



*Department of State  
Office of the General Counsel  
Interoffice Memorandum*

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TO: David E. Mann  
Assistant Secretary of State

FROM: Kerey Carpenter *VC*  
Assistant General Counsel

DATE: February 24, 2000

SUBJECT: Public Libraries and Privatization

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**Introduction:**

A private for-profit corporation has expressed an interest in privatizing public libraries in the State of Florida. The Division of Library and Information Services advised against such privatization, citing numerous public policy concerns. The division's position stems from its understanding of Chapter 257, Florida Statutes, that the State of Florida, through its Legislature, has based its financial support of public libraries on the foundation that public libraries have a long and successful history of being managed and operated by the public through local citizen boards and local governments.

The law does support, as does the division, the ability to outsource incidental services such as custodial, maintenance, and security. Public libraries currently realize significant cost savings through such contracts. However, the division strongly believes that decisions over general management and operations, including basic core library services, should remain under direct public control. The division believes that separating the management and operations of the public library from public management would lead to loss of citizen input in library decision making and loss of community support. Wholesale contracting of public library services will reduce local government accountability by placing a for-profit corporation between citizen library users and local elected officials.

\* Also, the division stated that a public library would not be eligible to receive grant funds if operated or managed by a for-profit corporation. The private corporation questioned the division's legal interpretation about eligibility to receive funding and also questioned whether the division had statutory authority for adopting its implementing rules.

**Issues:** Whether the division's position is supported by the applicable statutes and rules; and  
Whether the division's rules were authorized by statute.

**Short Answer:** Yes, to both issues.

**Discussion:**

Section 257.17(1), Florida Statutes, defines the eligible political subdivisions that are authorized to receive grant funds, and the Legislature did not include for-profit corporations as an eligible political subdivision. That section also establishes the conditions that an eligible political subdivision must meet to receive grant funds. One criteria is that the library must be operated under a single administrative head and expend its funds centrally, both criteria being contrary to the notion of privatizing the management of public libraries. §257.17(2)(a), Fla. Stat.

The division adopted rules, consistent with this statute, establishing the operating standards for determining eligibility. Rule 1B-2.011, Fla. Adm. Code. The rule provides that to be eligible for grant funds, the library must have a single administrative head employed or designated by the library's governing body with authority to administer the operations of the library and the library must expend its funds centrally. Id.

The governing body with authority to employ or designate the administrative head must be one of the following entities:

- (a) The governing body of the county, another county, a special district, or a municipality;
- (b) A legally established administrative board;
- (c) The governing body of a special taxing district; or
- (d) The board of a not-for-profit library corporation.

Any public library that enters into a privatization agreement with a for-profit corporation to operate and manage the library would fail to meet the eligibility requirements set forth in the statute and rules for state grant funds.

The division's rules were authorized by statute and were properly adopted. Chapter 257 specifically authorizes the division to adopt rules "to implement the provisions of this chapter" and to "establish reasonable and pertinent operating standards under which libraries will be eligible to receive state moneys." §§ 257.14-15, Fla. Stat.

**Conclusion:** It is my opinion that the applicable statutes and rules support the division's position, and that the division was authorized to adopt the rules in question.

# Florida House of Representatives

**Bill Posey**

Representative, District 32

1802 S. Fiske Boulevard #103  
Rockledge, FL 32955  
(407) 636-5693

224 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399-1300  
(850) 488-4669

March 28, 2000

Mr. Carroll Webb, Executive Director  
Joint Administrative Procedures Committee  
120 Holland Building  
Tallahassee, FL

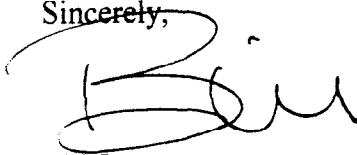
Dear Mr. Webb:

It is my understanding that the Division of Library Services has adopted a rule/policy that prevents a County or City from contracting with a private company for their library services. Under the Division's interpretation, a County/Municipality would become ineligible for State operating grants if they chose to out source their library services.

Because of this ruling, the County/City may lose an opportunity to manage their resources as they see fit without losing precious State revenues. I also understand that Florida is the only State that has such a policy/rule.

What might the statutory authority be for such a rule? I would greatly appreciate your thoughts on this matter.

Sincerely,



Bill Posey  
Representative, District 32

BP/lae

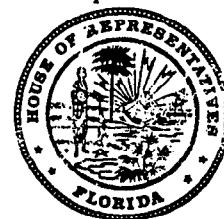


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Representative Adam H. Putnam

JOHN THRASHER  
Speaker



THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

CARROLL WEBB, EXECUTIVE DIRECTOR  
AND GENERAL COUNSEL  
Room 120, Holland Building  
Tallahassee, Florida 32399-1300  
Telephone (850) 488-9110

April 26, 2000

Honorable Katherine Harris  
Secretary of State  
The Capitol  
Tallahassee, Florida 32399

Re: Grants to Public Libraries

*Katherine*  
Dear Secretary Harris:

I would greatly appreciate your providing me with the Department of State's policy applicable to the following circumstances. A question has arisen regarding the law pertaining to public library grants.

A public library enters into a contractual agreement with a for-profit corporation to operate and manage the library. Services provided by the corporation would include needs assessments and community surveys, identification of alternative sources of funding, program development, collection development, automated systems and network administration, daily operations, and management of design, financing and construction. In other words, the corporation would assume responsibility for the day-to-day operations of the library. However, the governmental entity would retain full control and authority over the establishment of policy as well as the decision of whether to renew the contract.

Under the foregoing circumstances, would the public library still be entitled to receive grants pursuant to Chapter 257, F.S., assuming all of the applicable statutory provisions contained therein were met. Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Posey".

Bill Posey  
Representative, District 32



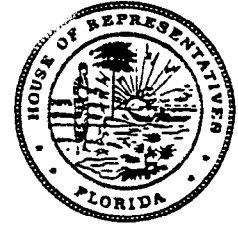


JOINT ADMINISTRATIVE PROCEDURES COMMITTEE  

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*THE FLORIDA LEGISLATURE*



## MEMORANDUM

**TO:** Carroll Webb  
**FROM:** John Rosner  
**DATE:** April 26, 2000  
**SUBJECT:** Operation of Public Libraries by For-Profit Corporation

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This is in response to Representative Posey's inquiry. The Department of State has taken the position that a county or municipality becomes ineligible for library grants if the library is operated by a for-profit corporation. The question is whether this position is supported by statutory authority.

### Background

According to the materials supplied by Mr. Reynolds, Library Systems & Services, Inc. (LSSI) is a private company which is in the business of managing and operating public library systems nationwide. Services include needs assessments and community surveys, identification of alternative sources of funding, program development, collection development, automated systems and network administration, daily operations, and management of design, financing and construction. In other words, LSSI assumes responsibility for day-to-day operations. This is accomplished pursuant to contractual agreement with the governmental entity having control over the library. However, the materials also make it clear that the public entity retains full authority over the establishment of policy.

The Division of Library and Information Services of the Department of State has concluded that any public library that enters into a privatization agreement with a for-profit corporation to operate and manage the library would fail to meet the eligibility requirements for state grant funds set forth in the applicable statutes and rules. A memorandum prepared by department Assistant General Counsel Kerey Carpenter states that the "Legislature has based its financial support of public libraries on the foundation that public libraries have a long and successful

Mr. Carroll Webb

April 26, 2000

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history of being managed and operated by the public through local citizen boards and local governments.”

The memorandum continues as follows:

The law does support, as does the division, the ability to outsource incidental services such as custodial maintenance, and security. Public libraries currently realize significant cost savings through such contracts. However, the division strongly believes that decisions over general management and operations, including basic core library services, should remain under direct public control. The division believes that separating the management and operations of the public library from public management would lead to loss of citizen input in library decision making and loss of community support. Wholesale contracting of public library services will reduce government accountability by placing a for-profit corporation between citizen library users and local elected officials.

In addition, a document prepared by the State Librarian characterizes “privatization” as a “threat to the institution of the public library as we have known it for the past century.”

#### Law

Chapter 257, F.S., governs public libraries and the provision of various grant funds. The Division of Library and Information Services is authorized to accept and expend federal funds for the purpose of giving aid to libraries and providing educational library services in Florida. Section 257.12, F.S. Moreover, several specific grant programs are created in Chapter 257. The statutes establishing such grants vary in detail. The division is authorized to establish “reasonable and pertinent operating standards” under which libraries are eligible to receive state moneys and to adopt rules to implement the provisions of the chapter. Section 257.14 and 257.15, F.S. The following grants are made available.

A political subdivision that has been designated by a county as the single library administrative unit is eligible to receive an operating grant for the operation and maintenance of the library. Section 257.17, F.S. Eligible political subdivisions include:

- (a) A county that establishes or maintains a library or that gives or receives free library service by contract with a municipality or nonprofit library corporation or association within such county;
- (b) A county that joins with one or more counties to establish or maintain a library or contracts with another county, a special district, a special tax district, or one or more municipalities in another county to receive free library service;
- (c) A special district or special tax district that establishes or maintains a library and provides free library service; or



Mr. Carroll Webb

April 26, 2000

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(d) A municipality with a population of 200,000 or more that establishes or maintains a library and gives free library service.

Section 257.17(1), F.S.

The library which is established or maintained by the political subdivision must:

- (a) Be operated under a single administrative head and expend its funds centrally;
- (b) Have an operating budget of at least \$20,000 per year from local sources; and
- (c) Give free library service to all residents of the county or residents of the special district or special tax district.

Section 257.17(2), F.S. Any county qualifying for an operating grant is also eligible to receive an equalization grant as described in section 257.18, F.S.

Any county, any counties and municipalities entering into an interlocal agreement pursuant to chapter 163, a special district, or a special tax district which qualify for an operating grant are eligible to apply for establishment grants for the establishment of library services pursuant to section 257.19, F.S.

Administrative units of multicounty libraries that serve populations of 50,000 or more, or have three or more counties, are eligible for annual multicounty library grants for the support and extension of library services in participating counties. Section 257.172, F.S.

Municipal, county, and regional libraries are eligible for library construction grants on a matching basis. Section 257.191, F.S. Library program grants are established by section 257.192, F.S.

In order to receive a grant under the foregoing provisions, a board of county commissioners or the chief municipal executive authority must make application to the division. Section 257.23, F.S. In the application, the board or chief executive must agree to observe the standards established by the division as authorized in section 257.15, F.S., above. Id.

The state funds provided to libraries must be expended only for library purposes in the manner prescribed by the division. The funds may not be expended for the purchase or construction of a library building or library quarters, except as a construction grant. Section 257.24, F.S.

### Analysis

It is clear that the entity making application for a grant must be a board of county commissioners or chief municipal executive authority. Section 257.23, F.S. Nothing in the materials provided by Mr. Reynolds suggests any variance from this requirement in the matter under consideration. The private corporation does not receive the grant. Rather, it is the public entity which is the recipient of grant funds. In addition, as discussed above, the public entity retains full authority over the establishment of library policy.

In her memorandum, Ms. Carpenter notes that in order to be eligible for funding, a library must be operated under a single administrative head and expend its funds centrally. See section 257.17(2)(a), F.S. However, she concludes that both criteria are "contrary to the notion of privatizing the management of public libraries." Based upon my reading of the foregoing statutes, I am unable to agree with her conclusion. There is no apparent legislative intent that the concept of a single administrative head precludes the hiring of a for-profit corporation to operate and manage the library with ultimate oversight of a governmental entity.

I am also unable to discern any language which supports the division's position that outsourcing for "incidental services" is countenanced while outsourcing for general management and operations is not. In fact, Chapter 257, F.S., is entirely silent with regard to which services can be outsourced and which can not.

Sections 257.14 and 257.15, F.S., respectively authorize the division to promulgate rules to implement Chapter 257 and to establish reasonable and pertinent operating standards under which libraries can receive state moneys. I do not construe this authority as extending to the prohibition of contracting with a private, for-profit corporation to run the day-to-day operations of the library in order to retain eligibility for grant funding.

### Conclusion

In my judgment, Chapter 257, F.S., does not constrain an eligible public entity from contracting with a private, for-profit corporation for the day-to-day operation and management of its library in order to retain eligibility for grant funding under the chapter.

DIVISIONS OF FLORIDA DEPARTMENT OF STATE

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Division of Historical Resources  
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FLORIDA DEPARTMENT OF STATE

Katherine Harris  
Secretary of State

May 31, 2000

The Honorable Bill Posey  
Florida House of Representatives  
1802 South Fiske Boulevard  
Suite 103  
Rockledge, Florida 32955

Dear Representative Posey:

A handwritten signature in cursive script that reads "Bill".

Thank you for the opportunity to comment on your questions regarding library grants. Since this question was first raised with the Division of Library and Information Services, we earlier had occasion to address this issue. So that we could respond to the issue appropriately, our legal staff prepared a memorandum, a copy of which I have enclosed.

I hope you will note that our Division promulgated rules pursuant to specific statutory authority and that the rules are fully compatible with the policies established by the Legislature. In other words, the Department believes it is implementing the terms of the relevant statutes. Copies of the statutes and rules promulgated in furtherance of these statutes, are attached for your convenience.

Again, I appreciate your questions and the opportunity to respond.

Yours truly,

A handwritten signature in cursive script that reads "Katherine".

Katherine Harris  
Secretary of State

KH/dkk

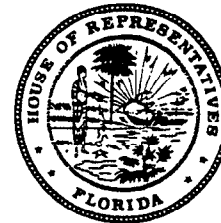
Enclosures



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CARROLL WEBB, EXECUTIVE DIRECTOR  
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Telephone (850) 488-9110

June 13, 2000

Honorable Katherine Harris  
Secretary of State  
The Capitol  
Tallahassee, Florida 32399

**Re: Operation of Public Libraries by For-Profit Corporation**

Dear Secretary Harris:

Chairman Posey asked me to respond to the Department's memorandum concerning the operation of public libraries by for-profit corporations. I have carefully reviewed the memorandum and researched the applicable statutes. However, I must respectfully disagree with the conclusion arrived at by Ms. Carpenter. I found no language in Chapter 257, F.S., which would jeopardize a public library's standing to receive grants if it contracts with a private, for-profit corporation for its day-to-day operation and management. For your convenience, I am enclosing a copy of a memorandum which contains my findings.

I am available at your convenience or the convenience of your staff to discuss this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Rosner".

John Rosner  
Chief Attorney

Enc.

cc: Representative Bill Posey  
Mr. Bob Reynolds

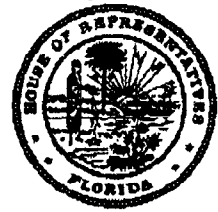


**JOHN M. MCKAY**  
President



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Representative Donna Clarke, Alternating Chair  
Senator Ginny Brown-Waite  
Senator Bill Posey  
Representative Nancy Argenziano  
Representative Wilbert "Tee" Holloway

**THOMAS FEENEY**  
Speaker



THE FLORIDA LEGISLATURE  
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CARROLL WEBB, EXECUTIVE DIRECTOR  
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Tallahassee, Florida 32399-1300  
Telephone (850) 488-9110

June 27, 2001

Ms. Loretta Flowers  
Chief, Bureau of Library Development  
Department of State  
R. A. Gray Building  
Tallahassee, Florida 32399-0250

**Re: Department of State Rule 1B-2.011**

Dear Ms. Flowers:

I have completed a review of the proposed amendments to rule 1B-2.011 and prepared the following comments for your consideration and response.

**1B-2.011**

(2)(a): The rule incorporates by reference the State Aid to Libraries Grant Guidelines & Application which contains application forms DLIS/SA02 - SA06. The effective date of the application forms is set forth as 4/1/98. However, inasmuch as such forms are part of this rulemaking exercise, the date should be consistent with that of the Guidelines (DLIS/SA01).

The rule also states that forms DLIS/SA02a - SA04a are contained within the Guidelines. However, these forms were not provided with the other materials. If the forms are no longer a part of the Guidelines, the rule should be amended accordingly.

**State Aid to Libraries Grant Guidelines & Application  
Section V.B. (page 4)**

Is it the intent of this rule to make libraries which are operated by for-profit corporations ineligible for funding?

**Section VI. C.1. (page 7)**

Should not this paragraph refer to section A rather than to section II?

Ms. Loretta Flowers  
June 27, 2001  
Page 2

**Section VII. D.1.(i) (page 9)**

Section 216.3491, F.S., was transferred to section 215.97, F.S., by Chapter 2000-371, Laws of Florida. Chapter 10.600, F.A.C., does not exist.

**1B-2.011**

(2)(d): The effective date following the completion of this amendment should appear after the reference to the Library Services and Technology Act Grant Guidelines (DLIS/LSTA01). The same comment applies to forms DLIS/LSTA02 - LSTA03. Only the most current date need appear rather than each date the document was amended.

**Library Services & Technology Act Grants Guidelines**

**Section I. (page 1)**

The Guidelines incorporate by reference "Access for All: Libraries in Florida's Future; A Plan for the Continued Development of Florida's Libraries." However, a copy of this document was not provided. Please send me a copy. In addition, the document should be included on the certification of materials filed for adoption when the rule and accompanying materials are filed with the Bureau of Administrative Code.

**Section IV. (page 4, third paragraph)**

Should not the reference be to page 24 rather than to page 23?

**Section VIII (page 7, project revision)**

Please explain the criteria to be applied in approving or denying approval for project revisions.

**Section VIII (page 8, audit)**

Section 216.3491, F.S., was transferred to section 215.97, F.S., by Chapter 2000-371, Laws of Florida.

**Section X (page 9)**

Please explain the criteria pursuant to which the division will or will not initiate other statewide projects and special grant categories. What types of other projects and special grant categories are contemplated? What is meant by "special needs and opportunities?" What are the criteria pursuant to which the division determines eligibility of grant recipients? Have the guidelines and application procedures been promulgated as rules?

**Continuing Projects**

**Section D. (page 29 contractual services)**

What is the meaning of "OCLC/SOLINET?"

**1B-2.011**

(2)(e): The effective date following the completion of this amendment should appear after the



Ms. Loretta Flowers  
June 27, 2001  
Page 3

reference to the Florida Library Literacy Grants Guidelines and Application. The same comment applies to forms DLIS/FLL01- FLL03. Only the most current date need appear rather than each date the document was amended.

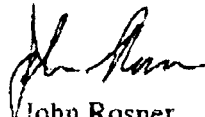
**Florida Library Literacy Grants Guidelines and Application  
(page 5 audit)**

Section 216.3491, F.S., was transferred to section 215.97, F.S., by Chapter 2000-371, Laws of Florida.

In addition to the materials discussed above, the following documents were provided: Annual Statistical Report for Public Libraries, Certification Regarding Debarment, etc., Disclosure of Lobbying Activities, and Circular No. A-133. Please identify the rule which incorporates these documents by reference.

I am available at your convenience to discuss the foregoing comments.

Sincerely,



John Rosner  
Chief Attorney



DIVISIONS OF FLORIDA DEPARTMENT OF STATE  
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**FLORIDA DEPARTMENT OF STATE**  
**Katherine Harris**  
 Secretary of State

**DIVISION OF LIBRARY AND INFORMATION SERVICES**

July 19, 2001

Mr. John Rosner  
 Chief Attorney  
 Joint Administrative Procedures Committee  
 Room 120, Holland Building  
 Tallahassee, Florida 32399-1300

RECEIVED  
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 JOINT ADMINISTRATIVE  
 PROCEDURES COMMITTEE

Dear Mr. Rosner:

We have reviewed your comments regarding the proposed amendments to rule 1B-2.011. Our response follows. In addition, in response to written comments received regarding the Library Services and Technology Act Guidelines and Application, we have made two changes to the application packet. The comments and proposed changes are described following the response to your comments.

**STATE AID TO LIBRARIES GRANT GUIDELINES AND APPLICATION**

1. 1B-2.011 (2)(a): The rule incorporates by reference the State Aid to Libraries Grant Guidelines & Application which contains application forms DLIS/SA02-SA06. The effective date of the application forms is set forth as 4/1/98. However, inasmuch as such forms are part of this rulemaking exercise, the date should be consistent with that of the Guidelines (DLIS/SA01).

*Only the State Aid to Libraries Grant Guidelines and Application (Form DLIS/SA01), the State Aid to Libraries Grant Application – County Participating in a Multicounty County Library (Form DLIS/SA04), the State Aid to Libraries Grant Application – County Participating in a Multicounty County Library (New) (Form DLIS/SA04a), and the Annual Statistical Report Form for Public Libraries (Form DLIS/SA07) are being revised and will reflect an amended date. All other forms, DLIS/SA02, SA02a, SA03, SA03a, SA05, SA06 are unchanged and will keep the original effective date of 4-1-98. The Division has elected to include all effective and amendment dates for this program.*

2. The rule also states that forms DLIS/SA02a-SA04a are contained within the Guidelines. However, these forms were not provided with the other materials. If the forms are no longer a part of the Guidelines, the rule should be amended accordingly.

*Copies of the forms are attached and will be included in the application packet.*

STATE LIBRARY OF FLORIDA  
 R.A. Gray Building • Tallahassee, Florida 32399-0250 • (850) 487-2651  
 FAX: (850) 488-2746 • TDD: (850) 922-4085 • <http://www.dos.state.fl.us>  
 LEGISLATIVE LIBRARY SERVICE (850) 488-2812 • FAX: (850) 488-9879  
 RECORDS MANAGEMENT SERVICES (850) 487-2180 • FAX: (850) 488-1388  
 FLORIDA STATE ARCHIVES (850) 487-2073 • FAX: (850) 488-4894

Mr. John Rosner  
July 19, 2001  
Page Two

3. Section V.B. (page 4). Is it the intent of this rule to make libraries which are operated by for-profit corporations ineligible for funding?

*The eligible political subdivisions are outlined in Chapter 257.17(1), Florida Statutes. For-profit corporations are not eligible under Chapter 257.17, Florida Statutes.*

4. Section VI. C.1. (page 7). Should not this paragraph refer to Section A rather than to Section II?

*The reference will be revised to refer to section A.*

5. Section VII. D.1. (1) (page 9). Section 216.3491, F.S., was transferred to Section 215.97, F.S., by Chapter 2000-371, Laws of Florida. Chapter 10.600, F.A.C. does not exist.

*This section has been revised as follows: "...in accordance with the requirements of Section 215.97, Florida Statutes, Chapter 10.550, Rules of the Auditor General, and generally accepted..."*

#### **LIBRARY SERVICES AND TECHNOLOGY ACT GRANTS GUIDELINES**

1. 1B-2.011 (2)(d). The effective date following the completion of this amendment should appear after the references to the Library Services and Technology Act Grant Guidelines (DLIS/LSTA01). The same comment applies to forms DLIS/LSTA02-LSTA03. Only the most current date need appear rather than each date the document was amended.

*The Division has elected to include all effective and amended dates for this program.*

2. Section I (page 1). The Guidelines incorporate by reference "Access for All: Libraries in Florida's Future; A Plan for the Continued Development of Florida's Libraries." However, a copy of this document was not provided. Please send me a copy. In addition, the document should be included on the certification materials filed for adoption when the rule and accompanying materials are filed with the Bureau of Administrative Code.

*A copy of Access for All is attached and will be included with the certification materials files for adoption.*

Mr. John Rosner  
July 19, 2001  
Page Three

3. Section IV (page 4, third paragraph). Should not the reference be to page 24 rather than to page 23?

*The reference will be revised to be page 24.*

4. Section VIII (page 7, project revision). Please explain the criteria to be applied in approving or denying approval for project revisions.

*The following language will be added to the end of the Project Revision section:  
"Approval will be granted for revisions that are consistent with the intent of the approved project."*

5. Section VIII (page 8, audit). Section 216.3491, F.S., was transferred to Section 215.97, F.S., by Chapter 2000-371, Laws of Florida.

*This section has been revised as follows: "An audit that is in compliance with requirements of federal Circular A-133, incorporated herein by reference, and Section 215.97, Florida Statutes...."*

6. Section X (page 9). Please explain the criteria pursuant to which the division will or will not initiate other statewide projects and special grant categories. What types of other projects and special grant categories are contemplated? What is meant by "special needs and opportunities?" What are the criteria pursuant to which the division determines eligibility of grant recipients? Have the guidelines and application procedures been promulgated as rules?

*There are no special grant categories added that have not been promulgated by rule. This language is included for future contingencies.*

7. Continuing Projects. Section D. (page 29 contractual services). What is the meaning of "OCLC/Solinet?"

*Pages 29 and 22 have been revised to incorporate the definitions as follows:  
"...honoraria for speakers, wiring costs and OCLC (Online Computer Library Center, Inc.)/SOLINET (Southeastern Library Network, Inc.) services. OCLC is a national utility and SOLINET is a regional utility providing for the automated handling of bibliographic records and other functions for member libraries. Briefly describe..."*

Mr. John Rosner  
July 19, 2001  
Page Four

## **FLORIDA LIBRARY LITERACY GRANT GUIDELINES AND APPLICATION**

1. 1B-2.011 (2)(E). The effective date following the completion of this amendment should appear after the references to the Florida Library Literacy Grants Guidelines and Application. The same comment applies to forms DLIS/FLL01-FLL03. Only the most current date need appear rather than each date the document was amended.

*The Division has elected to include all effective and amended dates for this program.*

2. Page 5, audit. Section 216.3491, F.S., was transferred to Section 215.97, F.S., by Chapter 2000-371, Laws of Florida.

*This section has been revised as follows: "An audit that is in compliance with Section 215.97, Florida Statutes, must be submitted..."*

In addition to the materials discussed above, the following documents were provided: Annual Statistical Report for Public Libraries, Certification Regarding Debarment, etc., Disclosure of Lobbying Activities, and Circular No. A-133. Please identify the rule which incorporates these documents by reference.

- *The Annual Statistical Report for Public Libraries is on page 9 of the State Aid to Libraries Grant Guidelines and Application. This form is now required to be submitted electronically. The document that was submitted was a printout of the electronic form for information purposes. Language in this section will be revised to incorporate this document by reference.*
- *The Certification Regarding Debarment is on page 8, Certifications section, of the Library Services and Technology Act Guidelines. Language in this section will be revised to incorporate this document by reference.*
- *The Disclosure of Lobbying Activities is on page 8, Certifications section, of the Library Services and Technology Act Guidelines. Language in this section will be revised to incorporate this document by reference.*
- *Circular No. A-133 is incorporated by reference on page 9 of the Library Services and Technology Act Guidelines.*

## **ADDITIONAL CHANGES TO THE LIBRARY SERVICES AND TECHNOLOGY ACT GUIDELINES**

Two written comments were received from LSTA Advisory Council members before the rule hearing date. The comments and proposed response follow.

Mr. John Rosner  
July 19, 2001  
Page Five

1. On page 3 of the Instructions for completing the LSTA Annual Report form, the wording should be revised as follows: "Tell how the library used the evaluation and data collected to implement the project.

*The sentence will be revised as recommended.*

2. Insert the wording from the LSTA Guidelines, effective 12/18/2000, LSTA Application Instruction, Section 5, Evaluation into Section VIII Grant Administration, Evaluation. The section can be reworded as appropriate to convey the intent of including the description of narrative format that will be required to be submitted.

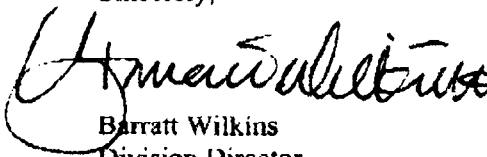
*The section will be revised as recommended to read:  
Evaluation. All funded applicants will be required to complete a detailed evaluation plan for the project prior to signing of the grant agreement. The evaluation plan should complement the LSTA Outcomes Plan, specifically the outcomes, indicators, outputs and data sources. The narrative should include descriptive, specific information about the project evaluation including:*

- *A description of how data will be gathered and analyzed using the data sources listed in the LSTA Outcomes Plan.*
- *A description of any questionnaires or test instruments to be used.*
- *A description of any reports to be produced.*
- *The persons(s) responsible for the evaluation.*

*Projects funded under this grant cycle ....*

Please contact me or Loretta Flowers if additional information or clarification is needed.

Sincerely,



Barratt Wilkins  
Division Director

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2001 JUL 20 AM 11:03  
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BW/Wnn

Attachment

pc: Heidi Hughes





JOHN M. McKAY  
President



Senator Betty S. Holzendorf, Chair  
Representative Donna Clarke, Alternating Chair  
Senator Ginny Brown-Waite  
Senator Bill Posey  
Representative Nancy Argenziano  
Representative Wilbert "Tee" Holloway

THOMAS FEENEY  
Speaker



CARROLL WEBB, EXECUTIVE DIRECTOR  
AND GENERAL COUNSEL  
Room 120, Holland Building  
Tallahassee, Florida 32399-1300  
Telephone (850) 488-9110

THE FLORIDA LEGISLATURE  
**JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE**

July 24, 2001

Mr. Barratt Wilkins  
Division Director  
Division of Library and Information Services  
Department of State  
R.A. Gray Building  
Tallahassee, Florida 32399-0250

**Re: Department of State Rule 1B-2.011**

Dear Mr. Wilkins:

Thank you for your letter dated July 19, 2001, containing attachments. The correspondence addresses most of the comments in my letter dated June 27, 2001. Remaining issues are as follows.

**1B-2.011(2)(a):** The notice of proposed rulemaking does not indicate that Form DLIS/SA04a is being amended. This may be corrected in the notice of change which will also address the other substantive changes described in your letter.

**State Aid to Libraries Grant Guidelines & Application  
Section V.B. (page 4)**

In my letter, I asked whether the rule was intended to make libraries which are operated by for-profit corporations ineligible for funding. You answered that for-profit corporations are not eligible under section 257.17, F.S. However, what is the department's position in the instance where an eligible public entity has contracted with a for-profit corporation to run the day-to-day operations of the library? If you conclude that under such a circumstance the rule precludes eligibility for grant funding, please explicate the specific statutory authority supporting the conclusion.

**RECEIVED**  
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DIVISION OF LIBRARY

Mr. Barratt Wilkins  
July 24, 2001  
Page 2

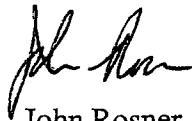
**1B-2.011(2)(d)**

**Library Services and Technology Act Grants Guidelines  
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions (Form DLIS/LSTA01)**

In order to comport with section 120.55(1)(a)4., F.S., the rule should be amended to include the title of the form.

I am available at your convenience to discuss the foregoing comments.

Sincerely,



John Rosner  
Chief Attorney

#125293  
JR:SD S:\ATTY\1B-2.JR

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FLORIDA DEPARTMENT OF STATE

Katherine Harris

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

August 23, 2001

Mr. John Rosner  
Chief Attorney  
Joint Administrative Procedures Committee  
Room 120, Holland Building  
Tallahassee, Florida 32399-1300

Dear Mr. Rosner:

We have reviewed your additional comments regarding the proposed amendments to rule 1B-2.011. Our response follows.

**STATE AID TO LIBRARIES GRANT GUIDELINES AND APPLICATION**

1. 1B-2.011 (2)(a): The notice of proposed rulemaking does not indicate that Form DLIS/SA04a is being amended. This may be corrected in the notice of change which will also address the other substantive changes described in your letter.

*We will incorporate the amendment of Form DLIS/SA04a into the notice of change.*

2. Section V.B. (page 4). In my letter, I asked whether the rule was intended to make libraries, which are operated by for-profit corporations, ineligible for funding. You answer that for-profit corporations are not eligible under section 257.17, F.S. However, what is the department's position in the instance where an eligible public entity has contracted with a for-profit corporation to run the day-to-day operations of the library? If you conclude that under such a circumstance the rule precludes eligibility for grant funding, please explicate the specific statutory authority supporting the conclusion.

*The rule would not preclude an eligible public entity contracting with a for-profit corporation to run the day-to-day operation of a library provided the eligible public entity hired the single administrative head for the library under section 257.17(2)(a) F.S. and Rule 1B-2.011 (2)(a), Sections V.B. and D., FAC. The governing body with authority to employ or designate the administrative head must be one of the following entities:*

- a.) The governing body of the county or another county;
- b.) The legally established administrative board established by the eligible political subdivision for the purpose of governing the library;
- c.) The governing body of a special district or special taxing district;
- d.) The board of a nonprofit library corporation or association; or
- e.) A municipality

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Mr. John Rosner  
August 23, 2001  
Page 2

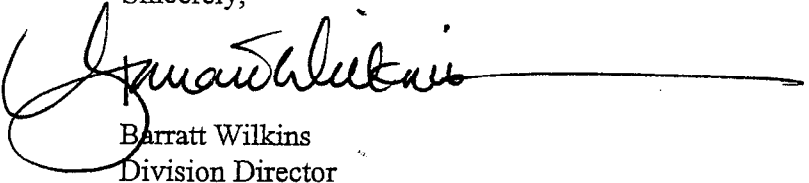
**LIBRARY SERVICES AND TECHNOLOGY ACT GRANTS GUIDELINES**

3. 1B-2.011(2)(d): Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactiona (Form DLIS/LSTA01).  
In order to comport with section 120.55(1)(a)4., F.S., the rule should be amended to include the title of the form.

*When the copy of the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction form was sent to you, it inadvertently included the form number for the LSTA application. This form is not a part of the application, it is a form that is incorporated by reference in to the application and guidelines packet. We will remove the form number (Form DLIS/LSTA01) from the form.*

Please contact me or Loretta Flowers if additional information or clarification is needed.

Sincerely,



Barratt Wilkins  
Division Director

BW/Wmm

Attachment

pc: Heidi Hughes