

From: "TGP Home" <[redacted]@optusnet.com.au>
To: "'Kathy at DTE'" <[redacted]@gmail.com>
Cc: "'Troy Reid'" <troy@dte.coop>, "'DTE Directors'" <directors@dte.coop>, <ocmail@dte.org.au>, "'DTE Governance & Statutory Compliance Committee'" <gsc@dte.coop>
Subject: RE: Supply Contracts
Date: Thu, 19 Nov 2020 09:56:14 +1100
X-Mailer: Microsoft Outlook 14.0

Dear All,

Troy wrote:

“Rather than see this as a territorial dispute between the Board and the OC, I think this issue has the potential for the Board and the OC to work together with the GSC to find a collaborative solution in the best interests of the cooperative.”

I agree.

I don't think the implementation is covered by our rules therefore we need to work together to develop policies / procedures to be followed. I think it is great we are talking about this.

Another aspect to consider is the disconnect between appropriations and budgets. We do a lot of homework when trying to determine our requirements and setting appropriation amounts. BUT, this planning is often disregarded at committee level when approving budgets.

Regards,

Trev

From: Kathy at DTE [mailto:[redacted]@gmail.com]
Sent: Thursday, 19 November 2020 9:40 AM
To: TGP Home
Cc: Troy Reid; DTE Directors; ocmail@dte.org.au; DTE Governance & Statutory Compliance Committee
Subject: Re: Supply Contracts

Hi Trevor

I agree that only directors should sign ongoing contracts. Any ongoing contract should firstly be approved by the relevant committee. This is similar to the situation with payments; only directors can authorise payments from 'multiple-to-sign' accounts but the payment should firstly be authorised by the relevant committee or, in the case of appropriations, by a General Meeting.

I think no individual should make a commitment that extends beyond their current funding i.e. it would be OK for a facilitator to enter into a simple contract to have a piece of equipment repaired but not to sign an ongoing service agreement.

My issue with the direct debits on the OC account is that mostly there has been no OC agreement to authorise the direct debit. Also the OC does not usually see the invoice before (or after) the money is debited. It can create extra work as a FinCom volunteer might have to contact the company to get a copy of the invoice to enter into the accounting system.

Also, as well as avoiding the need for OC approval, I think direct debits may avoid the need for three directors to approve. I have been told by the Bendigo Bank that the authorisation of the direct debit is given to the supplier who passes it to the bank and the supplier has no way of checking that three signatories must approve. Bendigo Bank was unable to tell me who had authorised the 'surprise' direct debits that appeared on the OC account and suggested I contact the supplier.

Kathy Ernst

On Wed, 18 Nov 2020 at 09:09, TGP Home <[REDACTED]@usnet.com.au> wrote:

Dear All,

Good questions. I agree there is a policy gap.

Our rules say that the OC is responsible for the day to day running of the cooperative

BUT

The directors are responsible for the bank accounts and fiduciary oversight.

Personally I believe that the OC should decide what agreements DTE should commit to, and then (when necessary) the board executes the payment or enters into a supply contract.

Where direct debits are the preferred method of periodic payment of supply contracts then the OC should approve this as part of the approval process of the supply contract. I have no issue with direct debits being taken out of the OC account, as long as the OC has approved the initial agreement.

Regards,

Trev.

From: Troy Reid [<mailto:troy@dte.coop>]
Sent: Wednesday, 18 November 2020 8:47 AM
To: DTE Directors
Cc: ocmail@dte.org.au; DTE Governance & Statutory Compliance Committee (gsc@dte.coop)
Subject: RE: Supply Contracts

Hi all

The email thread below is an excellent opportunity to consider the issue of Supply Contracts to gain insight into the demarcation of responsibilities between the Board and the OC and help reduce friction from clearer understandings and expectations.

Here is a good initial question:

Do you believe the OC or its members can unilaterally commit the cooperative to contracts with suppliers?

A commercial contract for supply is a commitment to a continuation of supply with contingent liabilities, which is distinct from independent commercial transactions where there is no contract of continuation agreed to.

For example, a post-pay 24 month phone plan is a supply contract, whereas the occasional purchase of diesel fuel for our tractors from a retailer not supplying us credit is not a supply contract.

The engagement of bookkeepers, accountants, auditors, lawyers, etc. also represent contracts of supply of professional services usually with credit terms.

Note that the rental/room hire contract with CERES is a supply contract and at their request has always been signed/executed by one or more directors.

Storage facilities procured with a minimum-term lease is also a supply contract.

Most commercial supplier contracts provided to organisations require consent of officeholders because of the contingent liability associated with these contracts and suppliers are legally entitled to assume that the persons entering into contract on behalf of an incorporated body are an authorised representative of that incorporated body.

The OC has no officeholders or persons with delegated authority to legally act on behalf of the cooperative to commit it to contingent liabilities.

I suspect there is a policy gap here that the Board and GSC could give further consideration to. That is, the definition of a commercial supply contract and a policy of who can commit the cooperative to commercial supply contracts. Is there a cost threshold? (e.g. commercial supply contracts greater than \$X per year require Board consent and delegated execution).

Rather than see this as a territorial dispute between the Board and the OC, I think this issue has the potential for the Board and the OC to work together with the GSC to find a collaborative solution in the best interests of the cooperative.

Regards,

Troy

From: Kathy at DTE [redacted]@gmail.com>
Sent: Wednesday, 18 November 2020 7:30 AM
To: Mike Kennedy [redacted]com>
Cc: directors <Directors@dte.org.au>; directors@dte.coop
Subject: Re: Account in DEFAULT -0 57 days overdue

This needs to go to the OC. It is not a Board matter.

Regards

Kathy Ernst

On Tue, 17 Nov 2020 at 19:28, [redacted] wrote:

Dear Directors. I have received an email with final notice of account. This is for storage of DTE equipment. While the storage was only planned on being needed until February, Covid-19 lockdown and the cancelation of then festival meant the equipment could not be returned to site.

Once the NSW boarder is open I plan on delivering all equipment and the firstaid van to site.

In the interim then rent for storage needs to be paid, including arrears.

Should the Directors wish to cancel the lease sooner and arrange removal of the equipment someone will need to negotiate with the manager.

Regards: [REDACTED]

----- Forwarded message -----

From: Storage King Clayton [REDACTED] com.au>

Date: Tue, 17 Nov 2020 at 5:01 pm

Subject: Account in DEFAULT -0 57 days overdue

To: [REDACTED]

Cc: [REDACTED]

[REDACTED]

I can almost never get you guys by phone and you don't respond to my emails. Unfortunately as I can't talk about options with you I am left with no choice but to follow procedure.

At 42 days overdue (2/11/20) we emailed a final notice of intent to enter the unit and assess the goods it contains for sale or destruction in accordance with the terms of the storage agreement. I have not done so as yet in the hope you would respond to my contact attempts.

I know the circumstances surrounding the Co-Op are difficult but I am responsible for running this business and that involves processing debtors in line with our contract with the property owner. I am flexible to a degree and have already given you a free month to try to allow you time to deal with the storage.

A payment of \$560 is required immediately to avoid us taking the next step as described in our earlier correspondence. We must receive payment in full or you need to talk to us before Thursday 19/11 to make arrangements to settle the debt and vacate the unit.

I hope to hear from you and avoid the need to dispose of your goods.

[REDACTED]
Store Manager

[REDACTED] kleigh+South

[REDACTED] +Clarinda

[REDACTED] eking>
[REDACTED] gspot.com/>

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My photos online @ <http://community.webs.com> [REDACTED]
My Group online @ <http://groups.yahoo.com> [REDACTED]

"Life is a sexually transmitted condition with 100% mortality and birth is as safe as it gets." Unknown