- H. Multi-year contracts are subject to the requirements of UCA 63G-6a-1204(7), as applicable.
- I. Staff Budgets
  - 1. Each teacher or group will be allocated an annual budget that they can spend without prior authorization. These budgets will be determined and disseminated in July by the director for the coming school year.
  - 2. Recipients receive monthly statements of their budget expenditures and balances.
  - 3. Recipients will not be reimbursed beyond their allocated budgets without receiving authorization for exceptions from their director.
  - 4. Reimbursement requests are submitted by using the purchase order form.
- J. Purchasing Thresholds

1. Purchases up to \$500 may be approved by a campus director.
  2. Purchases up to \$5,000 may be approved by the executive director.
  3. Purchases above \$5,000 require board approval.
  4. The “individual procurement threshold” is \$1,000.
  5. The “single procurement aggregate threshold” for Entheos is \$5,000.
  6. The “annual cumulative threshold” for Entheos is \$50,000.
  7. Purchases that exceed \$50,000 shall be processed through a bidding process or a request for proposal (RFP) process, consistent with UCA 63G-6a-408 and Board Rule R33-3.
  8. Recurring purchases that exceed the annual cumulative threshold shall be authorized by a written agreement, consistent with (UCA 63G-6a-408(6)).
  9. Professional services, such as architectural, engineering, accounting, legal, or consulting services less than \$100,001 shall be acquired using a competitive bidding or RFP process, or by selecting a provider from an approved potential vendor list created using an invitation for bids or an RFP under provisions in Utah Code 63G-6a-403 and 404.
- K. Artificially Dividing a Purchase
1. Utah Code 63G-6a-408 makes it unlawful to intentionally divide a procurement purchase into one or more smaller purchases to divide an invoice into two or more invoices or to make smaller purchases over a period of time.
  2. This means that intentionally splitting a purchase of similar items that would typically be purchased at the same time from the same vendor to avoid requiring competitive quotes is unlawful (e.g., uniforms, club or athletic equipment, textbook orders, etc.). This includes dividing the purchases or invoices over a period of time or making separate purchases over a period of time. Purchase splitting often occurs when making purchases on a purchase card. Employees should not split invoices to stay under daily purchase limits on purchase cards or the established purchasing thresholds.
  3. It may be determined after an order is placed or received that a large enough quantity was not ordered or the correct sizes were not obtained, and that additional items must be ordered. If this occurs, the employee initiating the purchase must include a written explanation of the purpose of the purchase and justification as to why it is not considered splitting a purchase. This should be retained with the vendor invoice.
  4. Penalties for violating this statute are outlined in Utah Code 63G-6a-2305 and 2306.
- L. All transactions shall be recorded.

- M. Checks shall be made payable to specified payees and never to “cash” or “bearer.”
- N. All disbursement activity shall be substantiated by supporting documentations of documents, proper disbursement controls (signatures for approval, receipts, invoices, bids, reimbursement forms, travel forms, journal entries, reconciliations, etc.).
- O. Documentation of procurement costs may be obtained from a website or by contacting vendors directly and shall include the date a bid is received or that a price is valid, delivery date, company name and address, an itemized description or specifications for each item or unit, total price and quantity, and shipping and freight charges.
- P. Bank and Bond statements shall be reviewed and signed by the board treasurer.
- Q. All accounts shall be reconciled in a timely manner.
- R. Procurement activities shall comply with Utah Procurement Code and federal purchasing laws, as applicable.
- S. Construction and facility improvements are subject to the provisions of Utah Procurement Code (UCA 63G-6a), Utah State Board Administrative Rules, and other regulations, as applicable.
- T. Purchases of goods or services with Entheos funds for personal use or personal gain are strictly prohibited; see the Utah Public Officers’ and Employees’ Ethics Act (Utah Code 67-16).
- U. Multi-year contracts must comply with Utah Code 63G-6a-1204, as applicable to charter schools.
- V. Construction and improvements must comply with the provisions in Utah Code 63G-6a.

### **I. Hospitality Gifts, Gratuities, Kickbacks, or Position and Influence**

- A. “Contract administrator” means a person who administers a current contract, on UCA 63G-6a-2304.5 states that the total value of all hospitality gifts given, offered, or promised to, or received or accepted by the “procurement participant” or “contract administrator” in relation to a particular procurement or contract must be less than \$10; the total value of all hospitality gifts given, offered or promised to, or received or accepted by, the “procurement participant” or “contract administrator” from any one person, vendor, bidder, responder, or contractor in a fiscal year must be less than \$50.
- B. Any hospitality gift exceeding the \$10 and \$50 threshold is considered a gratuity, and the provisions below apply.
- C. Unlawful Gratuities (UCA 63G-6a-2304.5)

1. It is unlawful for an “interested person” to give, offer, or promise to give a gratuity to a “procurement participant” or an individual the person knows is a family member of the procurement participant.
2. It is unlawful for a “procurement participant” to ask, receive, offer to receive, accept, or ask for a promise to receive a gratuity from an “interested person.”
3. It is unlawful for a contractor to give a gratuity to a “contract administrator” of the contractor’s contract or an individual the contractor knows is a family member of a “contract administrator” of the contractor’s contract.
4. It is unlawful for a “contract administrator” of a contract to ask, receive, offer to receive, accept, or ask for a promise to receive, for the “contract administrator” or a family member of a “contract administrator,” a gratuity from a contractor for that contract.
5. Entheos Academy shall report violations of this statute to the Utah Attorney General, as required by law.
6. Penalties for violating UCA-63G-6a-2304.5 and 2306.
  - a. Interested person and contractors: penalties range from a class B misdemeanor to a second degree felony.
  - b. Procurement participant and contract administrator: penalties range from a class B misdemeanor to a second degree felony and make employees subject to disciplinary action up to and including dismissal from employment.

### D. Unlawful Kickbacks (UCA 63G-6a-2304.5)

1. It is unlawful for a person to give, offer, or promise to give a “kickback” to a “procurement participant” or to another person for the benefit of a “procurement participant.”
2. It is unlawful for a “procurement participant” to ask, receive, offer to receive, accept or ask for a promise to receive a kickback for the “procurement participant” or for another person.
3. It is unlawful for a person to give a kickback to a “contract administrator,” or to another person for the benefit of a “contract administrator.”
4. It is unlawful for a “contract administrator” to ask, receive, offer to receive, accept, or ask for a promise to receive a kickback for the “contract administrator” or for another person.
5. Entheos Academy shall report violations of this statute to the Utah Attorney General, as required by law.
6. Penalties for violation (UCA 63G-6a-2304.5 and 2306).

7. Person and contractors: penalties range from a class B misdemeanor to a second degree felony.
  - a. Procurement participant and contract administrator: penalties range from a class B misdemeanor to a second degree felony and individuals are subject to disciplinary action up to and including dismissal from employment.
- E. Unlawful Position or Influence (UCA 63G-6a-2304.5 It is unlawful for a “procurement participant” to use the “procurement participant’s” position or influence to obtain a personal benefit for the “procurement participant,” or for a family member of the “procurement participant,” from an “interested person.”
  1. Entheos Academy shall report violations of this statute to the Utah Attorney General, as required by law.
  2. Penalties for violation (UCA 63G-6a-2304.5 and 2306).
    - a. Interested person: penalties range from a class B misdemeanor to a second degree felony.
    - b. Procurement participant: penalties range from a class B misdemeanor to a second degree felony and individuals are subject to disciplinary action up to and including dismissal from employment.