Contract Number 2011C-311

11-1200-365

State Auditor Number

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
CONSULTANT CONTRACT
FOR CONSULTANT SERVICES BETWEEN

(East Dakota Educational Cooperative)		(Office of Assessment & Technology Systems)
((ESA 2))	AND	(800 Governors Drive)
(715 E. 14th Street)		(Pierre, SD 57501-2294)
(Sioux Falls, SD 57104)		( )
(Hereinafter referred to as Consultant)		(Hereinafter referred to as State)

The State hereby enters into an Agreement for Consultant Services with the Consultant.

I. THE CONSULTANT:

A. The Consultant services on this agreement commence August 1, 2010 and shall end July 1, 2011.

B. The Consultant has affirmed that he/she is not a full-time state employee as per SDCL 3-12-47.

C. The Consultant will not use state equipment, supplies, and facilities.

D. The Consultant agrees to:

1. Act as fiscal agent to provide four Reading Up field expert reimbursements for services and travel expenses for up to 20 days.

2. In cooperation with DOE set up 10 workshops in September and October of 2010.

3. Monitor workshop registration, communicate with participants registering for workshops and communicate participants to DOE.

E. Consultant agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.

F. The Consultant agrees to provide services in compliance with the Americans with Disabilities Act of 1990.

II. THE STATE:

A. The State will make a total payment for services on this contract not to exceed $40,000.00. Payment will be made in installments as services are performed, upon receipt of a detailed invoice including purchased services and travel expenses (travel expenses will be paid at State rates) for each individual submitted by the Consultant and approved by the State.

B. The State will not pay Consultant expenses as a separate item.

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C. The State does not agree to perform any special provisions.

III. SUPERCESSION PROVISION: All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

IV. AMENDMENT PROVISION: This contract contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing signed by both parties.

V. TERMINATION PROVISION: This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

VI. INSURANCE PROVISION: The Consultant agrees, at its sole cost and expense, to maintain the appropriate insurance required by the State during the period of this agreement.

VII. CONTROLLING LAW PROVISION: This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

VIII. COMPLIANCE PROVISION: Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

IX. DEFAULT PROVISION: This agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. This agreement will be terminated by the State if the Legislature fails to appropriate funds or grant expenditure authority. Termination for this reason is not a default by the State nor does it give rise to a claim against the State.

X. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: Consultant is required to comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

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XI. NONDISCRIMINATION CLAUSE: Consultant agrees to comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Services Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply.

XII. DEBARMENT, SUSPENSION INELIGIBILITY, AND VOLUNTARY EXCLUSION PROVISION: Consultant certifies, by signing this agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency; have not, within a three (3) year period preceding the awarding of this grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsifications, or destruction of records, making false statements, or receiving stolen property, or have not within a three (3) year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

In witness hereto the parties signify their agreement by signature affixed below:

Debra DeAche, Business Manager 10/20/10
Consultant Signature (Date)

11/1/10
Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account) 1232540271/2024/520413000

State Agency contact who can provide additional information regarding this contract: Jan Martin (605) 773-3246