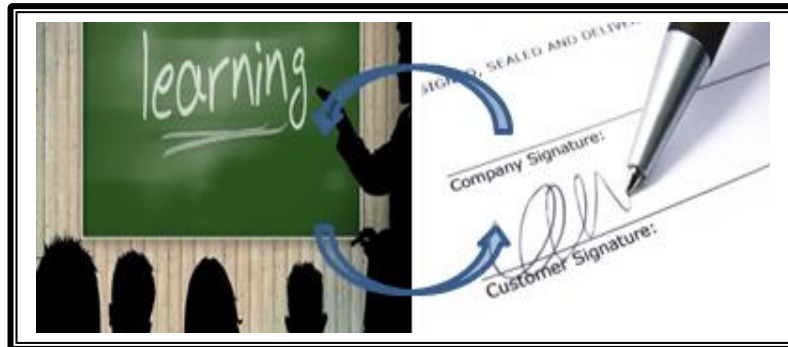


Miami-Dade County Public Schools Office of Management and Compliance Audits



AUDIT OF INSTRUCTIONAL SUPPORT SERVICES CONTRACTS AND AGREEMENTS



Providing instructional support content through contracted vendors is an effective delivery method; however, the development and management of these agreements could be improved. Also, potential exposure to identity theft exists and needs to be eliminated.

July 2016

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

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Superintendent of Schools

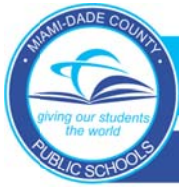
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Office of Management and Compliance Audits

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Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools

Alberto M. Carvalho

Chief Auditor

José F. Montes de Oca, CPA

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June 23, 2016

The Honorable Chair and Members of the School Board of Miami-Dade County, Florida
Members of the School Board Audit and Budget Advisory Committee
Mr. Alberto M. Carvalho, Superintendent of Schools

Ladies and Gentlemen:

In accordance with the 2012-13 Annual Audit Plan, approved by the School Board Audit and Budget Advisory Committee on September 11, 2012, and subsequently by the School Board on October 10, 2012, we have performed an audit of the contracts and agreements the District entered into for the purpose of providing various instructional support services for the benefit of its students and instructional staff. Some of the fieldwork for this audit was performed through July 2014, but due to the prioritizing of the audits of the Miami-Dade County Value Adjustment Board (VAB) and the Property Appraiser's Office (PA), we postponed the completion of this audit until both the VAB and PA audits were completed. Upon resumption of this audit, in order to determine whether the results of our earlier tests were still relevant, we updated our review and understanding of the current contracting procedures and practices and increased the audit sample to include a few contracts entered into during the 2014-15 fiscal year.

The objectives of the audit were to determine whether: adequate internal controls were in place over the management and use of contracts for instructional support services, the District received the contract deliverables, payments were made in accordance with contract terms and conditions, proper procedures for the selection of the contracted vendor were followed, and the propriety of the contracted services were maintained.

Our audit found that, in general, the District's use of contracted services accomplished its goal of delivering needed services as well as supporting grant funded programs for the period audited. Nonetheless, through our review of selected contracts, we noted specific areas for enhancement to the contracting process, including the need to complete the contract development, review and approval process in a timely manner; safeguarding M-DCPS' business partners personally identifiable information; conducting searches of the state and national sexual predator/offender registries to ensure persons in the registries, who might otherwise be exempted from the background screening requirements of Section 1012.468(2)(a)1, are identified prior to being permitted to visit school sites; developing clearer contract scope of work, required outputs, and payment terms that align with deliverables; and improving internal controls over the payment process.

We would like to thank management for their cooperation and courtesies extended to our staff during the audit. Also, it should be noted that before our findings were discussed with the administration, the Superintendent had already begun a district-wide review of the contracting process in order to strengthen controls in this area.

Sincerely,

José F. Montes de Oca, CPA, Chief Auditor
Office of Management and Compliance Audits

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EXECUTIVE SUMMARY

Why We Did This Audit

The school district (“District”) provides various educational contents to its students and staff to enhance their academic and professional development, respectively. The content is typically delivered through contracts with third parties.

The audit was included in the approved 2012-13 Audit Plan to determine whether: (1) adequate internal controls were in place over the use and management of contracts for instructional support services; (2) the District received the contracted deliverables; (3) payments were made in accordance with contract terms and conditions; (4) proper procedures for the selection of the contracted vendor were followed; and (5) the propriety of the contracted services were maintained.

What We Found

In general, our audit found that the District’s use of contracted services accomplished its goal of delivering needed services as well as supporting grant funded programs for the period audited. Moreover, we found that most contracts were properly executed by contracting departments, reviewed for compliance with Miami-Dade County Public Schools (M-DCPS) policies and procedures by the School Board Attorney’s Office, and managed during the contract service period. Also, it should be noted that before our findings were discussed with the administration, the Superintendent had already begun a district-wide review of the contracting process in order to strengthen controls in this area.

Nonetheless, through our review of selected contracts, we noted specific areas for enhancement to the contracting process. The following conditions provide a basis for our conclusion:

We observed several instances when the contract service period had started and some of the services had already been provided prior to the

contract being fully executed. Even though required signatures were obtained, it was evident that a proper review of the contract by all parties was not conducted prior to the vendor commencing the contracted services, which could result in unauthorized services being provided and non-compliance with Board requirements. For some of the instances noted, management indicated that the contracts were funded through grants and the grant award notifications were delayed as the reason for not having the fully executed contract in place prior to the performance of services.

In assessing the contract terms, we looked at the scope of work for clarity and events that trigger payments. Our audit found the need to better develop the scope of work to avoid confusion and expected services being unfulfilled. Even though all contracts were submitted to and reviewed by the School Board Attorney's office, some contract terms lacked specificity. This included the omission of minimum performance requirements such as the number of students to be served, the number of teachers to attend professional development sessions, and minimum duration of performances. In addition, some contract payments were based on predetermined dates occurring during the contract service period, instead of on specific tasks to be performed or deliverables.

Through our testing to ensure that contracted goods and services were received, we found some instances where it was not evident that the deliverables, as specified in the scope of work, were received either in whole or in part. Some documents and/or information requested, from the contracting department or the recipients of the services, to support the receipt of the contracted services or activities could not be provided for audit. The contracted services we could not verify included in-school musical performances and teacher's participation in courses. In addition, in some instances, documentation evidencing the completion of the required background screening of contractors' employees was not provided for audit.

Most of the contracts were developed using M-DCPS form FM-2453 – AGREEMENT FORM FOR CONTRACTED SERVICES, the standard agreement. Our review of contracts—those using the January 2012 and later versions of FM-2453 and other freeform formats—found numerous instances where Personally Identifiable Information (PII) was disclosed in the contracts, creating the potential risk of exposure to identity theft.

We also tested the payment process to ensure the vendors' invoicing pattern was in agreement with the contract payment terms. Our test revealed that District form FM-2454 – Payment Request for Contracted Service Form, was frequently used to support contract payments in lieu of the vendor's invoice. This practice was identified with payments ranging between \$1,118 and \$51,462 from several contracts tested. Although the use of this form is permitted, management appears to be using form FM-2454 beyond its intended purpose.

We also observed a two-year contract that consisted of 24 monthly payments of \$5,833, of which 17 invoices were submitted by the vendor and approved for payment by district staff before the end of the service period related to each invoice. In addition, the dates of acknowledgement of receipt of goods/services and the request for payment by the originating contract department were prior to the service period ending date.

What We Recommend

Based on our audit findings, we have made 13 recommendations, which are summarized as follows:

We recommend that the administration establish guidelines to expedite the development, review, and execution of contracts for instructional support services. The guidelines should include ensuring that notice of commencement is issued to the contractor only after the contract has been signed by all required parties.

Given the prevalence of identity theft fraud, especially in South Florida, we believe that the utmost care and diligence in safeguarding the identity of the District's business partners must be taken. Consequently, we recommend that the administration discontinue collecting the social security number of contractors on forms FM-2453 and FM-3921, which are unsecure and subject to disclosure among potentially large groups of people. Instead of a social security number, another type of identifier can be used on these forms. Furthermore, we believe that awareness training in the area of handling and safeguarding personally identifiable information and the potential risk of identity theft in the District is needed, and we recommend that individuals with contracting responsibility receive such training.

Through its policy statements, it is evident that the District considers the personal safety of its students of paramount importance. Although background screening of certain classes of contractors are performed, there is a need to strengthen the safeguards in this area by ensuring that all vendors, contractors, and persons having access to students, whether supervised or not, be subjected to a search for their names in the state and national sexual predator and sexual offender registries as delineated in Section 1012.468(3)(a), Florida Statutes. The administration should develop comprehensive procedures to ensure the safeguards placed in this statute are implemented. We also believe that awareness training in this area is needed and recommend that individuals with contracting responsibility receive such training.

The ability to monitor and evaluate a contractor's performance is enhanced when contractual expectations and obligations are clearly communicated in writing. Therefore, to address the structural deficiencies noted in a substantial number of the contracts for instructional support services, we recommend the scope of work, deliverables, and payments terms be clearly delineated in the contracts. This includes establishing terms detailing specific services to be performed by the contractor, minimum standards of performance, and the alignment of payments to deliverables. The originating contracting department is also encouraged to comply with the District's procedures of verifying and documenting their receipt of goods or services prior to approving payment to the contract. Contractors should not be paid for instructional support services until after the services have been received.

Finally, we recommend that the use of form FM-2454, *Payment Request for Contracted Service Form*, in lieu of a vendor's invoice to support payments to vendors, be discontinued. A payment to a contractor for instructional support services should be supported by an original invoice for the services for which payment is requested.

Our detailed findings and recommendations start on page 11 of this report and provide additional information on the conditions noted above.

INTERNAL CONTROLS

Our overall evaluation of internal controls over the contracting process related to procuring instructional support services is summarized in the table below:

INTERNAL CONTROLS RATING			
CRITERIA	SATISFACTORY	NEEDS IMPROVEMENT	INADEQUATE
Process Controls		X	
Policy & Procedures Compliance		X	
Effect		X	
Information Risk	X		
External Risk		X	
INTERNAL CONTROLS LEGEND			
CRITERIA	SATISFACTORY	NEEDS IMPROVEMENT	INADEQUATE
Process Controls	Effective	Opportunities exist for improvement	Non-existent or unreliable
Policy & Procedures Compliance	In compliance	Non-compliance issues exist	Non-compliance issues are pervasive, significant, or have severe consequences
Effect	Not likely to impact operations or program outcomes	Impact on outcomes contained	Negative impact on outcomes
Information and Communication Risk	Information systems and information reported are reliable and relevant.	Information reported and data systems are mostly accurate but can be improved	Systems and processes produce incomplete or inaccurate information which may cause inappropriate decisions.
External Risk	None or low	Potential for damage	Severe risk of damage

BACKGROUND

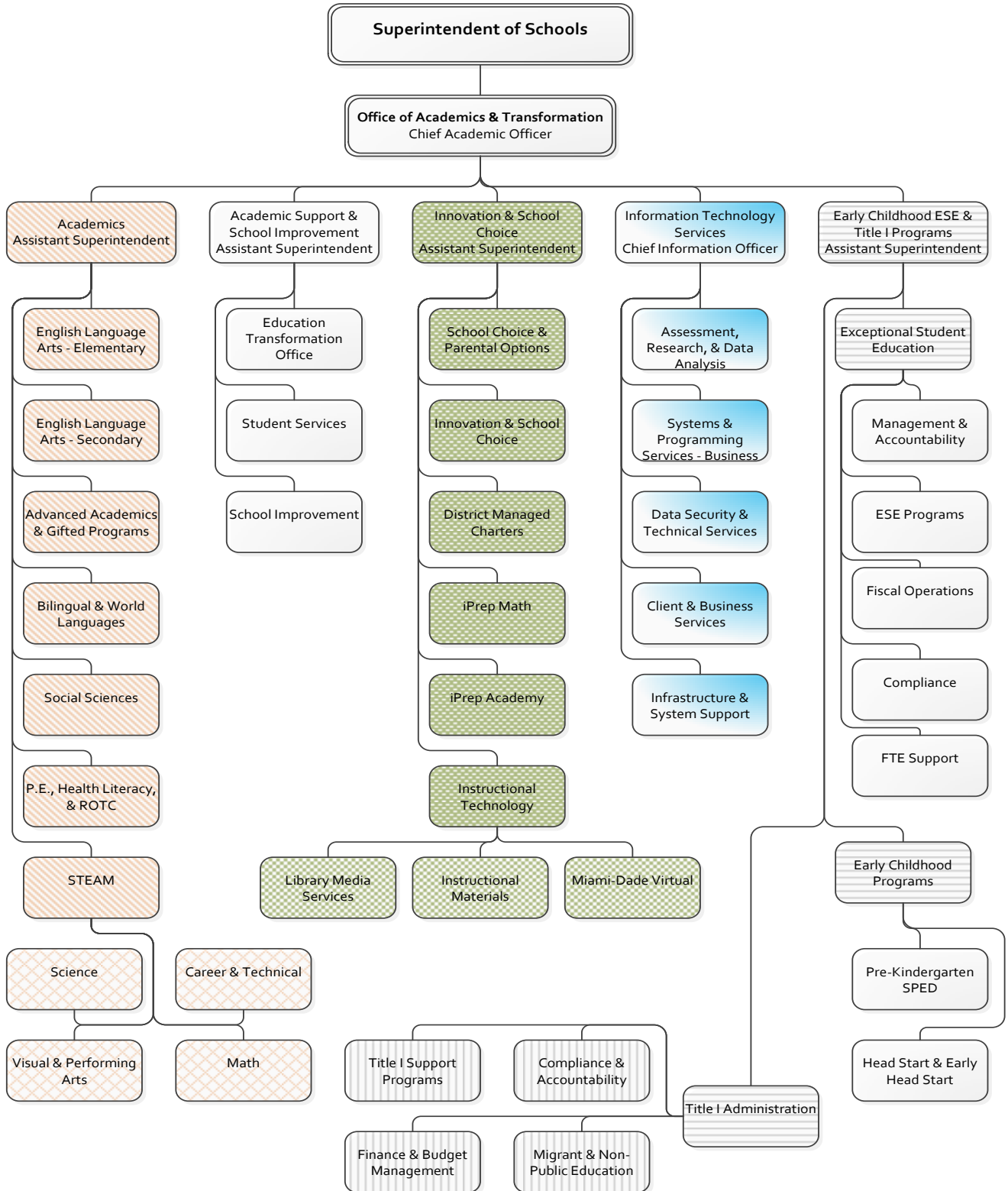
The School District of Miami-Dade County, Florida, and its departments have historically executed contracts for instructional support services with a wide variety of entities that include vendors, contractors, and consultants (collectively referred to herein as “vendors” or “contractors”). In some cases, the contracting of these vendors is simply the most efficient and practical means of fulfilling certain needs of the District. The procurement of these services is intended to support students’ and staff’s academic, social, and professional development and enrichment, accordingly.

The following are some of the instructional support services that may be contracted:

- Curriculum-related specialties
- Professional Development
- Special subject-area consultants
- Evaluators (data and program)
- Tutoring
- Residential placement of special-needs students¹
- Art, music, and language appreciation
- Health and life skills development

¹ For some special-needs students, the District is required to provide the required care in the least restrictive environment. Services are provided to a small group of these students in other institutions that are better suited to meet their needs.

ORGANIZATIONAL CHART OFFICE OF ACADEMICS AND TRANSFORMATION



OBJECTIVE, SCOPE AND METHODOLOGY

The audit was included in the approved 2012-13 Audit Plan to determine whether: (1) adequate internal controls were in place over the use and management of contracts for instructional support services; (2) the District received the contract deliverables; (3) payments were made in accordance with contract terms and conditions; (4) proper procedures for the selection of the contracted vendor were followed; and (5) the propriety of the contracted services were maintained. The audit focused on contracts executed by various departments and in effect during FY 2011-12 through part of FY 14-15, which included contract service periods from August 10, 2011, through September 30, 2014.

For this audit, we identified 78 contracts (excluding Title I funded contracts) that were let during the audit period to provide instructional support services valued between \$250 and \$298,741, for a total amount of \$4,520,729. Funding for these contracts came from multiple sources, including grants of which some identified a specific individual or vendor by name to be contracted. Of the 78 contracts, we judgmentally selected 21 contracts (27%) with a total value of \$1.5 million (32%) that were representative of the different types of services contracted for testing.² (See the table on the page 10) The method used for selecting our sample was based on the contract value and the service(s) provided.

² As further explained in the following page, two additional contracts totaling \$398,100 were selected for testing, making the value of contracts tested approximately \$1.9 million.

To accomplish our audit objectives, we:

- Interviewed/discussed with contracting departments and staff regarding contracting practices
- Obtained an understanding of the contracting process
- Reviewed contract files for contract terms, amounts, invoices, and other related documents
- Reviewed contract payments for various criteria
- Review applicable laws, policies, and procedures
- Performed additional audit procedures as deemed necessary

The timing of both the performance of the audit and the issuance of this report was impacted by the availability and use of the Office of Management and Compliance Audits human capital. Planning and fieldwork for this audit began in FY 2013-14 but were suspended, and the audit staff were redirected in order to complete the audits of the Miami-Dade County Value Adjustment Board and Property Appraiser's Office. Those audits were requested by the Superintendent and approved by the Board and the School Board Audit and Budget Advisory Committee.

The resumption of our audit required us to perform additional auditing procedures, including updating our understanding and assessment of the contracting processes and attendant internal controls. In addition, we selected one-half of the contracts with ending dates during 2011 and 2012 from the list in the previous page to determine whether there were successor agreements. Of the five contracts selected, two had successor agreements. We then tested the most current successor agreement to determine whether the conditions disclosed during our review of the predecessor agreement were also present in the successor agreement. The objective of these additional auditing procedures was to establish currency and relevance of our audit findings associated with the older agreements in our initial audit sample.

SAMPLE CONTRACTS TESTED BY SERVICE TYPE				
Type of Service		Amount	Start Date	End Date
1.	Instructional program ³	\$ 392,000	07/01/2014	06/30/2015
2.	Room rental for mock trial competition ⁴	6,100	12/12/2014	12/12/2014
3.	Grant program manager	140,000	10/01/2012	09/30/2014
4.	Filming services	4,750	04/29/2013	01/31/2014
5.	Grant program evaluators	31,500	09/01/2012	08/31/2013
6.	Graduate courses for teachers	102,924	10/15/2012	06/30/2013
7.	Disabled student residential placement	209,875	07/01/2012	06/30/2013
8.	Statistician	4,000	11/01/2012	06/28/2013
9.	Clinician	3,000	11/01/2012	06/28/2013
10.	Evaluation services	31,000	11/30/2012	06/14/2013
11.	Professional development	58,000	11/06/2012	06/14/2013
12.	Student activity	280,500	05/13/2013	05/17/2013
13.	Testing services	106,000	07/20/2012	02/28/2013
14.	Professional development	500	12/01/2012	12/15/2012
15.	Book fair sponsorship	15,000	11/12/2012	11/16/2012
16.	Graduate courses for teachers	236,314	09/01/2011	08/31/2012
17.	Instructional program	175,750	11/17/2011	06/30/2012
18.	Musical performances & professional development	13,000	10/21/2011	05/31/2012
19.	Musical performances	4,000	05/30/2012	05/31/2012
20.	Musical performances/concerts	14,126	01/25/2012	03/22/2012
21.	Room rental for mock trial competition	5,655	12/09/2011	12/09/2011
22.	Development of academic material	24,500	08/23/2011	09/22/2011
23.	Professional development	400	08/10/2011	08/10/2011
Total		\$1,858,894		

³ This contract was not included in our original audit sample, which consisted of 21 contract valuing \$1,460,794, and was subsequently selected upon the resumption of our audit fieldwork in FY 2015-16 in order to assess the currency and relevance of conditions discovered in our testing of the original audit sample.

⁴ *Ibid.*

DETAIL FINDINGS AND RECOMMENDATIONS

In general, we found that the District's use of contracted service providers for delivering needed instructional content and professional development as well as supporting grant funded programs for the period audited was an efficient means of accomplishing its related goals. For the services tested, all were supported by written agreements or contracts, which were reviewed for compliance with M-DCPS policies and procedures by the School Board Attorney's Office. We also found that most agreements and contracts reviewed were properly executed and managed by contracting departments during the contract service period.

1. **NUMEROUS INCIDENTS OF DELAYS IN PROCESSING CONTRACTS/ AGREEMENTS NOTED**

At M-DCPS, professional instructional support services are typically procured through the execution of a standard agreement, form FM-2453 – AGREEMENT FORM FOR CONTRACTED SERVICES ("contract" or "agreement"). A review of a sample of contracts disclosed several instances where the contracted services commenced prior to the contract being fully processed, that is, signed by all parties. Based on our review of documentation provided and our discussion with several staff members from the originating contracting departments, the following describes some of the conditions noted and the reasons for the delay in obtaining all the required signatures:

- **Two contracts were processed after all contracted events had been performed.**
 - One of the contracts was submitted to the School Board Attorney's Office for review on November 2, 2012, only 10 days before the date the service was scheduled to begin and was reviewed on November 20, 2012, four days after the contracted services were completed.
 - Between December 8, 2011, and April 6, 2012, another contract went back and forth multiple times between the originating department and the School Board Attorney's Office due to

deficiencies identified in the initial contract. The contracted services were completed on March 22, 2012, fifteen days before the contract was finally approved by the School Board Attorney's Office.

- **Contracts were processed after several of the contracted services/performances/events had taken place.**
 - One contract was processed after several of the contracted services/performances/events had taken place. This contract was initially submitted by the originating department to the School Board Attorney's Office for review on October 20, 2011. The Attorney's office, through its November 3, 2011, review, identified deficiencies in the initial contract. On December 1, 2011, the originating department resubmitted a revised contract to the School Board Attorney's Office, which reviewed and approved it on December 2, 2011. Nevertheless, some services were performed as early as August 9, 2011, on this contract.
 - One contract was processed approximately six months after the start of the contract period. The services covered under this contract, which was a succeeding contract, continued because of their nature and the law required M-DCPS to provide a continuum of services. Nevertheless, this contract should have been processed earlier.
 - Six contracts were processed after the beginning of the contract service period. Documentation provided for one of the contracts, identified the cause for the delay as protracted negotiations between M-DCPS and the grant partner (contractor). For another of the contracts, a memorandum on file referred to delay in the processing of the contract due to the grant award notification letter being received by M-DCPS just two days before the scheduled start date of the contract. Another contract had multiple revisions by both M-DCPS School Board Attorney's Office and the contractor's attorneys before being finalized.
 - One contract was processed two days before the end of the performance period (termination date) stated in the agreement and the funding grant. However, we noted that the grant award notification and funding were delayed, thus requiring an extension of the grant service period.

- One contract was not fully processed until October 24, 2014, however, the service contract period started on July 1, 2014, and receipt of the first deliverable was scheduled for July 15, 2014. According to the originating department and documents provided, the contract was not processed until Board approval was obtained to accept the grant award on September 3, 2014.

Contracts should be reviewed by the School Board Attorney and signed by all parties prior to the start of the contract and work being performed to ensure that the services contracted are authorized and the contractor is in compliance with Board requirements, including insurance provisions, if applicable. Signatures on a contract usually mean that the parties have reviewed, understood, and accepted the terms of the contract and bind the parties to those terms.

School Board Policy 6540, *Approval by School Board Attorney*, states that, “all contracts to which the Board is party shall be submitted to the Board Attorney (Attorney) for drafting or approval as to form and to determine if such contracts meet all relevant and applicable legal requirements as to form and legal sufficiency.” This policy applies whether the standard agreement form is used or not. However, when the standard agreement form is not used, more scrutiny is required.

The standard contract contains the following 28 clauses:

- | | |
|--|---|
| (1) Scope of Work | (16) Patents, Copyrights and Royalties |
| (2) Term of Agreement | (17) Background Screening Requirements |
| (3) Compensation | (18) Compliance With School Code |
| (4) Payment Schedule | (19) Conflict of Interest |
| (5) Regulations & Ordinances | (20) Compliance with Board Policies |
| (6) Confidentiality of Student Records | (21) Assignment |
| (7) Entire Agreement | (22) Debarment |
| (8) Governing Law; Venue | (23) No Gratuity Policy |
| (9) Indemnification | (24) Davis-Bacon Act Labor Standards |
| (10) Duty to Defend | (25) Disclosure of Employment of Current and Former School Board Employees |
| (11) Termination and Suspension | (26) Disclosure of Affiliation with District Committees, Task Force, Associations |
| (12) Default | (27) Written Notice Delivery |
| (13) Equal Employment Opportunity | (28) Insurance Requirements |
| (14) Clean Air Act | |
| (15) Access to Records/Florida’s Public Records Laws | |

The standard agreement form is completed by the originating department and submitted to the Board Attorney’s Office along with a Contractor Conflict of

Interest Form and a Contract Intake & Transmittal Form (FM-7420 and FM-7421, respectively) for review as to form and legal sufficiency.⁵ The standard contract requires at a minimum, signatures from: 1) the Attorney, 2) the originating department administrator, 3) the Superintendent (or designee), and 4) the contractor. The originating department is responsible for ensuring that the contract terms and conditions are clear, complete, accurate, and satisfy the business and/or program needs. Once the contract is reviewed and signed by the Attorney, it is submitted to the Office of the Superintendent along with a Transmittal for Agreement Form for Contracted Services (FM-2452) by the originating department.

Conflict of Interest Form was incomplete.

We noted 37 instances in the 63 contracts reviewed where form FM-7420, *Contract Conflict of Interest Form* was not signed by all required parties (signatories to the contract), indicating their declaration of having no known or apparent conflict relative to the contracted services.⁶ In addition, we found another six instances where the form was not included in the contract documents.

In addition to the 37 instances noted above, through our follow-up review of more recently issued successor agreements as described in the scope section of this report, we found that form FM-7420 for both contracts tested were not signed by all required parties.

School Board Policy 4129 - Conflict of Interest, delineates guidelines for avoiding conflicts of interest and promoting ethical conduct and transparency in conducting the District's business. Form FM-7420 is an instrument that is intended to document compliance with this policy.

RECOMMENDATIONS:

- 1.1 Since the incidences noted in the finding above occurred across different departments, we believe these issues may not be unique to contracts for the delivery of instructional support services. While we acknowledge that some procedures exist in some departments, there is a need to standardize contracting practices among all District departments. Therefore, we recommend that District administration consider developing uniform**

⁵ A Contractor Conflict of Interest Form is used to insure there are no conflicts of interest in the award of the contracted services and a Contract Intake & Transmittal Form provides the School Board Attorney's Office with the necessary information to facilitate and expedite the contract review process.

⁶ While our sample consisted of 21 contracts, this specific area of review was applied to all 78 contracts in the population, of which 63 contracts were processed when FM-7420 was effective.

guidelines for contracting practices. At a minimum, these guidelines should address developing contract scope and deliverables; establishing the due date by which contracts/agreements must be submitted for review and approval to the School Board Attorney and the Superintendent; and obtaining the required signatures in the proper sequence.

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation**

MANAGEMENT’S RESPONSE

Recommendations from the team working on streamlining contract processes will be finalized in the coming weeks and will include the District contracting process.

- 1.2 To limit exposure, disputes, and liability to the District, contractors should be permitted to commence with the delivery of contracted services or goods only after the related contract/agreement has been fully executed. To that end, the District should consider including a statement in its standard contract/agreement, FM-2453, that the contractor shall not commence with the delivery of contracted services or goods until after the contract/agreement is fully executed or upon receiving explicit notice to commence from the District’s authorized personnel.**

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation and Financial
Services**

MANAGEMENT’S RESPONSE

Office of Academics and Transformation and Financial Services – *The District will add a statement to its standard contract that work cannot commence until contract is fully executed. A waiver process is likely, since the District does not want to jeopardize educational programs and/or grant funding when funding is forthcoming and deadlines are short.*

School Board Attorney’s Office – *The School Board may not be liable for a breach of contract unless it's based on an express written contract. As a result, the risk of loss and the exposure to liability in these instances is generally on the contractor's end. Moreover, over the last ten (10) years, the School Board has not been sued for breach of contract or other claim arising from its contract review process.*

- 1.3 Although not required by School Board policy, to comport with the District's underlying ethical principles, good governance, and transparency, we recommend that all District employees who are signatories to an M-DCPS-issued contract complete and sign the form FM-7420 accompanying the contract.

RESPONSIBLE DEPARTMENT:

School Board Attorney's Office

MANAGEMENT'S RESPONSE

School Board Attorney's Office – *The completion or inclusion of Form FM-7420, Contract Conflict of Interest Form, in association with the finalization of a contract by the District, is not required by Board Policy. It should also be acknowledged that mandating that the form be completed in all instances prior to finalization of a contract may delay the contract review process, rather than prevent a violation of the Board's conflict of interest policies. School district employees are already prohibited by law from becoming involved in contracts that would cause a conflict of interest. See § 112.313, Florida Statutes. The District may administratively require that the form be completed with respect to all contracts.*

Office of Academics and Transformation and Financial Services – *The District developed and distributed a Weekly Briefing in May 2016 regarding contracted services which provided all school-site administrators and all district employees who have contracting authority guidance on contracting processes and timelines.*

2. RISK OF IDENTITY FRAUD EXISTS DUE TO EXPOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

The District has the responsibility, when entrusted with the safeguarding of personally identifiable information (PII), to protect that information from loss and misuse. Only those individuals with a “need-to-know-basis” in performing their work duties should have access to personally identifiable information.

Our audit found that some M-DCPS contracts, form FM-2453, requested contractors’ Federal Employer Identification Number (F.E.I.N.), social security number, and M-DCPS employee number, whichever is applicable. This form has been revised multiple times—July 2010, November 2010, June 2011, January 2012, July 2013 and August 2013. Beginning with the January 2012 revision, the contract form added a space for collecting the social security number of individuals. On January 19, 2012, the Office of Procurement Management Services requested that form FM-2453 be revised to respond to School Board Policy 6540, *Approval by School Board Attorney*. However, a review of that Board policy did not clarify as to the reason for the inclusion of the social security number on the form.

We reviewed 78 contracts and noted the following:

- Twenty-five (32%) contracts included the contractor’s (an individual) name and social security number. Four of these contracts were with the same contractor; however, each contract covered a different service period. We could see no purpose for the social security number to be included in the contract.
- Two (3%) contracts included the names and date of birth of five students. Both of these contracts were with the same contractor and for the same five students; however, each contract covered a different service period. Form FM-2453 was utilized, although the details about the specific nature of the services being contracted were found in attachments to the form.

As previously mentioned, part of the contracting process involves the flow of the contract through various departments/divisions for their review and approval. We observed different methods used in routing the contract. The contract may either be dropped off and picked up by the originating department or the originating department may use a contract routing form that instructs a list of individuals to

approve the contract and then forward it to the “next person” on the routing form. Both methods are unsecure and may needlessly disclose sensitive and confidential information to an individual not authorized to have access to this type of information, thereby increasing the risk of harm to an individual and identity theft fraud.

We realize that the District may need to collect PII such as an individual’s social security number for Internal Revenue Services (IRS) information reporting purposes. Independent contractors/vendors doing business with M-DCPS must provide the required information to the District by completing an IRS form W-9, Request for Taxpayer Identification Number and Certification. We also noted that through the vendor application process, form FM-3921, *Vendor Application*, requires the applicant to provide either an F.E.I.N. or social security number to Procurement Management Services. The instructions to form FM-3921 require the vendor to submit the completed form either via fax or mail. We question the need for this requirement given that the information is already obtained through the completion and submission of form W-9. Also, obtaining this information through unsecure facsimile transmission increases the exposure of individual’s PII.

RECOMMENDATIONS:

- 2.1 Discontinue the practice of requesting a contractor’s social security number on forms FM-2453 and FM-3921.**

RESPONSIBLE DEPARTMENT:

**School Board Attorney’s Office
and Procurement Management
Services**

MANAGEMENT’S RESPONSE

School Board Attorney’s Office – *In order to reduce the need to use social security numbers and reduce the risk that they may be accessed by unauthorized personnel or used for an improper or criminal purpose, the requirement that a vendor's representative or contractor input their social security number in form FM-2453 has been removed.*

Procurement Management Services – *Management disagrees with this finding.*

FM-3921 requires that all vendors seeking to conduct business with the District provide either a social security number or Federal Employer Identification Number (FEIN), as this information is uploaded within the SAP system for vendor credentialing. This document is not circulated with the contract and it is secured within the Procurement Management Services department.

Vendors who fax documents to Procurement Management do so to a secure facsimile, utilized by authorized Procurement Management staff only. Additionally, all vendors can obtain a FEIN free of charge from the United States Department of the Treasury. Some vendors choose to use their social security numbers rather than obtain that number.

2.2 District administration, in consultation with the School Board Attorney's Office, should provide security awareness training to employees with contracting responsibility, including those who may potentially have access to private and sensitive information, to instruct them on the proper handling and safeguarding of personally identifiable information.

RESPONSIBLE DEPARTMENT:

**School Board Attorney's Office
and Procurement Management
Services**

MANAGEMENT'S RESPONSE

Procurement Management Services – *Management disagrees with this finding.*

Federal tax reporting requirements allow the use of an individual's social security number as their business identification. Vendors who do not obtain a FEIN use their SSN by choice. These vendors utilize their SSN when contracting with other companies not only M-DCPS.

3. BACKGROUND SCREENING OF SOME CONTRACTORS VISITING SCHOOL GROUNDS NEEDS TO BE ENHANCED

Article 17 of the standard contract—FM-2453—states:

“...Contractor and all of its employees who provide or may provide services under this Contract will complete criminal history checks, and all background screening requirements, including Level 2 screening as outlined in the above-referenced statutes [Florida Statutes Sections 1012.465, 1012.32, and 1012.467] and School Board policies [8475, 1121.01, 3121.01, and 4121.01] prior to providing services to The School Board of Miami-Dade County. Additionally, Contractor agrees that each of its employees, representative, agents, subcontractors or suppliers who is permitted access on school grounds when students are present, who has direct contact with students or who has to or control of school funds must meet Level 2 screening requirements as described in the above-referenced statutes, and School Board Polices.”

The Article further states:

“A non-instructional contractor who is exempt from the screening requirements set forth in §1012.465, §1012.468 or §1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under §943.043 and the national sex offender public registry maintained by the United States Department of Justice.”⁷

Additionally, Florida Statutes 1012.467(3) and (4) state:

“(3) If it is found that a noninstructional contractor has been convicted of any of the offenses listed in paragraph (2)(g), the individual shall be immediately suspended from having access to school grounds and shall remain suspended unless and until the conviction is set aside in any

⁷ This section of Article 17 of the Standard Agreement is almost an exact reprint of Section 1012.468(3)(a), F.S., except for the reference to §1012.468.

postconviction proceeding.⁸ (4) A noninstructional contractor who has been convicted of any of the offenses listed in paragraph (2)(g), may not be permitted on school grounds when students are present unless the contractor has received a full pardon or has had his or her civil rights restored. A noninstructional contractor who is present on school grounds in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082 or 775.083.”

We judgmentally selected and tested 21 contracts to determine whether the contractors complied with the statutory- and district-required background screening provisions. Of the 21 contracts, eight did not require that any form of background screening be performed, because the services provided under these contracts did not involve the contractor being at school sites. Therefore, these contracts were not further evaluated for background screening requirements. For the remaining 13 contracts, which required that the contractor be at the school sites while students were present, we performed further analysis to determine whether the appropriate level of background screening had been completed.

For the aforementioned 13 contracts, our audit found the following:

- for three (3), the required background screening was completed
- for one (1), the required Level 2 background screening had not been completed for all of the contractor’s employees providing services under the contract as of the date of our inquiry⁹
- for one (1), when requested, the contracting department did not provide evidence of Level 2 background screening and indicated that the contractor had not been fingerprinted but will be; although several months later they stated that the contractor was accompanied by M-DCPS employee when students were present
- for eight (8), no background screening of the contractor was completed as staff from the contracting department concluded that the contractors were exempted from background screening pursuant to Section

⁸ Specifically, paragraph (2)(g)1., relates to sexual offenses perpetrated by convicted sexual offenders.

⁹ Documents provided by the originating contracting department showed that 10 out of the 13 contractor employees providing services during the 2012-13 contract year did not satisfy the background screening contract requirement. According to the originating contracting department, they last received background screening information from the contractor during the 2009-10 school year.

1012.468(2)(a)1, F.S., because an M-DCPS employee (teacher) always accompanied the contractor when students were present.¹⁰

Although we agree with staff that pursuant to the above-cited statute, “directly supervised” contractors are exempted from Level 2 background screening, they “[are] subject to” a search of the State and Federal sexual predator and offender registries pursuant to Section 1012.468(3)(a)¹¹ and as delineated in Article 17 of the standard agreement as stated above. This added safeguard of performing a search of the sexual predator and sexual offender registries for these contractors who were exempted from Level 2 background screening, albeit not mandatory, according to the School Board Attorney’s Office, was not completed.

Moreover, Florida Statutes 1012.467(3) and (4) prohibit non-instructional contractors who have been convicted of sexual offenses that require their registration in the Department of Law Enforcement sexual predator or sexual offender registries¹² from having access to school grounds until their conviction has been set aside and they have been pardoned with their civil rights restored. It is improbable to determine whether a contractor is a convicted sexual predator or sexual offender unless a background screening or search of the sexual predator and sexual offender registries is performed.

According to the School Board Attorney’s Office, the phrase “is subject to” as it appears in Section 1012.468(3)(a), F.S., does not have the same meaning as the mandatory “shall” and implies discretion. Based on our review of contract documents and inquiry, we found no evidence that such discretion was exercised. Given the nature of the offenses maintained in the aforementioned registries, prudence would dictate that the mentioned search be performed, whether mandatory or not, particularly for those contractors who access school sites multiple times when students are present. Furthermore, interim procedures found in the Miami-Dade Schools Police Department webpage require all school to search the Florida Department of Law Enforcement’s website for possible sexual predator or sexual offender designation of contractors who visit the school.

¹⁰ One administrator simply indicated that the contractor had no contact with students and only with teachers.

¹¹ Section 1012.468(3)(a) provides guidance for subjecting a non-instructional contractor who is exempted from Level 2 background screening to a search of the sexual predator and sexual offender registries maintained by the Department of Law Enforcement and the United States Department of Justice. Refer to page 20 for excerpt from the statute.

¹² Registration requirements for a sexual offender are contained in Section 943.0435 F.S., whereas registration requirements for a sexual predator are contained in Section 775.21 F.S.

It is important to note that our audit tests did not include determining whether sexual offenders or sexual predators were actually permitted to access school grounds. Therefore, we make no conclusions to that effect. Also, we are not aware of any reported incidence of a sexual offender or sexual predator allowed on school grounds.

RECOMMENDATIONS:

- 3.1 To enhance procedures over student safety, district administration, in consultation with the School Board Attorney's Office, should develop comprehensive procedures aimed at subjecting contractors who visit District schools multiple times and are exempt from a Level 2 background screening as set forth in Section 1012.468(2)(a), F.S. to a search against the registries maintained by both the Florida Department of Law Enforcement and United States Department of Justice referenced in Section 1012.468(3)(a), F.S.**

RESPONSIBLE DEPARTMENT:

Human Capital

MANAGEMENT'S RESPONSE

Human Capital – *Human Capital Management administration, in consultation with the School Board Attorney's Office, will develop procedures to address a provision in the Jessica Lunsford Act which allows for certain exceptions to level 2 background screening of contracted personnel who are permitted access on school grounds when students are present. These procedures aimed at exempt contractors accessing District schools multiple times, will include a search of the contractor's name against the registries maintained by both the Florida Department of Law Enforcement and the United States Department of Justice.*

School Board Attorney's Office – *This section of the audit report concentrates on the District's efforts to meet the state's Jessica Lunsford Act ('JLA') requirements for contracted personnel who have access to school grounds when students are present. Although the report acknowledges that there are several exemptions to the JLA requirements, it recommends that an enhancement to the school district's screening process be implemented for vendors that are exempt from JLA screening. The report suggests that such exempt contractors should still have their names checked against "the State and Federal sexual predator and sexual offender registries pursuant to section 1012.468(3)(a)." Obviously any enhancement that can be deemed to increase children's safety is worth further examination. It should be noted that if a search of the registry is conducted or other background screening is undertaken in situations where the contractor is*

exempt, the cost of such a search or background screening must be borne by the District and may not be imposed on the contractor. See S 1012.468(3)(a), Florida Statutes. Accordingly, it may be appropriate to consider the foregoing in determining whether to include additional background screening even when not required by the JLA.

3.2 The administration should develop and provide training on the District's background screening requirements for contractors who visit school sites to all employees with contracting authority.

RESPONSIBLE DEPARTMENT: Human Capital

MANAGEMENT'S RESPONSE

Human Capital Management Administration, in collaboration with School Operations administration, will continue to provide training on the District's background screening requirements for contractors who have access to school sites to all school-site administrators and all district employees who have contracting authority by September 2016

4. CONTRACT TERMS NEED IMPROVEMENT IN SOME CASES

In order to verify that goods or services contracted for were received and work was performed in accordance with the terms and conditions of the contract, we first reviewed the scope of work of the 21 sampled contracts, judgmentally selected, to identify contract deliverables and found that in some instances the contract terms were not clear or lacked specificity. For example, the contracts' scope of work was vague; and the minimum and maximum quantities of goods to be delivered, number of events to be presented, or number of participants to be served was not established in writing. Please refer to the table below.

We also reviewed the contract payment terms to identify the basis for payment to the contractor and found that in some instances the payments were simply scheduled to be made on a specific date(s) during the contract service period rather than upon the fulfillment of contracted deliverables. We also found that in certain cases, the deliverables specified in the statement of work had not been received, either in whole or in part and in others cases, no evidence was provided to substantiate that the services were provided according to the contract terms.

The following table briefly describes specific issues relating to each contract where deficiencies were noted:

Contract Amount	Noted Concerns in Contract Terms
\$13,000	The scope of work included the contractor providing several performances and professional development sessions. The contract did not include the minimum duration of the performances and sessions and the maximum number of students or staff that may attend. The contract called for performances at six schools (two at each school for a total of 12 in-school performances), one general performance at the Adrienne Arsht Center for four elementary schools, and three professional development sessions. We found no evidence that four of the in-school presentations had occurred.
\$14,126	The scope of work included the contractor providing six performances, indicating the dates, duration, and locations of the performances. No mention of the maximum number of students that may attend was included in the contract. Instead, it referred to

Contract Amount	Noted Concerns in Contract Terms
	“concerts for 2 nd grade students and other students at elementary schools.” The six performances included two concerts at a non-school venue for 2 nd graders and four concerts at elementary schools. We found no evidence to confirm that the four elementary school concerts had occurred.
\$500	The scope of work included the contractor providing professional development sessions, indicating the dates, time, and location. However, it made no mention of the maximum number of teachers allowed to attend.
\$400	The scope of work included the contractor providing professional development sessions, indicating the dates, time, and location. However, it made no mention of the maximum number of teachers allowed to attend.
\$58,000	The scope of work included an eight-month period in which the contractor would provide two days of planning and eight days of professional development, between the hours of 8:00 a.m. and 4:30 p.m.; however, the minimum of duration of each session was not mentioned.
\$24,500	The scope of work referred to the development of academic curriculum material for various subjects; however, neither the specific subjects nor a minimum number of subject matters was established. Also, the agreement stated that payment to the contractor would be due 30 days after the completion of services, while also stating that two equal payments of \$12,250 were due on specific dates 21 days apart. None of the events or deliverables of the contract were linked to dates.
\$4,750	The scope of work included 10 different dates, to be determined at a later date, on which the contractor would complete filming sessions of grant-funded student activities between the hours 9:00 a.m. and 8:00 p.m.; however, the minimum length of the time for each session or number of proofs was not mentioned. Also, the agreement called for four equal quarterly payments of \$1,187.50 to the contractor. The payments were not linked to the completion of the event, service, or goods provided by the contractor. Moreover, some of the contracted services were received after the end of the contract service period and the final payment was made prior to the completion of services. Emails provided by the originating contracting department suggested scheduling difficulties. As per the contract “sessions will be

Contract Amount	Noted Concerns in Contract Terms
	determined as opportune events, dates, and times are identified..."
\$4,000	Payment to the contractor consisted of two equal payments on specific dates, approximately three-and-one-half months apart. There was no event or service provided by the contractor that we could identify to link to the payment dates.
\$175,750	Pursuant to the terms of this grant-funded contract, the contractor was required to prepare and submit multiple reports to M-DCPS for 31 schools. All reports listed in the contract and attendant grant were presented for audit, except the "Final Summative Evaluation Report."
\$209,875	This contract contained the following terms: "CONTRACTOR hereby agrees that at any time during the terms of this Contract, CONTRACTOR will apply for Medicaid or private insurance reimbursement, and Contractor shall immediately notify SCHOOL BOARD in writing by certified or registered mail." The provision is intended to avoid double-billing the same expense and noncompliance with it is a breached offense. According to the originating contract department, the contractor had not informed them that they had applied for reimbursement through Medicaid, private insurance or other agency for the student's room and board expense. Additionally, we were unable to locate current background screening information for the contractor. (See Finding #3) According to the originating department, the contractor last provided background screening information for the 2009-10 school year. The contract was for the 2012-13 fiscal year.
\$31,500	The terms of this contract required the contractor to provide certain reports to M-DCPS by specific due dates and for payments to be made after the reports are submitted. The two required reports were submitted after their contracted due dates and the last payment to the contractor was made prior to receiving the final report.

RECOMMENDATIONS:

- 4.1 When developing contracts for instructional support services, the contracting department should ensure that the scope of work clearly identifies the tasks and services required to be performed by the contractor, including a minimum performance standard (e.g., the number of**

participants to be served, the number and duration of performances or events, and the number of and/or specific schools to be served). The scope of work should also clearly identify the required work product(s) and deliverables. This recommendation should be considered in conjunction with Recommendation 1.1.

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation**

MANAGEMENT'S RESPONSE

To address this finding, an additional reviewer with experience regarding contracts was inserted into the Office of Academics and Transformation contract review process to ensure, among other things, that the language in all contracts and agreements clearly specifies the services that the vendor is supposed to perform and what deliverables are to be expected. The Office of Academics and Transformation held a contracted services training on April 20, 2016. This training was provided by a representative from the School Board Attorney's office and included all personnel in the bureau dealing with contracts.

4.2 The originating contracting department should evaluate payment terms before entering into a contract for instructional support services and ensure that payments correspond to established contract deliverables. Contract payment terms should align with contract deliverables to reduce the risk of M-DCPS paying for services that it does not receive. This recommendation should be considered in conjunction with Recommendation 1.1.

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation**

MANAGEMENT'S RESPONSE

The bureau will ensure that contracts include a payment schedule as an attachment to FM-2453 that clearly ties payments with deliverables. This was also addressed in the training provided by the School Board attorney on April 20, 2016.

Additionally, the District will review Section 4 on FM-2453 (Agreement Form for Contracted Services) which provides a payment option that is not tied to a contract deliverable. The District will make any necessary updates to the form by July 2016.

As noted in management's response to 1.1, recommendations from the referenced process will be finalized in the coming weeks and will include contract compliance.

- 4.3 Persons involved in reviewing and approving payments relating to instructional support services contracts should comply with District procedures by verifying and documenting that goods/services were received in compliance with the terms of the contract prior approving payment. This may be accomplished by tracking the contract status and/or completion of the deliverables throughout the contract term. This recommendation should be considered in conjunction with Recommendation 1.1.**

RESPONSIBLE DEPARTMENT:

Office of Academics and Transformation

MANAGEMENT'S RESPONSE

As noted in management's response to 1.1, recommendations from the referenced process will be finalized in the coming weeks and will include contract compliance.

- 4.4 To improve records retention, retrieval, and efficiency, we recommend that the originating contract department maintain a master contract file containing the contract for instructional support services and related documents. This recommendation should be considered in conjunction with Recommendation 1.1.**

RESPONSIBLE DEPARTMENT:

Office of Academics and Transformation

MANAGEMENT'S RESPONSE

All departments within the Office of Academics and Transformation will maintain a master contract file containing the contracts for instructional support services and related documents. Most departments in the Office of Academics and Transformation already have such tracking mechanisms in place. However, a review will be done to ensure that there is consistency in this area. This was also addressed in the training that was provided by the School Board attorney on April 20, 2016.

5. THE REASONABLENESS OF CONTRACT PRICING WAS INCONCLUSIVE, BUT WEAKNESSES IN PROCESSING AND APPROVING PAYMENT WERE NOTED

Our audit included testing the reasonableness of the price charged for the contracted products or services to ensure that Miami-Dade County Public Schools received good value in return. Also, as part of our tests, we obtained the contractors' invoice and examined it for consistency with the contract payment terms, contractors' name, amount paid, and goods/services received, as well as for apparent alterations to the contractors invoice or supporting documents.

Our test disclosed that the services or items purchased were appropriate. Our test to determine the reasonableness of contract prices, however, was inconclusive. We found that many of the services procured were of an artistic or educational nature or required specific expertise, and therefore specifically exempt from competitive bidding. As such, we could not establish a standard market price. It must be noted that in our interviews with staff from the originating contracting departments, they indicated to us that some of the prices were not based on set rates, but instead on the current artist standing, discussions with co-workers, and past use of the contractor. Also, in several instances we were able to verify that the contract amount was based on the grant budget for the services contracted.

During our testing of the 21 sampled contracts selected judgmentally, we also noted the prevalent use of form FM-2454, *Payment Request for Contracted Service Form*, in lieu of an original contractor's invoice as support for processing and approving contractor payment. The evidence suggests that the form is used as a matter of course rather than the exception for its intended purpose. Moreover, according to the form's instructions and the District's Accounts Payable personnel, the form requires all of the following additional documents be attached to process a payment:

- 1) the agreement form for contracted services
- 2) a signed and dated purchase order
- 3) a written evaluation upon the completion of services

We found that some large contract payments were processed using form FM-2454 and not supported by invoices. Also, no written evaluation was submitted with the final request for payment, as required when this form is used. The

following lists contracts that used form FM-2454 in lieu of the contractors' invoice for the processing and approving of payment, as well as other deficiencies:

Contract Amount	Use of Form FM-2454 – No Invoice
\$102,924	Two equal payments of \$51,462 were processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract was attached to both payment requests; however, no written evaluation was evident with the final request for payment.
\$15,000	One payment of \$15,000 was processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract and other related contract documents were attached to the payment request; however, no written evaluation was evident with the request for payment.
\$31,000	Four equal payments of \$7,750 were processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract was attached to the payment requests; however, no written evaluation was evident with the requests for payment. Upon our request, invoices were provided to us by the originating contracting department.
\$58,000	Four equal payments of \$14,500 were processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract was attached to the payment requests; however, no written evaluation was evident with the requests for payment. Upon our request, invoices were provided to us by the originating contracting department.
\$4,750	Four equal payments of \$1,187.50 were processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract was attached to the payment requests; however, no written evaluation was evident with the requests for payment. Upon our request, invoices were provided to us by the originating contracting department.
\$24,500	Two equal payments of \$12,250 were processed using form FM-2454 in lieu of the contractor's invoice. In SAP, the contract was attached to both payment requests; however, no evaluation was evident with the final request for payment.

Our testing also disclosed that some payments, which were properly supported by an original contractor’s invoice, nevertheless exhibited certain internal control weaknesses, including insufficient details in the invoices and processing and approving payment prior to the fulfillment of the contractor’s performance of contracted work or receipt of services. The following table lists the contracts and a brief description of the weaknesses:

Contract Amount	Invoice Submitted – Identified Control Weakness
\$13,000	The contractor’s invoice indicates the number of in-school performances and professional development sessions; however, it does not identify where or when the services were actually provided.
\$140,000	<p>This contract is a two-year contract consisting of 24 monthly payments of \$5,833 with a service period beginning on October 1, 2012, through September 30, 2014, for a total contract amount of \$140,000. As per the contract payment schedule, payments were to be generated within 30 days after the completion of services. Our review of the 24 invoices noted 17 instances where the invoice date was before the end of the one-month service period for which payment was invoiced. Also, the “acknowledgement of receipt of goods/services,” by District staff, certifying that the services had been received in accordance with the terms of the contract, was similarly dated prior to the end of the service period. Also, the 17 invoices were submitted to Accounts Payable for payment prior to the services being fully provided.</p> <p>It is worth noting that the first seven invoices submitted during the contract period were dated the last day of the month. However, as noted, most of the remaining invoices were dated the first of the month (beginning of the service period). This type of activity indicates internal controls weaknesses because documents are not being closely reviewed.</p>

RECOMMENDATIONS

- 5.1 We recommend that the use of form FM-2454 as a substitute to support payment to vendors, in lieu of a vendor's invoice, be discontinued. If a compelling reason for the use of the form is determined, guidelines (e.g., establishing a reasonable dollar limit for the use of the form) should be developed to limit its use to very specific circumstances. Moreover, all required documents should accompany the form FM-2454 whenever it is used to support a vendor's request for payment in lieu of an invoice. This recommendation should be considered in conjunction with Recommendation 1.1.

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation and Financial
Services**

MANAGEMENT'S RESPONSE

The District agrees that FM-2454 should not be utilized as a substitute to support payment to vendors. Weekly Briefing #19170, informed all offices issuing contracts that only a vendor invoice can be submitted for payment on contracted services. Form 2454 is no longer valid. The Form has been removed from the District Forms Bank and is no longer available for download.

- 5.2 Ensure that invoices submitted by the contractor are for services performed and discontinue the practice of paying for instructional support services prior to the services being received. This recommendation should be considered in conjunction with Recommendation 1.1.

RESPONSIBLE DEPARTMENT:

**Office of Academics and
Transformation and Financial
Services**

MANAGEMENT'S RESPONSE

See response 5.1 above.

MANAGEMENT'S RESPONSES

Various District bureaus were identified to provide written management responses to the audit recommendations based on either the area where the conditions leading to the audit finding was observed or the administration believed to be the most appropriate to effect the needed corrective action. In responding to the audit recommendations, District administration provided a comprehensive set of responses through the Chief Financial Officer. The School Board Attorney also provided separate responses to the audit recommendations. Both sets of responses are presented in the following pages as indicated below.

Financial Services, Chief Financial Officer's Response to Recommendations:


1.1, 1.2, 1.3, 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 4.3, 4.4, 5.1, and 5.2 – pages 35 – 37

School Board Attorney's Response to Recommendations:

1.2, 1.3, 2.1, and 3.1 – pages 38 – 40

MEMORANDUM

June 23, 2016

TO: Mr. Jose Montes de Oca, Chief Auditor, Management Audits
FROM: Judith M. Marte, Chief Financial Officer, Financial Services 
SUBJECT: AUDIT OF INSTRUCTIONAL SUPPORT SERVICES CONTRACTS

As part of the District's Vision 2020 Strategic Blueprint, streamlining and improving business operations were identified as a priority. Work on changing the existing workflow for contracts has already commenced prior to the findings included in the above audit and the Superintendent assigned staff in his office to verify that the process was enhanced. Work continues on that process with an expected completion date of September 30, 2016.

Following are the administration's responses to the Audit of Instructional Support Services Contracts and Agreements:

1. NUMEROUS INCIDENTS OF DELAYS IN PROCESSING CONTRACTS/AGREEMENTS NOTED

1.1 MANAGEMENT'S RESPONSE

Recommendations from the team working on streamlining contract processes will be finalized in the coming weeks and will include the District contracting process.

1.2 MANAGEMENT'S RESPONSE

The District will add a statement to its standard contract that work cannot commence until contract is fully executed. A waiver process is likely, since the District does not want to jeopardize educational programs and/or grant funding when funding is forthcoming and deadlines are short.

1.3 MANAGEMENT'S RESPONSE

The District developed and distributed a Weekly Briefing in May 2016 regarding contracted services which provided all school-site administrators and all district employees who have contracting authority guidance on contracting processes and timelines.

2. RISK OF IDENTITY FRAUD EXISTS DUE TO EXPOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

2.1 MANAGEMENT'S RESPONSE

Management disagrees with this finding.

FM-3921 requires that all vendors seeking to conduct business with the District provide either a social security number or Federal Employer Identification Number (FEIN), as this information is uploaded within the SAP system for vendor credentialing. This document is not circulated with the contract and it is secured within the Procurement Management Services department.

Vendors who fax documents to Procurement Management do so to a secure facsimile, utilized by authorized Procurement Management staff only. Additionally, all vendors can obtain a FEIN free of charge from the United States Department of the Treasury. Some vendors choose to use their social security numbers rather than obtain that number.

2.2 MANAGEMENT'S RESPONSE

Management disagrees with this finding.

Federal tax reporting requirements allow the use of an individual's social security number as their business identification. Vendors who do not obtain a FEIN use their SSN by choice. These vendors utilize their SSN when contracting with other companies not only M-DCPS.

3. BACKGROUND SCREENING OF SOME CONTRACTORS VISITING SCHOOLGROUNDS NEEDS TO BE ENHANCED

3.1 MANAGEMENT'S RESPONSE

Human Capital Management administration, in consultation with the School Board Attorney's Office, will develop procedures to address a provision in the Jessica Lunsford Act which allows for certain exceptions to level 2 background screening of contracted personnel who are permitted access on school grounds when students are present. These procedures aimed at exempt contractors accessing District Schools multiple times, will include a search of the contractor's name against the registries maintained by both the Florida Department of Law Enforcement and the United States Department of Justice.

3.2 MANAGEMENT'S RESPONSE

Human Capital Management Administration, in collaboration with School Operations administration, will continue to provide training on the District's background screening requirements for contractors who have access to school sites to all school-site administrators and all district employees who have contracting authority by September 2016.

4. CONTRACT TERMS NEED IMPROVEMENT IN SOME CASES

4.1 MANAGEMENT'S RESPONSE

To address this finding, an additional reviewer with experience regarding contracts was inserted into the Office of Academics and Transformation contract review process to ensure, among other things, that the language in all contracts and agreements clearly specifies the services that the vendor is supposed to perform and what deliverables are to be expected. The Office of Academics and Transformation held a contracted services training on April 20, 2016. This training was provided by a representative from the School Board Attorney's office and included all personnel in the bureau dealing with contracts.

4.2 MANAGEMENT'S RESPONSE

The bureau will ensure that contracts include a payment schedule as an attachment to FM-2453 that clearly ties payments with deliverables. This was also addressed in the training provided by the School Board attorney on April 20, 2016.

Additionally, the District will review the Section 4 on FM-2453 (Agreement Form for Contracted Services) which provides a payment option that is not tied to a contract deliverable. The District will make any necessary updates to the form by July 2016.

As noted in management's response to 1.1, recommendations from the referenced process will be finalized in the coming weeks and will include contract compliance.

4.3 MANAGEMENT'S RESPONSE

As noted in management's response to 1.1, recommendations from the referenced process will be finalized in the coming weeks and will include contract compliance.

4.4 MANAGEMENT'S RESPONSE

All departments within the Office of Academics and Transformation will maintain a master contract file containing the contracts for instructional support services and related documents. Most departments in the Office of Academics and Transformation already have such tracking mechanisms in place. However, a review will be done to ensure that there is consistency in this area. This was also addressed in the training that was provided by the School Board attorney on April 20, 2016.

5. THE REASONABLENESS OF CONTRACT PRICING WAS INCONCLUSIVE, BUT WEAKNESSES IN PROCESSING AND APPROVING PAYMENT WERE NOTED

5.1 MANAGEMENT'S RESPONSE

The District agrees that FM-2454 should not be utilized as a substitute to support payment to vendors. Weekly Briefing #19170, informed all offices issuing contracts that only a vendor invoice can be submitted for payment on contracted services, Form 2454 is no longer valid. The Form has been removed from the District Forms Bank and is no longer available for download.

5.2 MANAGEMENT'S RESPONSE

See response 5.1 above.

Thank you for your patience as we worked through compiling responses from several bureaus involved in the contracting process. If I can provide additional information, please contact me at 305-995-1958.

JMM:aar
M054

cc: Mr. Alberto M. Carvalho



Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Alberto M. Carvalho

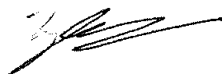
School Board Attorney
Walter J. Harvey

Miami-Dade County School Board
Perla Tabares Hantman, Chair
Dr. Dorothy Bendross-Mindingall, Vice Chair
Susie V. Castillo
Dr. Lawrence S. Feldman
Dr. Wilbert "Tee" Holloway
Dr. Martin Karp
Lubby Navarro
Raquel A. Regalado
Dr. Marta Pérez Wurtz

MEMORANDUM

TO: Mr. Jose Montes de Oca, Chief Auditor,
Office of Management & Compliance Audits

CC: Alberto M. Carvalho, Superintendent of Schools
Ms. Judith M. Marte, Chief Financial Officer

FROM: Walter J. Harvey, School Board Attorney 

DATE: June 17, 2016

SUBJECT: Audit of Instructional Support Services Contracts (Revised)

It is our understanding that district administration has provided its own responses to the audit of instructional support services contracts. To the extent that portions of the subject audit raise matters that touch upon legal issues or the contract review process utilized by the School Board Attorney's Office, the following responses solely attempt to address those limited issues.

1. NUMEROUS INCIDENTS OF DELAYS IN PROCESSING CONTRACTS/AGREEMENTS NOTED

SBAO's RESPONSE

The School Board Attorney's Office typically reviews and approves contracts within two (2) days of receipt. Contracts which require complex drafting or further negotiation with a vendor or other entity will require additional time. Delays in response from a vendor or other party, or if a waiver from the School Board's standard contract provisions is necessary, will increase the average time that it takes for final approval and execution of the contract.

- Contracts were processed after several of the contracted services/performances/events had taken place.

While we recognize the necessity that all contracts be timely executed, which is also a good business practice, both of the contracts identified in

School Board Attorney's Office • School Board Administration Building • 1450 N.E. 2nd Ave. • Suite 430 • Miami, FL 33132
305-995-1304 • 305-995-1412 (FAX) • boardattorney@dadeschools.net

this audit as having been finalized (fully executed) after performance had been completed, or rendered, only required the District to submit payment upon delivery of services. Thus, the delay in finalization of the agreements did not impact the delivery of the services that were contracted for, nor did it expose the District to liability. It should also be noted that all of the contracts identified in this audit met the requirements of School Board Policy 6540, *Approval by the School Board Attorney*.

SBAO'S RESPONSE

- 1.2 The School Board may not be liable for a breach of contract unless it's based on an express written contract. As a result, the risk of loss and the exposure to liability in these instances is generally on the contractor's end. Moreover, over the last ten (10) years, the School Board has not been sued for breach of contract or other claim arising from its contract review process.

SBAO'S RESPONSE

- 1.3 The completion or inclusion of Form FM-7420, *Contract Conflict of Interest Form*, in association with the finalization of a contract by the District, is not required by Board Policy. It should also be acknowledged that mandating that the form be completed in all instances prior to finalization of a contract may delay the contract review process, rather than prevent a violation of the Board's conflict of interest policies. School district employees are already prohibited by law from becoming involved in contracts that would cause a conflict of interest. See § 112.313, Florida Statutes. The District may administratively require that the form be completed with respect to all contracts.

- 2.1 **Discontinue the practice of requesting a contractor's social security number on forms FM-2453 and FM-3921.**

SBAO'S RESPONSE

In order to reduce the need to use social security numbers and reduce the risk that they may be accessed by unauthorized personnel or used for an improper or criminal purpose, the requirement that a vendor's representative or contractor input their social security number in form FM-2453 has been removed.

**3. Background Screening of Some Contractors Visiting School Grounds
Needs to be Improved**

SBAO'S RESPONSE

This section of the audit report concentrates on the District's efforts to meet the state's Jessica Lunsford Act ("JLA") requirements for contracted personnel who have access to school grounds when students are present. Although the report acknowledges that there are several exemptions to the JLA requirements, it recommends that an enhancement to the school district's screening process be implemented for vendors that are exempt from JLA screening. The report suggests that such exempt contractors should still have their names checked against "the State and Federal sexual predator and sexual offender registries pursuant to section 1012.468(3)(a)." Obviously any enhancement that can be deemed to increase children's safety is worth further examination. It should be noted that if a search of the registry is conducted or other background screening is undertaken in situations where the contractor is exempt, the cost of such a search or background screening must be borne by the District and may not be imposed on the contractor. See § 1012.468(3)(a), Florida Statutes. Accordingly, it may be appropriate to consider the foregoing in determining whether to include additional background screening even when not required by the JLA.

We thank you for the opportunity to respond to these matters. If you have any questions, please do not hesitate to contact me.

WJH/LMG/AG:cm

APPENDIXES

APPENDIX A – AGREEMENT FORM FOR CONTRACTED SERVICES



Contract Number _____ (For Procurement Use Only)

**THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
AGREEMENT FORM FOR CONTRACTED SERVICES**

THIS AGREEMENT, entered into this ____ day of _____, 20____, by and between The School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida hereinafter referred to as the "School Board," and _____, (Legal Name of Contracting Party/Organization) hereinafter referred to as the "CONTRACTOR," is as follows:

1. SCOPE OF WORK

The Contractor shall, in a satisfactory and proper manner as determined by the School Board, perform the following:

Nature of Contracted Services: _____

Anticipated Outcome of Contracted Services: _____

Location of Contracted Service: _____

Date(s)/Hours of Service: _____

2. TERM OF AGREEMENT

The Contractor shall commence performance of the Agreement on the ____ day of _____, 20____, and shall complete performance to the satisfaction of the School Board no later than the ____ day of _____, 20____. The School Board reserves the right to terminate this Agreement without cause by giving thirty (30) days written notice to the Contractor.

3. COMPENSATION

The School Board shall, upon completion of services by the Contractor, compensate the Contractor in an amount not to exceed \$_____, which shall constitute the amount due under this Agreement. Agreements exceeding \$50,000 require School Board approval. The Contractor agrees to assume responsibility for all per diem and travel expenses, unless authorization to incur such expenses is granted by the School Board in advance of the expenditures being incurred. The Contractor shall be reimbursed for such approved expenditures as provided by §112.061 Florida Statutes, and School Board Policy 6550.

4. PAYMENT SCHEDULE

Payment will be generated by the School Board's Accounts Payable Department within thirty (30) days after completion of services. Payment will be made as indicated below:

- one lump sum payment in the amount of \$_____ upon completion of services
- _____ partial payments in the amount of \$_____ after/before each _____
- Please see payment schedule hereto attached and incorporated into this Agreement.

5. REGULATIONS & ORDINANCES

The Contractor shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments being licensed, if required, for performance of any work under this Agreement.

6. CONFIDENTIALITY OF STUDENT RECORDS

Contractor understands and agrees that it is subject to all federal and state laws and School Board Policies relating to the confidentiality of student information. Contractor further agrees to comply with the Family Educational Rights and Privacy Act ("FERPA"), 34 C.F.R. §99 et. seq. Contractor shall regard all student information as confidential and will not disclose the student information to any third party.

7. ENTIRE AGREEMENT

It is understood and agreed that this Agreement contains the complete understanding and agreement of the parties. No stipulation, agreement or understanding shall be valid or enforceable unless contained in this Agreement. No representations or statements made by any employees, agents or representatives of either party shall be binding on either party as a warranty or otherwise, except as expressly set forth herein.

8. GOVERNING LAW; VENUE

This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida. In the event of litigation, venue for any claim shall lie exclusively in a court of competent jurisdiction in Miami-Dade County. All parties shall be responsible for their own attorneys' fees.

9. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Board, and its employees ("Indemnitees") from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs and attorneys' fees at the pre-trial, trial and appellate levels, arising out of, resulting from or incidental to Contractor's performance under this Agreement or to the extent caused by negligence, recklessness, or intentional wrongful conduct of the Contractor or other persons employed or utilized by the Contractor in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under the AGREEMENT or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to the AGREEMENT otherwise available to the Contractor. The remedy provided to the Indemnitees by this indemnification shall survive this AGREEMENT. The provisions of this Section shall specifically survive the termination of this Agreement. The provisions of this Section are intended to require the Contractor to furnish the greatest amount of indemnification allowed under Florida law. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that the Contractor shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.

10. DUTY TO DEFEND

The Contractor agrees, at its own expense, and upon written request by the Board, to defend any suit, action or demand brought against the School Board on any claim or demand arising out of, resulting from or incidental to Contractor's performance under this Agreement.

11. TERMINATION AND SUSPENSION

The School Board reserves the right to terminate this Agreement at any time and for any reason, upon giving thirty (30) days prior written notice to Contractor. If said Agreement should be terminated for convenience as provided herein, the School Board will be relieved of all obligations under this Agreement. The School Board shall only be required to pay the Contractor the amount for services performed prior to termination of the Agreement. The School Board may terminate this Agreement upon thirty (30) days advance written notice to the Contractor, for default of Contractor, or due to lack of, or cancellation of, grant funds made available to the School Board by a Federal grantor agency. Upon receipt of a notice of termination, the Contractor shall cease incurring additional obligations under this Agreement. However, the School Board shall allow the Contractor to incur all necessary and proper costs, which the Contractor cannot reasonably avoid during the termination process. Each payment obligation of the School Board created by this agreement is conditioned upon the availability of funds that are appropriate or allocated for the payment of services or goods. If such funds are not allocated and available, this agreement may be terminated by the School Board at the end of the period for which funds are available. The School Board shall notify the Contractor at the earliest possible time before such termination. No penalty shall accrue to the School Board in the event this provision is exercised, and the School Board shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

12. DEFAULT

If the Contractor fails to fulfill or comply with any of the terms or conditions of the Agreement, in whole or in part, the School Board may place the Contractor in default status and take any one of the following actions:

- a) Suspend activities under the Agreement, upon fifteen (15) days advance written notice by the School Board and withhold further payments, except for those necessary and proper costs which the Contractor cannot reasonably avoid during the period of suspension.
- b) Terminate the Agreement for cause, in whole or in part, upon fifteen (15) days advance written notice from the School Board.
- c) Terminate the Agreement for cause, in whole or in part, immediately effective upon notice, whenever the School Board determines that the Contractor has jeopardized the safety and welfare of the School Board or the public or whenever the fiscal integrity of the Agreement has been compromised.
- d) Invoke any other remedy or remedies that may be legally available.

13. EQUAL EMPLOYMENT OPPORTUNITY

Contractors awarded contracts involving Federal Funds in excess of \$10,000 must be in compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).

14. CLEAN AIR ACT

Contractors awarded contracts in excess of \$100,000 must be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

15. ACCESS TO RECORDS/FLORIDA'S PUBLIC RECORDS LAWS

This Agreement shall be subject to Florida's Public Records Laws, Chapter 119, Florida Statutes. Contractor understands the broad nature of these laws and agrees to comply with Florida's Public Records Laws and laws relating to records retention. The Contractor shall keep records to show its compliance with program requirements. Contractors and subcontractors must make available, upon request of the School Board, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, any books, documents, papers, and records of the Contractor which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor shall retain all records for five (5) years after final payment is made or received and all pending matters are completed pursuant to Title 34, Sections 80.36(b)(1). Exempt or confidential information should not be disclosed unless authorized by law. Contractor shall destroy any duplicate records which are exempt from public records disclosure as set forth in Chapter 119. Upon termination of this agreement all public records in possession of the Contractor must be transferred to School Board at no cost. If records are stored electronically, the records must be provided in a compatible format to School Board's operating system.

16. PATENTS, COPYRIGHTS AND ROYALTIES

All books, manuals, films or other materials suitable for copyright or patent, regardless of means of transmission, produced as a result of the work or services performed under or in connection with this Agreement, are hereby reserved as the exclusive property of and sole ownership by The School Board of Miami-Dade County, Florida, unless and to the extent that the parties agree otherwise, as evidenced in writing and included as a part of this Agreement. Contractor shall defend, indemnify and hold the School Board and its successors and assigns harmless from and against all third-party claims, suits and proceedings and any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) incurred as a result of (i) infringement by Contractor of any third-party patent, copyright or trademark or (ii) misappropriation by Contractor of any third-party trade secret in connection with any of the foregoing. Contractor will indemnify and hold harmless the School Board from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, service marked, trademarked, patented or unpatented invention, process, article or work manufactured or used in the performance of the Agreement, including its use by the School Board. If Contractor uses any design, device, materials or works covered by letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exception that the proposal prices will include all royalties or costs arising from the use of such design, device or materials in any way involved in the work.

17. BACKGROUND SCREENING REQUIREMENTS

In accordance with the requirements of §1012.465, §1012.32 and §1012.467, Florida Statutes, and School Board Policies 8475, 1121.01, 3121.01 and 4121.01 as amended from time to time Contractor agrees that, if Contractor receives remuneration for services, Contractor and all of its employees who provide or may provide services under this Contract will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced statutes and School Board Policies prior to providing services to The School Board of Miami-Dade County.

Additionally, Contractor agrees that each of its employees, representatives, agents, subcontractors or suppliers who is permitted access on school grounds when students are present, who has direct contact with students or who has access to or control of school funds must meet level 2 screening requirements as described in the above-referenced statutes and School Board Policies.

A non-instructional contractor who is exempt from the screening requirements set forth in §1012.465, §1012.468 or §1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under §943.043 and the national sex offender public registry maintained by the United States Department of Justice.

Further, upon obtaining clearance by School Board, if School Board deems necessary, School Board will issue a photo identification badge, which shall be worn by the individual at all times while on School Board property when students are present.

Contractor agrees to bear any and all costs associated with acquiring the required background screening -- including any costs associated with fingerprinting and obtaining the required photo identification badge. Contractor agrees to require all its affected employees to sign a statement, as a condition of employment with Contractor in relation to performance under this Bid/RFP/Agreement, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that the employee will notify the Contractor/Employer of any arrest(s) or conviction(s) of any offense enumerated in School Board Policies 8475, 1121.01, 3121.01 and 4121.01 within 48 hours of its occurrence. Contractor agrees to provide the School Board with a list of all its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. Contractor agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. Contractor further agrees to notify the School Board immediately upon becoming aware that one of its employees who was previously certified as completing the background check and meeting the statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by Contractor to notify the School Board of such arrest or conviction within 48 hours of being put on notice and within five (5) business days of the occurrence of qualifying arrest or conviction, shall constitute grounds for immediate termination of this Agreement.

The parties further agree that failure by Contractor to perform any of the duties described in this section shall constitute a material breach of the Agreement entitling the School Board to terminate this Agreement immediately with no further responsibility to make payment or perform any other duties under this Agreement.

18. COMPLIANCE WITH SCHOOL CODE

Contractor agrees to comply with all sections of the Florida K-20 Education Code, Title XLVIII Sections 1000-1013 Florida Statutes as it presently exists, as it may be amended from time to time. Further, Contractor agrees that failure to comply with the Florida K-20 Education Code shall constitute a material breach of this Agreement and may result in the termination of this Agreement by the School Board.

19. CONFLICT OF INTEREST

Former Miami-Dade County Public Schools employees, classified as Managerial Exempt Personnel, Pay Grade 22 and above, Miami-Dade County Schools Administrators Association, Pay Grade 47 and above, and other equivalent positions, are prohibited from personally representing another person or entity or acting as an agent or attorney for compensation in connection with any matter in which The School Board of Miami-Dade County, Florida, is interested, for a period of two (2) years following vacation of office. This provision is pursuant to School Board Policies 1129, 3129 and 4129 and §112.313(9) Florida Statutes.

20. COMPLIANCE WITH BOARD POLICIES

I certify agreement with the following School Board Policies: 6460 Business Code of Ethics; 6325 Code of Silence; 6320 Purchasing; 6320.01 Outside Vendors Selling; and 6320.02 Minority/Women Business Enterprise Certification Procedures, and agree to comply with all applicable School Board contracting and procurement policies and procedures.

21. ASSIGNMENT

This Agreement may not be assigned nor may any assignment of monies due, or to become due to Contractor, be assigned without the prior written agreement of The School Board of Miami-Dade County, Florida. If Contractor attempts to make such an assignment, such attempt shall constitute a condition of default.

22. DEBARMENT

Pursuant to Board Policy 6320.04 – Contractor Debarment Procedures – Debarred contractors are excluded from conducting business with the School Board as agents, representative, partners, and associates of other contractors, subcontractors or individual sureties.

23. NO GRATUITY POLICY

It is the policy of Procurement Management Services not to accept gifts, gratuities, or favors of any kind or of any value whatsoever from vendors, members of the staffs, or families.

24. DAVIS-BACON ACT LABOR STANDARDS

The Contractor shall comply with all applicable provisions of 40 U.S.C. §276a to 276a-7, the Davis-Bacon Act, as supplemented by the Department of Labor regulations (29 C.F.R. Part 5 "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

25. DISCLOSURE OF EMPLOYMENT OF CURRENT AND FORMER SCHOOL BOARD EMPLOYEES

Pursuant to School Board Policy 6460 Business Code of Ethics, which may be accessed at www.neola.com/miamidade-fl all bidders, proposers, consultants, vendors and contractors are required to disclose the names of any of their current and future employees who serve as agents, principals, subcontractors, employees, or consultants, to work on this agreement for the bidder, proposer, consultant, vendor, or contractor, and who are currently employed or have been employed by the School Board **within the last two (2) years**. Such disclosures will be in accordance with current School Board Policies, but will include, at a minimum, the names of former School Board employees, a list of the positions the employees held in the last two (2) years of their employment with the School Board, and the dates the employees held those positions. Written approval by the School Board for the use of current or former School Board employees (within the last two years) is mandatory prior to using funds obtain from this Agreement to subsidize the current or former School Board employees services

26. DISCLOSURE OF AFFILIATION WITH DISTRICT COMMITTEES, TASK FORCE, ASSOCIATIONS

Firms under Contract or proposing to enter into a Contract with Agency must be in conformance with the MDCPS Conflict of Interest policies available at www.dadeschools.net Any vendor who submits a response to a solicitation must disclose the names of any of its company directors or officers who serve on any District Committees, Task Force or Associations.

Does the Firm or any Employee, Agent, or Associate of the Firm (Director's, Officers, etc.) serve or have served within the past two (2) years on a Miami-Dade County Public Schools District Committee, Task Force, Association?

No Yes If answer is yes please complete the following:

Employee Name	Current Title with Firm	Name of MDCPS Committee, Task Force, Association Served

27. WRITTEN NOTICE DELIVERY

Any notice required or permitted to be given under this agreement by one party to the other party shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the recipient's address set forth in this section or on the date shown on the certificate of receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address hereinafter specified.

Contractor/Vendor Address. The address for Contractor/Vendor for all purposes under this agreement and for all notices hereunder shall be:

Contractor/Vendor: _____
Contact's Name/Title): Attention: _____
Address: _____

School Board's Address. The address for the School Board for all purposes under this Agreement and for all notices hereunder shall be:

The School Board of Miami-Dade County, Florida
Attn: Alberto M. Carvalho, Superintendent
1450 N.E. Second Avenue, Suite 912
Miami, Florida 33132

With a copy to:

Department: _____
Department Director: Attention: _____
Address: _____

And a copy to:

The School Board of Miami-Dade County, Florida
Attn: Walter J. Harvey, School Board Attorney
1450 N.E. Second Avenue, Suite 430
Miami, Florida 33132

28. INSURANCE REQUIREMENTS

Contractor shall provide evidence of insurance as may be required by the School Board's Office of Risk and Benefit Management, which may include, without limitation, professional liability, general liability, worker's compensation and auto liability insurance coverages. Upon request, "The School Board of Miami-Dade County, Florida, its officers, directors and employees" shall be named as additional insured. Prior to effective date of the Agreement, Contractor shall be responsible for providing the School Board with (1) certificate(s) of insurance and (2) policy endorsement(s) as proof of said coverage. If the Agreement is pursuant to a Request for Proposal or Invitation to Bid, then the Contractor shall also comply with insurance requirements set forth therein. Contractor shall maintain insurance coverage in effect for the entire term of the Agreement. Cancellation or modification of terms, without the prior written consent of the School Board, shall constitute a material default under the Agreement.

<p style="text-align: center;">APPROVED AS TO FORM AND LEGAL SUFFICIENCY (as to the School Board):</p> <hr/> <p style="text-align: center;">SUBMITTED BY:</p> <hr/> <p>Charge Location Administrator Signature Date</p> <hr/> <p>Regional Superintendent/Division Head Signature Date (as applicable)</p> <hr/> <p>Office of Grants Administration Signature Date (if applicable)</p> <p>NOTE: Signature of Assistant Superintendent for the Office of Intergovernmental Affairs and Grants Administration required ONLY for contracts financed from Contracted Programs Funds (Part IV).</p> <hr/> <p>Risk Management Signature Date</p>	<p>THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA</p> <p>BY: _____ Signature (Superintendent of Schools or Designee)</p> <hr/> <p style="text-align: center;">(Name Typed)</p> <p>Date: _____</p> <p style="text-align: center;">VENDOR/CONTRACTOR</p> <p>BY: _____ Signature</p> <p>Name: _____ (Name Typed) (Title) (Date)</p> <p>Address: _____ _____</p> <p>Social Security No. (if individual) _____ F.E.I.N. (If organization) _____ School Board Employee: Yes <input type="checkbox"/> No <input type="checkbox"/> M-DCPS Employee No. _____</p>
--	--

APPENDIX B – PAYMENT REQUEST FOR CONTRACTED SERVICES



THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

PAYMENT REQUEST FOR CONTRACTED SERVICES

(This form to be used in lieu of an original approved invoice.)

TO: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, ACCOUNTS PAYABLE DEPARTMENT

FROM: _____
Originator of Request/Title (Name Typed)

_____ Location Name _____ Location Number

I certify that services have been rendered on _____ and the following amount is due and payable to the Contractor in accordance with the Agreement duly executed on the _____ day of _____, _____.

Purchase Order Number _____

Total Amount Due (Lump sum payment) \$ _____

Or

Partial Payment # _____ in the amount of \$ _____

REQUIRED PAYMENT DOCUMENTATION:

- The **original** Agreement Form for Contracted Services (FM-2453) must be submitted with all lump sum and **first** partial payments (Note that subsequent partial payments require a copy of the Agreement form); **and**
- a signed and dated copy of the Accounts Payable Purchase Order; **and**
- **original** approved invoice or this Payment Request For Contracted Services form (FM-2454).
- written evaluation upon the completion of services

Signature _____
Contractor

_____ Date

Signature _____
Originator of Request

_____ Date

FM-2454 Rev. (01-06)

APPENDIX C – VENDOR APPLICATION



Vendor Application **Miami-Dade County Public Schools - Procurement Management Services**

Interested vendors should fill out the Vendor Application Form and refer to the Procurement website, at <http://procurement.dadeschools.net>, for current solicitations. The completed Vendor Application Form should be sent by fax or mail to the number or address listed below:

MIAMI-DADE COUNTY PUBLIC SCHOOLS
PROCUREMENT MANAGEMENT SERVICES
1450 N.E. 2 Avenue, Suite 650
Miami, Florida 33132
Tel.: (305) 995-4288
Fax: (305) 995-2642

To minimize delays in processing, please ensure the following documents are submitted along with your vendor application:

- IRS Form W-9 (Required)
- Florida Division of Corporations' SUNBIZ website screen print showing active status (Required)
- Latest County Business Tax Receipt (Required)
- Latest City Business Tax Receipt (Optional)

The SUNBIZ website (www.sunbiz.org), maintained by the Florida Division of Corporations, will be consulted to verify the active registration status of the business identified in the vendor application. Delays in processing may occur if the business name (or fictitious name, if any) does not match the information recorded with the Florida Division of Corporations. All applicants are required to submit a completed and signed IRS form W-9, proof of active status from SUNBIZ and the latest county business tax receipt.

The SAM website (www.sam.gov), maintained by the U.S. Federal government, will be consulted to ensure there are no related exclusion records in existence. An exclusion record identifies those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits. Exclusions are also referred to as 'suspensions' and 'debarments.'

Vendor Application Miami-Dade County Public Schools - Procurement Management Services

<p>1A. TAXPAYER IDENTIFICATION (REQUIRED)</p> <p>_____ (Registered taxpayer I.D. for the business entity - FEIN or SSN, matching federal tax return)</p> <hr/> <p>1B. BUSINESS INFORMATION (REQUIRED)</p> <p>_____ Fictitious Name (Doing Business As, d.b.a., if any)</p> <p>_____ Name (Business name matching federal tax return. Will be used to address purchase orders)</p> <p>_____ Street Address</p> <p>_____ City State Zip Code</p> <hr/> <p>2. MAILING ADDRESS (OPTIONAL) (If same as section 1B, leave blank, otherwise will be used to address purchase orders)</p> <p>_____ Street Address</p> <p>_____ City State Zip Code</p> <hr/> <p>3. INVOICE REMITTANCE ADDRESS (OPTIONAL) (If same as section 1B, leave blank. Must match your invoice remittance address. Will be used to address checks)</p> <p>_____ Street Address</p> <p>_____ City State Zip Code</p> <hr/> <p>4. COMMUNICATION DETAILS (REQUIRED)</p> <p>_____ Contact Person Telephone Number</p> <p>_____ E-Mail Address (Will be used to email purchase orders)</p> <p>_____ 800 Number Fax Number</p> <hr/> <p>5. AFFILIATED COMPANIES (REQUIRED)</p> <p>_____ Name of Affiliated Company</p> <p>_____ Street Address</p> <p>_____ City State Zip Code</p> <p>_____ Telephone Number</p>	<p>6. TYPE OF BUSINESS (REQUIRED)</p> <p><input type="checkbox"/> Corporation State Incorporated _____ Date Incorporated _____</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Sole Proprietorship (One individual owner)</p> <p><input type="checkbox"/> Non-Profit Organization</p> <p><input type="checkbox"/> Joint Venture</p> <p><input type="checkbox"/> Other _____</p> <hr/> <p>7. LICENSES (OPTIONAL)</p> <p>_____ Occupational License Number (Attach copy)</p> <p>_____ Issued By</p> <p>_____ Certificate of Competency (if applicable)</p> <p>_____ Other Licenses</p> <hr/> <p>8. PRIMARY BUSINESS CLASSIFICATION (REQUIRED)</p> <p><input type="checkbox"/> Manufacturer/Producer <input type="checkbox"/> General Contractor</p> <p><input type="checkbox"/> Dealer or Distributor <input type="checkbox"/> Subcontractor _____ (Type)</p> <p><input type="checkbox"/> Retailer <input type="checkbox"/> Broker _____ (Type)</p> <p><input type="checkbox"/> Maintenance/Repair <input type="checkbox"/> Other _____ (Type)</p> <p><input type="checkbox"/> Professional Services _____ (Type)</p> <hr/> <p>9. OWNER/GENDER CLASSIFICATION (REQUIRED) (Please check those that apply)</p> <p><input type="checkbox"/> Small Business Enterprise (SBE) <input type="checkbox"/> Micro Business Enterprise (MBE)</p> <p><input type="checkbox"/> African American <input type="checkbox"/> Male <input type="checkbox"/> Female</p> <p><input type="checkbox"/> Asian American</p> <p><input type="checkbox"/> Hispanic American</p> <p><input type="checkbox"/> Native American</p> <p><input type="checkbox"/> Service Disabled Veteran</p> <p><input type="checkbox"/> White Female</p> <p><input type="checkbox"/> Other</p>
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10. OWNERSHIP DISCLOSURE (REQUIRED)

If the contract or business transaction is with a corporation, partnership, sole proprietorship, or joint venture, the full legal name and business address shall be provided for each officer, director, and stockholder or owner, who holds, directly or indirectly, five percent (5%) or more of the stock or ownership. If the contract or business transaction is with a trust, the full legal name and address shall be provided for each trustee and each beneficiary. Post Office addresses are not acceptable.

Name	Title	Gender	Race/Ethnicity	Stock Ownership

11. AGENT, REPRESENTATIVE OR EMPLOYEE AUTHORIZED TO TRANSACT BUSINESS ON BEHALF OF THE ENTITY/FIRM (REQUIRED)

_____ Name	_____ Title	_____ Name	_____ Title
_____ Name of Company (if other than applicant)		_____ Name of Company (if other than applicant)	
_____ Street Address		_____ Street Address	
_____ City	_____ State	_____ City	_____ State
	_____ Zip Code		_____ Zip Code
_____ Telephone Number		_____ Telephone Number	

12. CATEGORY CODES (REQUIRED)

Using the Category Code List as a reference, please use the spaces below to specify up to 12 unique codes that identify the goods and/or services which your firm can supply. These codes will be used by the Procurement Department when alerting vendors regarding new opportunities to do business. Only the 12 unique codes specified on this application will be accepted, any additional codes submitted will not be honored. The Category Code List may be found at <http://procurement.dadeschools.net/pdf/categorycodes.pdf>

13. CONE OF SILENCE - BOARD POLICY 6325

The School Board of Miami-Dade County, Florida, enacts a Cone of Silence from issuance of a solicitation and shall terminate at the time the item is presented by the Superintendent to the appropriate Board committee immediately prior to the Board meeting at which the Board will award or approve a contract, reject all bids or responses, or take any other action that ends the solicitation and review process.

14. LOBBYISTS - BOARD POLICY 8150

School Board Policy 8150, delineates the policy regarding lobbyists. Pursuant to this rule, lobbyists shall complete, annually, a Lobbyist Registration Form, and pay the annual registration fee.

Pursuant to this rule, every person required to register shall list all individuals who may make a presentation when the person appears as a representative for an individual or firm for an oral presentation before a site administrator, or instructional personnel, or certification, evaluation, selection, technical review or similar oral presentation committee. This listing shall include the Clerk's form, the list of presenters, and the indication of fee receipt, prior to the oral presentation. No person shall appear before any employee or committee on behalf of any individual or firm, unless he or she has been listed as part of the firm's presentation team or unless he or she is registered with the Clerk's office and has paid all applicable fees.

15. DISCLOSURE OF EMPLOYMENT OF CURRENT AND FORMER SCHOOL BOARD EMPLOYEES - BOARD POLICY 6460

Pursuant to School Board Policy 6460 Business Code of Ethics, all bidders, proposers, consultants, vendors and contractors are required to disclose the names of any of their current and future employees who serve as agents, principals, subcontractors, employees, or consultants, to work on any agreement for the bidder, proposer, consultant, vendor, or contractor, and who are currently employed or have been employed by the School Board within the last two (2) years. Such disclosures will be in accordance with current School Board Policies, but will include, at a minimum, the names of former School Board employees, a list of the positions the employees held in the last two (2) years of their employment with the School Board, and the dates the employees held those positions. Written approval by the School Board for the use of current or former School Board employees (within the last two years) is mandatory prior to using funds obtained from any agreement to subsidize the current or former School Board employees services.

NAME	LIST OF POSITIONS	DATES EMPLOYEE HELD POSITION
_____	_____	_____
_____	_____	_____
_____	_____	_____

All School Board Policies may be accessed at: <http://www.dadeschools.net/schoolboard/rules/>

16. ATTESTATION (REQUIRED)

Under penalties of perjury, I certify that:

- 1) The number shown on this vendor application is my correct taxpayer identification number (or I am waiting for a number to be issued to me) ;
- 2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding. Vendor must cross out Item 2 above if he/she has been notified by the IRS that he/she is currently subject to backup withholding because of failure to report all interest and dividends on his/her tax return; and
- 3) I agree with The School Board of Miami-Dade County, Florida, Business Code of Ethics and agree to comply with this Code and all applicable School Board contracting and procurement policies and procedures (School Board Policy 6460).

Pursuant to School Board Policy 6460, which may be accessed at <http://www.dadeschools.net/schoolboard/rules/>, all bidders, proposers, consultants, and contractors are required to disclose the names of any of their employees who serve as agents or principals for the bidder, proposer or contractor, and who, within the last two years, have been or are employees of the School Board. Such disclosures will be in accordance with current School Board rules, but will include, at a minimum, the name of the former School Board employee, a list of the positions the employee held in the last two years of his or her employment with the School Board, and the dates the employee held those positions.

Pursuant to Florida State Statute 119.071 (5) (2) (a), you are being notified that Procurement Management Services is collecting your social security number or taxpayer identification number, inasmuch as the Internal Revenue Service requires that this information be obtained to report income paid to you.

CORPORATE SEAL (If appropriate)

Date: _____

Signature: _____

NOTE: Failure to complete the sections labled REQUIRED on this application will result in processing delays.

Anti-Discrimination Policy

Federal and State Laws

The School Board of Miami-Dade County, Florida adheres to a policy of nondiscrimination in employment and educational programs/activities and strives affirmatively to provide equal opportunity for all as required by:

Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the basis of race, color, religion, or national origin.

Title VII of the Civil Rights Act of 1964 as amended - prohibits discrimination in employment on the basis of race, color, religion, gender, or national origin.

Title IX of the Education Amendments of 1972 - prohibits discrimination on the basis of gender.

Age Discrimination in Employment Act of 1967 (ADEA) as amended - prohibits discrimination on the basis of age with respect to individuals who are at least 40.

The Equal Pay Act of 1963 as amended - prohibits gender discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination against the disabled.

Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

The Family and Medical Leave Act of 1993 (FMLA) - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

The Pregnancy Discrimination Act of 1978 - prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

Florida Educational Equity Act (FEEA) - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

Florida Civil Rights Act of 1992 - secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) - prohibits discrimination against employees or applicants because of genetic information.

Boy Scouts of America Equal Access Act of 2002 – no public school shall deny equal access to, or a fair opportunity for groups to meet on school premises or in school facilities before or after school hours, or discriminate against any group officially affiliated with Boy Scouts of America or any other youth or community group listed in Title 36 (as a patriotic society).

Veterans are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.

In Addition:

School Board Policies 1362, 3362, 4362, and 5517 - Prohibit harassment and/or discrimination against students, employees, or applicants on the basis of sex, race, color, ethnic or national origin, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, and any other legally prohibited basis. Retaliation for engaging in a protected activity is also prohibited.

INTERNAL AUDIT REPORT

**AUDIT OF
INSTRUCTIONAL SUPPORT SERVICES
CONTRACTS AND AGREEMENTS**



**MIAMI-DADE COUNTY PUBLIC SCHOOLS
Office of Management and Compliance Audits
1450 N.E. 2nd Avenue, Room 415
Miami, Florida 33132**

Telephone: (305) 995-1318 ♦ Fax: (305) 995-1331
<http://mca.dadeschools.net>
