Contract Number 2011C-461

11-1200-396

State Auditor Number

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

(Black Hills Special Services (TIE))		(Office of Assessment & Technology Systems)
(1925 Plaza Blvd)		(800 Governors Drive)
(Rapid City, SD 57702)	AND	(Pierre, SD 57501-2294)
( )		( )
(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 July 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. Administer and operate a statewide project referred to as Technology and Innovations in Education (TIE) as a statewide resource for professional development and technical assistance in response to district needs.

2. Plan and conduct meetings of a statewide TIE Advisory Board for the purpose of receiving feedback and seeking advice regarding TIE activities and services. A representative of the Department of Education will serve on the Advisory Board.

3. Conduct an annual Systems Change Conference that engages education leaders with current information and expertise for leading an effective school change process for increasing student achievement.

4. Conduct an annual TIE conference that engages education leaders with current information and expertise for enhancing information and integrating technology to increase student achievement.

5. Collaborate with DOE in order to maximize South Dakota's participation and benefits afforded our state through membership in the State Education Technology Directors Association (SETDA).

6. Submit to the Office of Assessment and Technology Systems at the completion of this contract a summary statement itemizing the total costs associated with the performance and completion of this contract. This document shall be used as the basis for determining the final payment. The State, therefore reserves the rights to disallow payment or any portion thereof for any costs determined by the State to be inappropriate to the scope of the project. In any such costs are disallowed, final payment shall be adjusted accordingly.

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(	)	( )

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 upon satisfactory completion of the services on the contract not to exceed $46,500.00. Payments will be made for services as they are performed, upon receipt of an itemized invoice of actual expenses submitted by the Consultant and approved by the State.

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

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.

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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."

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

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( )		( )

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:

John Swanson 11/23/10
Consultant Signature (Date)

12/8/10
Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account) 1232530/1000/520413000
State Agency contact who can provide additional information regarding this contract: Wade Pogany (605) 773-3282