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MEMORANDUM

DATE: September 27, 2007

TO: Local Education Agency (LEA) Title I Coordinators

FROM: Martha K. Asbury, Chief
Bureau of Contracts, Grants, and Procurement Management Services

SUBJECT: Contracts with Third-Party Contractors for Services to Private Schools

As you are aware, school districts and other local education agencies (LEAs) have an obligation under provisions of the No Child Left Behind Act to provide equitable services to students in private schools. These requirements are discussed extensively in the K-12: 2007-105 Technical Assistance Paper entitled, "Providing Services to Eligible Private School Children" (dated June 5, 2007 accessed at: <http://info.fldoe.org/docushare/dsweb/Get/Document-4455/k12-07-105memo.pdf>). One means of providing such services particularly relevant to the Title I, Part A, program is through the use of a third-party contractor. For LEAs choosing to use third-party contractors there are some specific considerations that must be taken into account. This memorandum is intended to provide districts with information that will assist in administering third-party contracts for the provision of services to private school students.

Administrative Costs

A third-party contractor hired by an LEA to provide services to private school students and teachers may incur administrative costs; however, such costs must be paid for from the LEA's administrative set-aside and may not be charged to the funds allocated for services to the private school students and teachers. The contract budget must identify the costs of overhead and profit (i.e., administrative costs) versus the costs for direct program services. The identification of such costs should be part of the procurement process and clearly identified in the contract so that the LEA can correctly attribute all administrative costs to the LEA administrative set-aside.

MARTHA K. ASBURY, BUREAU CHIEF
BUREAU OF CONTRACTS, GRANTS, & PROCUREMENT MANAGEMENT SERVICES

Purchase of Equipment

If the third-party contractor is using federal funds to purchase equipment for the school district, the contract needs to identify which party will retain ownership of the equipment. In most cases, this should be the LEA. It is recommended that the LEA retain control over purchasing all equipment for private schools rather than incorporating such purchases into the third-party contract. The obvious exception is when the contractor is using administrative funds to purchase equipment for administration of the contract rather than for direct service to private school students or teachers.

Contract Administration

As for any contract, the LEA must have in place a contract administration system for third-party contracts. Details of such requirements are specified in the Education Department General Administrative Regulations (EDGAR) in Section 80.36 (<http://www.ed.gov/policy/fund/reg/edgarReg/edlite-part80c.html>). Especially notable are the following considerations:

- ✓ The contract must contain clear and specific deliverables. It is not sufficient to state "administer the private school program," but must describe the specific services the vendor will carry out. This includes specification of the goods and services that will be delivered, when, where, and if relevant, who will be served (i.e., provide professional development training to 50 teachers). Payment should be specifically conditioned on the successful delivery of all deliverables. Payment must be tied to performance. It is not sufficient just to make monthly payments.
- ✓ Contractors must submit a written invoice that clearly describes what services and goods it delivered, when, where, and if relevant, who was served. This must match what was required in the contract. It is not sufficient for the third-party contractor to submit a monthly invoice that only states, "Services provided to private school students and teachers."
- ✓ The LEA must have a payment disbursement process in which an appropriate employee reviews the contract to determine if the services and goods met all contractual requirements, and the appropriate employee should also review evidence (such as a receiving report or other similar document) that the services and/or goods were properly delivered. If everything is in order, the employee should approve the invoice, and only then can it be paid.

LEAs are encouraged to review any existing contracts with third-party contractors and the contract administration procedures, and amend the contracts and procedures as necessary to ensure that these requirements are met. Questions regarding this information may be directed to me at 850/245-0735 or via email at martha.asbury@fldoe.org. Thank you for your attention to this important aspect of implementing your Title I, Part A, subgrant.