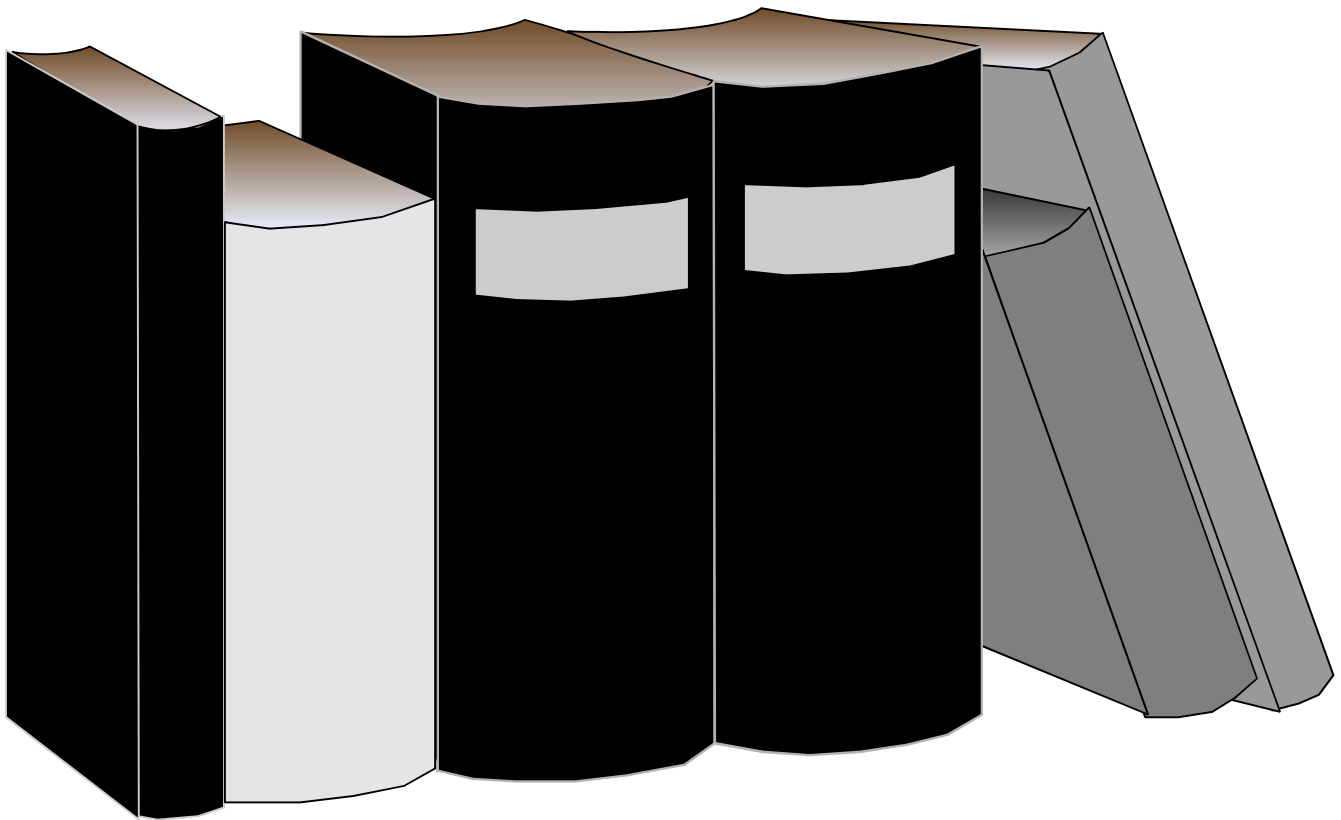


# Report on Privatization of Public Libraries - Pros and Cons



The Florida House of Representatives  
Committee on Tourism  
January, 2002  
Representative Allen Trovillion, Chair

# **PRIVATIZATION OF PUBLIC LIBRARIES – PROS & CONS**

## **Executive Summary**

### ***Purpose***

The purpose of the report is threefold: (1) to examine the pros and cons of the use of for-profit companies in the administration and operation of public libraries; (2) to determine what, if any, restrictions exist in state or federal laws or rules governing funding for public libraries pertaining to the use of for-profit companies in administration and operation of such libraries; and, (3) based upon the findings, to provide policy options, if any, for improving public library service for consideration by the Legislature.

### ***Background***

During the 2001 Legislative Session, several changes were proposed to s. 257.17, F.S., relating to eligibility of public libraries for receipt of operating grants under State Aid to Libraries. Some changes did pass in CS/HB 337, 1st Eng, (Ch. 2001-263, LOF), including requiring the Division of Library and Information Services of the Department of State to review the State Aid to Libraries program and submit a report on needed revisions to encourage and improve the delivery of free library service to all state residents. Also, the report is to examine the feasibility of municipalities and county designated single administrative units forming public library cooperatives through interlocal agreements for the purpose of extending library service to residents of both legal service areas. The final report is due to the Legislature by January 2, 2002.

An amendment was adopted in the Senate Governmental Oversight and Productivity Committee to SB 1010, the companion to CS/HB 337, that prohibited the denial of an “operating grant, or any other state or federal aid, to an eligible political subdivision solely because the functions of the library’s single administrative head, or any other library services, are contracted to a private, for-profit firm.” Although this language was not included in the final Senate version, nor in the bill that became law, the language raised questions among legislators and those in the library field concerning the meaning and impact of such language on the State Aid to Libraries program if it were to be brought forward in the future.

Since neither the issue of “privatization” of public libraries nor the issue of state funding of “privatized” public libraries, as it was referred to, was discussed in any committee of the House of Representatives, Tourism Committee staff was directed to do an interim report providing legislators with information on the issues.

### State Aid to Libraries Program: What is it?

Chapter 257, F.S., is the statute governing library operation and funding. The Division of Library and Information Services in the Department of State is the state agency responsible for the implementation of the chapter and the administration of the grants established thereunder.

The State Aid to Libraries grant program (State Aid), established in 1961, is a statutory, formula-based aid and incentive program to assist in the establishment and development of library services in all counties. It is designed to encourage counties to provide free library service to their residents and to provide funding to support that service.<sup>1</sup> At the time of its inception, counties were determined to be the political subdivisions most suited to provide library services because 43% of Floridians lived in unincorporated areas. In 1999, the percentage living in unincorporated had grown to 51%.

Grant formulas for State Aid are based largely on local funds invested in library service. The more local money spent on library services, the higher the grants earned under the State Aid to Libraries program. State Aid is composed of the following grants for which libraries may apply: “*operating grants*,” used for any operating purpose by a local public library; “*multicounty library grants*,” used as an incentive to link a number of poorer, rural county libraries together and provide a solid base for library services in the area; “*equalization grants*,” awarded to the poorer counties based on ability to tax, effort, and need when compared with the rest of the state; and “*establishment grants*,” used for establishment of library services in qualifying areas. In order for a library to receive funding under any of the State Aid grants, it must first qualify for an operating grant.<sup>2</sup>

All 67 counties participate and receive State Aid. The structure for receipt of that funding is dictated by s. 257.17, F.S. Departmental rules, which include State Aid guidelines and application requirements, further dictate requirements for operation. There are basically three structures: consolidated county public library, county public library cooperative, and multicounty library cooperative.<sup>3</sup>

The funding for State Aid in FY 2001-2002 is \$32.4 million. All other federal and state grants to libraries in Florida equal less than half of the State Aid funding.

### ***Methodology***

In order to answer the question concerning Florida’s requirements regarding eligibility for State Aid to Libraries, Committee staff reviewed Florida law and rules governing eligibility for state funding of public libraries as well as Department of State and Joint

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<sup>1</sup> Ch. 61-402, L.O.F.

<sup>2</sup> The State Aid to Libraries grant program is set forth in ss. 257.14-257.25, F.S. For a detailed explanation of eligibility for State Aid and the award process see Appendix A and pp. 47-55 of the report.

<sup>3</sup> For more details on these structures see Appendix B and pp. 45-55 of the report, ***Florida Laws and Rules Governing Establishment and Funding of Public Libraries***.

Administrative Procedures Committee (JAPC) correspondence on departmental rules governing such eligibility. Staff reviewed samples of reports and documentation required of public libraries or library systems applying for and receiving state funding through the State Aid to Libraries program. Federal laws were reviewed to determine if there are any relevant funding restrictions. Additionally, staff spoke with the Director of the Division of Library and Information Services of the Department of State and the Bureau Chief of the division's Bureau of Library Development concerning state and federal funding, laws, rules, and guidelines relating to public libraries.

In order to answer questions concerning the terms "*privatization*," "*outsourcing*," and "*contracting*" and the use of private, for-profit companies to administer and/or operate a public library, committee staff did the following:

- Reviewed literature.
- Reviewed library laws of California, New Jersey, North Dakota, and Texas.
- Interviewed key persons involved with public libraries that are administered and/or operated by a private, for-profit company.
- Reviewed contracts for public library administration and management between each local government and private, for-profit company.
- Interviewed State Librarians in New Jersey, North Dakota, and Texas.
- Interviewed Librarian for Los Angeles County Library.
- Received information and reports from Library Systems & Services, Inc. (LSSI), a private, for-profit company that administers and/or operates public libraries, through telephone requests and a meeting with representatives of LSSI and House and Senate staff.
- Spoke with Florida's State Librarian and the State Library Council.

## ***Findings***

### ***Privatization, Outsourcing, Contracting – A question of definition***

In both the literature and in discussions with persons in Florida and in other states, three terms are used to describe what happens when a for-profit company is used to administer or operate a public library: "*privatization*," "*outsourcing*," and "*contracting*." Sometimes these are used interchangeably. Other times there are specific distinctions used to provide definitional parameters. However, there is disagreement on the distinctions. Because of this, it is difficult to use these terms without first understanding how the person to whom you are speaking defines them as they relate to the library and its relationship with the local governmental entity and the for-profit company and to the governmental entity's relationship with the company and the library. Additionally, the

word “*privatization*” is often used to evoke images of past experiences with privatized services and is often equated with poor service, lack of accountability, and loss of public input and control.<sup>4</sup>

Simply defined according to Black’s Law Dictionary, a contract is “an agreement between two or more persons which creates an obligation to do or not to do a particular thing.”<sup>5</sup> All three terms, involve a contractual arrangement. The types of functions involved in the contract, the transfer of property, and the degree of decision-making control appear to be the defining factors as to the classification of the contract with regard to public libraries. There are 12 statutory definitions in Florida law for what constitutes a contract, however, each is very narrowly drawn to the specific area of law and often the word contract is used to define the term contract.<sup>6</sup> There is no definition in Florida law for “*outsourcing*” or “*privatization*.” With regard to libraries, there are no contracting or outsourcing prohibitions for an eligible political subdivision under s. 257.17, F.S.

Woven into distinguishing “*contracting*,” “*outsourcing*,” and “*privatization*,” are the issues of what constitutes a “core library service,” who should control or manage those core services, and how can such control and management be exercised. These are viewed by some as the crux of questions relating to function and decision making. Core services are considered those activities defining the profession of librarianship. These are such things as collection development and organization; gathering and providing information; making the collection accessible to library users, and oversight and management of such. It should be noted, however, that there is not universal agreement on core library services nor on what core services should not be contracted out to another entity.

The American Library Association’s (ALA) Outsourcing Task Force defined “*privatization*” as shifting policy making and management of library services or responsibility for the performance of core library services in their entirety, from the public sector to the private sector.<sup>7</sup> “*Outsourcing*” is broadly defined in literature as contracting out functions that would otherwise be performed by library employees either because they chose not to perform the function or do not have the ability to provide what is needed.

Public libraries outsource many functions to private, for-profit companies. Some of these functions might be considered “core”. Management and operations of libraries are contracted or outsourced to private, nonprofit companies or organizations. Only seven public libraries, however, are spoken about as being privatized. These libraries have contracted or outsourced the management and operations of their libraries to a private,

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<sup>4</sup> See Appendix F, *Florida Public Libraries & Privatization - A Guide for Florida Library Boards and Friends*, September 2000, prepared by the Division of Library and Information Services, Department of State.

<sup>5</sup> *Black’s Law Dictionary*, (6<sup>th</sup> ed.), 1993. 322-326.

<sup>6</sup> See ss. 420.503, 520.02, 520.31, 520.61, 559.3902, 559.927, 671.201, 672.106, 668.50, 713.01, 721.05, and 766.1115, F.S.

<sup>7</sup> *Outsourcing and Privatization in American Libraries: Report of the ALA Outsourcing Task Force*, 1998-99 Council Document #24, American Library Association. 1999a.

for-profit company. According to the Tourism Committee survey responses, none of these seven consider themselves to be privatized but consider that they have outsourced certain functions or have contracted for specified services.

A study prepared for the ALA in 2000 defined “*privatization*” as contracting out for services in a way that shifts control over policies for library collections and services from the public to the private sector. Based upon that definition, the study concluded that there were no privatized public libraries. All of the communities surveyed for the study concurred with this definition.<sup>8</sup>

### *Florida Library Law, Rules and Funding Compared to States Surveyed*

In Florida, the establishment, governance, staffing, operation, and local funding for public libraries are left to the county, municipality, or special district choosing to establish such a library. There are no requirements in Florida law for that nor for library directors to have specified degrees or experience. This, however, is not the case when state assistance is provided. Under the State Aid to Libraries program, library structure is directed to a statutorily established model for county structures to which municipalities must belong in order to receive any assistance.<sup>9</sup> Levels of local funding and match participation are provided statutorily for the various grants under State Aid. Florida law broadly gives authority to the Division of Library and Information Services to establish “reasonable and pertinent operating standards under which libraries will be eligible to receive state moneys.” These policies, which are in the grant guidelines adopted by reference in the Florida Administrative Code, dictate additional structural, administrative, and operational standards (hours of operation, etc.) as well as specific educational and experience requirements for the single administrative head of the public library or library system. Other state grants to libraries, such as the construction and multitype library, are available to a wider variety of library structures permitted in law. Matching requirements are provided in law. These grants are also governed operationally by rule. The state literacy grant is completely governed by guidelines adopted in the Florida Administrative Code.

Under Florida rules governing State Aid to Libraries, questions were posed in March 2000 regarding whether or not the rules prohibited receipt of such assistance if a local government contracted with a private, for-profit company to provide library management and day-to-day operation of a library and upon what statutory authority was such a presumption based. In April 2000, the Department of State took the position that this was the case and cited broad statutory authority and opinions of the Division of Library and Information Services as the basis of the opinion. The Joint Administrative Procedures Committee (JAPC) continued to question the response especially when the new State Aid guidelines were to be adopted through the rule process. On August 23, 2001, the director

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<sup>8</sup>Robert S. Martin, Ph.D., et al., *The Impact of Outsourcing and Privatization On Library Services and Management: A Study for the American Library Association* (Texas Woman’s University School of Library and Information Studies, June 2000), 3-4 and 53-55.

<sup>9</sup> The only exception to this is the City of Hialeah that is a time limited exception created in s. 257.17(4), F.S.

of the Division of Library and Information Services responded that the rule would not preclude an eligible public entity contracting with a for-profit company “provided the entity hired the single administrative head for the library.” It should be noted that the law is not specific on this point; it merely states that there will be a single administrative head. Additionally, the State Aid guidelines referred to state that the entity can “hire or designate” the single administrative head. It is questionable as to what statutory authority or rationale requires this distinction when a government chooses to use a for-profit company versus a nonprofit. This appears to be a conflict that needs resolution.<sup>10</sup>

The states of California, New Jersey, North Dakota, and Texas are very explicit in their laws concerning local governmental creation, organization, administration, staffing, and required local funding for public libraries. The relationships between local governmental entities, i.e., counties, municipalities, and library boards of trustees or library commissions, are specifically provided. With the exception of North Dakota, state law requires that the librarian be certified as holding a specified educational degree. In New Jersey, there are different specifications for different levels of librarians. Likewise, the administrative codes in some of the states are extremely detailed in the requirements for operational standards, staffing levels and qualifications, and collection size and maintenance.

Receipt of state funding in these states is primarily dependent upon meeting the establishment requirements of the respective laws, including a designated funding source, and providing evidence of maintenance of effort. Each state requires reports to be provided to the respective state office responsible for administering the funding. Receipt of state funding is not limited to county structures in these states. In fact, in 1997, California changed its law to allow “general law” cities to opt out of a county library system and be eligible for state assistance.

### *Federal Law and Funding Pertaining to Public Libraries*

There is nothing in the federal law or rules that prohibits federal funds being used by libraries that outsource their management and day-to-day operation to a private, for-profit vendor. This was borne out in the reviews of the areas where such outsourcing has occurred.

### *Privatization of Public Library Management and Operations: Survey Findings*

Currently, the only areas of the country that have contracted with a private, for-profit company to provide the day-to-day operations and management of their public libraries are: Riverside County, Calabasas and Hemet, California; Jersey City and Linden, New Jersey; Fargo, North Dakota; and Lancaster, Texas.<sup>11</sup> These contractual arrangements are

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<sup>10</sup> For more in-depth discussion on this issue, see “*Questions on State Aid Rules: Prohibition of Private Sector Library Management & Operation?*” on pp. 53-55 of the report.

<sup>11</sup> Effective December 31, 2001, the contract between Jersey City, New Jersey and LSSI will be officially terminated; however, all LSSI staff left the library by the end of November. The newly elected mayor had

still relatively new with the earliest having been signed in June 1997 and the latest being signed in July 2001.

Each of these has contracted with Library Systems & Services, LLC (LSSI) of Germantown, Maryland. At this time, LSSI is the only company that provides complete management and day-to-day operation of public libraries and library systems. The company has 20 years experience in providing services to corporate, educational, federal, and public libraries.<sup>12</sup> The selection process of the vendor differed in the different areas surveyed. An issue raised by those surveyed was the lack of competition for a vendor to contract for such needs; however, none expressed dissatisfaction with the services provided by LSSI.

The persons surveyed in these communities repeatedly stated that they have not privatized their library systems but have only outsourced or contracted with a vendor for specific services: day-to-day operation and management of a public library or library system. Some even referred to these as “contracts for consultant services.” There are a wide variety of specific requirements relating to library operation and management that are delineated in the contracts between the respective public governing entity and the private, for-profit company. These contract provisions play a part in the position on privatization. The reasons for the position are consistent with all interviewed:

1. The local governing body (county, municipality, library board of trustees, or combination of municipality and library board or library commission) controls all policy decisions relating to the library operation.
2. Contracts and their addenda provide specific requirements for service and performance for a specified amount of funding.
3. Budget decisions remain with the local governing body.
4. All state funding, receipt of federal grant funds, and donations from the private sector go to the governing body.
5. All materials, equipment, automated systems, bookmobiles, buildings, etc., purchased for use by the library belong to the library and the local governing body.
6. The contract is time limited.

Riverside County, Calabasas, and Lancaster libraries are staffed by the vendor with varying degrees of oversight and control by the local governing body. The other areas are primarily staffed with employees of the local governing body. These people are governed by the civil service requirements of the area and ultimately answer to the governing body. Pursuant to the contracts, a local governing body’s right of refusal or ability to remove management staff brought into the libraries by the vendor varies.

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promised to bring outsourced services back under the city. With the new mayor’s change in the composition of the Library Board, the Board voted to cancel the recently signed contract renewal.

<sup>12</sup> Library professionals compose 25% of LSSI staff. Its contracts range from outsourcing of selected tasks, e.g. streamlining functions, managing electronic resources, and technical services, to managing complete operations. LSSI is not a book wholesaler or vendor of products. Its corporate partner, Follett, serves over 30,000 libraries, operates over 850 college bookstores, and is known for its inventory of K-12 materials.



According to those surveyed, however, all indicated the ability to require removal and replacement of management staff.

As with any decision to contract out services that have historically been handled in-house or by another governmental entity, there are extenuating circumstances leading to that decision: quality of management; level and quality of library service; special needs to be met for which no expertise exists in the current system; funding levels; control issues; time constraints for action; and desperation. These issues were found to be motivating factors in the areas that have outsourced their public library management and operation.

Some of the areas described their public library or library system as being in desperate need of assistance. All of the public library systems had multiple problems requiring immediate, intensive action. Below are reasons for outsourcing or contracting provided by those areas surveyed.

<i>Riverside County:</i>	structure; lack of control; governance; funding problems; level of service provided; 6 months to find someone to run and staff the county library system
<i>Calabasas:</i>	lack of control over management of resources and services; unhappy with level of service for money provided to county; patron complaints; poor quality of collection
<i>Hemet:</i>	inability to find a qualified library director; need for special assistance in planning for move into a much larger library facility and in assessing current and future needs
<i>Jersey City:</i>	substantial automation needs with no in-house expertise; concerns with overall management and conditions of the library; resistance to change old methods; communities needs were not being served by the library; lack of staff training; communication problems between library staff and the Library Board of Trustees
<i>Linden:</i>	poor management by library director; seemingly uncooperative director; library stagnant in movement toward automation and new ways of doing things to provide better service to patrons--no apparent in-house ability; problems with staff work and attitudes (staff training); poor conditions of facilities; no expertise in aggressively seeking funding
<i>Fargo:</i>	poor library management; difficulty in recruitment of library director; alienation of library staff by earlier directors; lack of senior leadership for six months; quality of service to patrons had been diminished over time; need for technology and grants writing expertise
<i>Lancaster:</i>	loss of library director; insufficient staff with expertise to manage or staff newly constructed library; significant decrease in funding for library

All of the persons surveyed and any studies done on contract performance indicated that the outsourcing had proven to be beneficial and that performance requirements outlined in the contracts were being met, if not exceeded.

The outside timeframe for continuation of outsourcing of management and day-to-day operation of a public library varied from community to community and sometimes among those surveyed in a community. In Riverside County, there is no indication of ending the contract; however, the county has required the County Librarian to prepare a report on the options for library services in the future. The City of Calabasas contemplates the city taking over the management and operation of the library in four to six years. The City of Hemet will be ending its second year of its contract in December 2001 but has the option for a third year. There was no indication of whether the contract would be extended or for how long. Those interviewed in Jersey City indicated that the contract should be continued for six to eight years with control of the library being returned to the city then after all the plans had been implemented. It was also mentioned that there was a possibility that the contract would be terminated before then because of the election of a new mayor who did not favor outsourcing of library services.<sup>13</sup> In Linden, there was an indication that at some point in the future things would go back to the city but no exact time was given. In Fargo, there was a split perception with one no longer viewing the contract as short-term and the other indicating that at some point in the future it would be turned back over to the city.<sup>14</sup> For Lancaster, there was no indication of any timeframe since they are just beginning their contract with LSSI.<sup>15</sup>

### *Positions on Outsourcing Management and Operation of Public Libraries*

Positions on outsourcing to a for-profit company run the gamut from opposition to any shift of management oversight from the public to the private for-profit sector because it is not in the best interests of the state residents to supporting local government choice to do so if the people will be better served and will be provided good, quality library service that will meet their needs.<sup>16</sup> The Division of Library and Information Services in the Department of State has stated that “separating 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.” In other division documents prepared and distributed to Library Boards and Friends, outsourcing or contracting for incidental services from the for-profit sector was acceptable; but, going further could reduce government accountability, quality of service, citizen input, loss of publicly employed library director as a leader and advocate, and possible loss of state and federal funding.

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<sup>13</sup> Mayor Glenn Cunningham moved toward termination of the contract with LSSI. On November 14, 2001, at a special council meeting the mayor presented a resolution to end the contract. At the end of November 2001, LSSI staff were to have left the library.

<sup>14</sup> The person interviewed who contemplated the return to the city also hoped this would happen with the LSSI library director remaining as the director. There are time prohibitions in contracts regarding the hiring of LSSI staff. This is standard for all the contracts reviewed.

<sup>15</sup> For detailed information on contract performance, see *Surveys of Other State Experiences* on pp. 10-45 of the report.

<sup>16</sup> The first is that of the American Library Association and the Florida Library Association. The second comment is that of the County Librarian for Los Angeles County Public Library.

Currently, the division in its position on the requirements for State Aid has changed its position on management and operation outsourcing under certain circumstances.<sup>17</sup>

The positions in opposition to outsourcing seem to be stronger among professional associations. However, even with this there are some caveats to opposition. Also, the opposition seems to be based on the presumption that outsourcing is relinquishment of all management oversight and policy control as well as loss of all library staff and citizen input. From the surveys of other states and the review of those contracts, this does not appear to be the case. Many perceived problems could be handled through adequate pre-planning and analysis of the library and community and contract provisions that will ensure the needs of the citizens, the control of the library policy, and performance measurements.

### *Conclusions*

The following is a listing of some of the conclusions drawn from the findings of the research.

- The lack of an accepted definition of “*outsourcing*” and “*privatization*” and the inconsistency in the use of these terms creates confusion among all affected parties: state and local governments, library users, library professionals, library Friends and volunteers, and vendors.

The interpretation or definition of the terms “*outsourcing*” and “*privatization*” are most often linked to the personal or professional biases of those using the terms. For public libraries this is exacerbated by the fact that elements used in the definitions such as “core services” are not universally agreed to by persons in the field.

- When policy and budget control and property ownership rests with a governmental entity, there is no privatization but only contracting out for services or outsourcing. Therefore, it can be concluded that there are no public libraries in the country that are privatized.
- Outsourcing the management and day-to-day operation of a public library is not something that is sought for a library that can readily solve its own problems, but rather for a library with multiple problem issues that cannot be solved in-house and there is the need for immediate action. The individual local government must be the entity to determine if its needs are such that outsourcing is required to provide better library service to its citizens and library patrons.

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<sup>17</sup> For more detail, see pp. 53-55 of the report.

- Contracts should not be entered into to cut funding and library services but for the continuation of current level or improved level of services through efficiencies in budgeting and automation achieved through contract with a vendor.
- Outsourcing of library management of public libraries to private, for-profit companies is relatively new and there is currently no competition in vendor selection; therefore, local governments would benefit from the experiences of other areas that have contracted for such services. Model contracts should be developed and provided to local governments, upon request, for them to use and technical assistance should be offered to assist them in tailoring a contract to meet the library service needs of the community. Contracts should contain elements to ensure local government control, improved library service, meeting of needs specific to the community, and measurable performance outcomes. By doing this, concerns raised in position statements and issues raised by OPPAGA in an overall study on contracting with the private sector would be addressed.
- Local governments would also benefit from a toolkit of information to use in evaluating its library services and systems to determine if outsourcing is a viable tool for them. Checklists already available in library literature could be shared with the governments or modified to fit Florida-specific needs. See Appendix G for an example of such a checklist.
- In essence, an overall conclusion on contracting for management and day-to-day operation of a public library is that the quality of the preliminary analysis leading to the decision to contract, the commitment of the responsible public entities to library services and the need to contract, the attention to contract detail, the experience of the contract manager(s), and the oversight of contract performance are essential to the success of this type of contracting with a private vendor to ensure continued or enhanced community support.
- There are no prohibitions for receipt of state or federal assistance by a governmental entity that outsources the management or day-to-day operations of its public library or library system to a private, for-profit company. Local governmental decisions on such matters are clearly left to the local government.
- Local governmental entities and libraries have been informed by the Department of State that they would not be eligible for funding under State Aid or that it was questionable if they would be eligible for such aid or for federal assistance if they outsourced the management or day-to-day operations of their public libraries. This has created confusion among local governmental entities and the library community and has limited the options of local government for provision of library services. The department has recently changed its position, noted in its response to JAPC on page 55 of the report, to state that such libraries are eligible for funding, if certain requirements are met. In order to alleviate any continued confusion because of the earlier position and the current one, the department should notify these entities of the change in position that has recently occurred.

- The *State Aid to Libraries Grant Guidelines and Application*, adopted by reference in the Florida Administrative Code, require further examination to determine if certain provisions should be in law and not rule and to determine if current interpretations of requirements for the use of a for-profit company for library management and operation are soundly based on law.

In summary, true privatization does not exist in the management and operation of public libraries, only outsourcing under contract with a governmental entity. The fear of privatization and the distrust of for-profit companies in a service area coupled with the lack of information about what has happened in other states and the fear of loss of State Aid and federal assistance has made this option unavailable to local governments in Florida in the past. With the study on State Aid required under CS/HB 337 due to the Legislature no later than January 2, 2002, some issues concerning existing required structures for library service delivery will be addressed including recommendations for statutory modification.

The final and overarching conclusion of the report is that the provision of good, quality free library services to the greatest number of people in our incorporated and unincorporated areas should be the goal of the state's financial assistance program and not the structure nor the method of management and operation.

### ***Policy Options***

Based upon the background leading to the report development, findings of the research efforts, and the conclusions reached from those findings, the following options are presented for consideration.

- Review the Department of State's report on State Aid structure and funding that is required to be presented to the Legislature no later than January 2, 2002, to determine what recommendations for action should be addressed this Session that could give local governments greater operational options in order to improve library services.
- Review the final *State Aid to Libraries Grant Guidelines and Application* to determine the clarity of the language regarding the use of private, for-profit companies to provide public library management through contract with an eligible political entity and make recommendations as determined needed.
- Instruct the Division of Library and Information Services, in order to alleviate any local confusion, to notify local governments, public libraries, library boards, and Friends about the eligibility for receipt of state and federal assistance if library management and day-to-day operation is outsourced to a private, for-profit company.

- Consider the need for clarification in law regarding those issues in rules that other states require statutorily, e.g., librarian certification, and those that have needed clarification over the recent past, e.g., the use of for-profit companies by local governments to manage public libraries.
- Define the terms “outsourcing” and “privatization” to provide for a consistent understanding of those terms as they relate to public libraries and to alleviate confusion among local governments, library professionals, library Friends and volunteers, and library patrons.
- Direct the Division of Library and Information Services, either in-house or through contract, to develop checklists, guidelines, and model contracts to aid librarians and local governments in making decisions about outsourcing of library services. In the preparation of material related to management and operation outsourcing, the division should be directed to work with those communities in other states that have outsourced such functions to determine needed elements in contracts and in what elements need to be considered prior to such outsourcing and in preparation for terminating such outsourcing contracts.
- Direct staff to continue to monitor the outsourcing of public library management and operations in other states to determine the long-term effects of these outsourcing efforts and the implications for public libraries in Florida.
- Direct staff to follow any efforts in Florida to outsource the management or operation of public libraries and report on such efforts.



## **Introduction**

### ***Purpose***

The purpose of the report is threefold: (1) to examine the pros and cons of the use of for-profit companies in the administration and operation of public libraries; (2) to determine what, if any, restrictions exist in state or federal laws or rules governing funding for public libraries pertaining to the use of for-profit companies in administration and operation of such libraries; and, (3) based upon the findings, to provide policy options, if any, for improving public library service for consideration by the Legislature.

### ***Background***

#### **Actions in 2001 Legislative Session Leading to Report**

During the 2001 Legislative Session, several changes were proposed to s. 257.17, F.S., relating to eligibility of public libraries for receipt of operating grants under State Aid to Libraries.

Some of those changes became law in Chapter 2001-263, L.O.F., (CS/HB 337, 1st Eng): a one-year extension for funding for the City of Hialeah Library; study of feasibility of establishing public library cooperatives, by interlocal agreement, between cities and counties; and, review of the State Aid to Libraries grant program to determine its applicability to the needs of the state and report on findings and revisions needed to encourage and improve the delivery of free library services to all state residents. The report, including the feasibility study findings, is due to the Legislature by January 2, 2002.

An amendment was adopted in the Senate Governmental Oversight and Productivity Committee to SB 1010, the companion to CS/HB 337, that prohibited the denial of an “operating grant, or any other state or federal aid, to an eligible political subdivision solely because the functions of the library’s single administrative head, or any other library services, are contracted to a private, for-profit firm.” Although this language was not included in the final Senate version, nor in the bill that became law, the language raised questions among legislators and those in the library field concerning the meaning and impact of such language on the State Aid to Libraries program if it were to be brought forward in the future.

State funding of “privatized” public libraries, as it was referred to, was not discussed in any committee of the House of Representatives. Therefore, the Chairman of the House Committee on Tourism directed staff to address the following questions in a report to the Committee:



- What, if any, restrictions currently exist in state or federal law or rules concerning an eligible political subdivision contracting with a private, for-profit company for the administration and operation of a public library?
- Are we talking about “*privatization*” of a public library or “*outsourcing*” or “*contracting*” for certain functions to be performed by an entity other than the library itself?
- Why is this any different from a public library contracting with a private company to perform other functions or a political subdivision contracting with a private company to perform a specified function?
- What have been the experiences in other states with public libraries that have private, for-profit companies administering and/or operating public libraries and public library systems?

#### State Agency Responsible for Assisting Libraries and Administering Grants

Under Chapter 257, F.S., the Division of Library and Information Services (division) in the Department of State is given responsibility for performing services and activities that support the development of library service to state government, to the libraries and library profession of the state, and to the citizens of Florida. The division has three bureaus: Bureau of Library Development, Bureau of Library and Network Services, and Bureau of Archives and Records Management.

The Bureau of Library Development is responsible for planning, organizing, directing, and coordinating a program of statewide cooperation and networking between different types of libraries, including public, academic, private and institutional libraries. The bureau also develops and administers statewide library programs in the areas of interlibrary cooperation, youth services and services to adults and special clientele. The bureau is responsible for distributing, administering and monitoring federal and state grants to libraries.

Federal funds are received through the Library Services and Technology Act (LSTA) and administered by the federal Institute of Museum and Library Services. Funds the state receives are awarded directly to the division for use in providing grants pursuant to the federal guidelines. These grants are intended to increase information access through technology and to promote information empowerment through special services.<sup>18</sup>

State grants include State Aid, Library Cooperative, Library Construction, and Literacy. All but Literacy are statutorily created with certain requirements delineated. Each of the grant programs has rules governing its operation with more detail on eligibility.<sup>19</sup> The State Aid grant program provides more than 70% of all state library grant funding.

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<sup>18</sup> See Appendix C for LSTA grant eligibility. In FY 01-02, Florida received \$5.9 m for library grants.

<sup>19</sup> See Appendix D for information on eligibility for grants, matching and other requirements, and award deadlines. Also see pp. 46-55 of the report.

### State Aid to Libraries Program

Since the State Aid to Libraries grant program (State Aid) was the subject of amendment during the 2001 Session, it will be briefly discussed. Specific information on match and eligibility will not be provided in this part. That information and other more detailed information on the grant program and its statutory and rule requirements for eligibility and match are provided in the “Findings” section of the report on pages 46 through 55.

Established in 1961 by law, State Aid is a formula-based aid and incentive program designed to encourage local governments to establish and continue development of free library service to residents and to provide funding to support that library service.<sup>20</sup> At the time of its inception, counties were determined to be the political subdivisions most suited to provide library services because of the percentage of Floridians living in unincorporated areas. The county service model was the same model chosen for public school education. The number of Floridians living in unincorporated areas has increased from 43% in 1961 to 51% in 1999.

Grant formulas for State Aid are based largely on local funds invested in library service. The more local money spent on library services, the higher the grants earned under the State Aid to Libraries program. State Aid is composed of the following grants for which libraries may apply: “*operating grants*,” used for any operating purpose by a local public library; “*multicounty library grants*,” used as an incentive to link a number of poorer, rural county libraries together and provide a solid base for library services in the area; “*equalization grants*,” awarded to the poorer counties based on ability to tax, effort, and need when compared with the rest of the state; and “*establishment grants*,” used for establishment of library services in qualifying areas. In order for a library to receive funding under any of the State Aid grants, it must first qualify for an operating grant.<sup>21</sup>

The structure for receipt of State Aid funding is dictated by s. 257.17, F.S. Departmental rules, which include State Aid guidelines and application requirements, further dictate requirements for operation, including operational structure requirements. There are basically three structures: consolidated county public library, county public library cooperative, and multicounty library cooperative.<sup>22</sup>

All 67 counties participate in the State Aid program. Only one municipality that is not part of a county system, City of Hialeah, also receives State Aid. This anomaly is statutorily required to repeal on July 1, 2002. An additional 28 communities have libraries that are not part of a county system and do not receive State Aid.

The funding for State Aid in FY 2000-2001 was \$33.4 million and in FY 2001-2002 the funding is currently \$32.4 million.

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<sup>20</sup> Ch. 61-402, L.O.F.

<sup>21</sup> The State Aid to Libraries grant program is set forth in ss. 257.14-257.25, F.S. For a detailed explanation of eligibility for State Aid and the award process see Appendix A. Also see pp. 47-55 of the report.

<sup>22</sup> For more detail on these structures see Appendix B and pp. 45-55 of the report.

### ***Methodology for Interim Report***

In order to answer the question concerning Florida's requirements regarding eligibility for State Aid to Libraries, Committee staff reviewed Florida law and rules governing eligibility for state funding of public libraries as well as Department of State and Joint Administrative Procedures Committee (JAPC) correspondence on departmental rules governing such eligibility. Staff reviewed samples of reports and documentation required of public libraries or library systems applying for and receiving state funding through the State Aid for Libraries program. Federal laws were reviewed to determine if there are any relevant funding restrictions. Additionally, staff spoke with the Director of the Division of Library and Information Services of the Department of State, and the Bureau Chief of the division's Bureau of Library Development numerous times concerning both state and federal funding, laws, and rules. JAPC was also consulted on correspondence relating to rules. Staff attended meetings of the State Library Council, created under s. 257.02, F.S., to advise and assist the division on its programs and activities and to act as a bridge between the division and those involved with making policy and program decisions for local libraries.<sup>23</sup> At these meetings the Council held discussions concerning funding of public libraries, rule and statutory interpretation of eligibility for such funding, the pros and cons of using private, for-profit companies to administer and/or operate a public library, and the experiences of other areas using private, for-profit companies.

In order to answer questions concerning the terms "*privatization*," "*outsourcing*," and "*contracting*" and the use of private, for-profit companies to administer and/or operate a public library, committee staff did the following:

- Reviewed literature.
- Reviewed library laws of California, New Jersey, North Dakota, and Texas.
- Interviewed key persons involved with public libraries that are administered and/or operated by a private, for-profit company.
- Reviewed contracts between local governments and the private, for-profit company.
- Interviewed State Librarians in New Jersey, North Dakota, and Texas.
- Interviewed Librarian for Los Angeles County Library.
- Received information and reports from Library Systems & Services (LSSI), a private, for-profit company that administers and/or operates public libraries, via telephone requests and a meeting with representatives of LSSI and House and Senate staff.
- Spoke with Florida's State Librarian and the State Library Council.

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<sup>23</sup> The Council is composed of seven persons appointed by the Secretary of State. For information on the Council and a list of the members see Appendix E.

## Findings

### *Privatization, Outsourcing, Contracting – A question of definition*

In both the literature and in discussions with persons in state and out of state, three terms are used to describe what happens when a private sector, for-profit company is used to administer or operate a public library: “*privatization*,” “*outsourcing*,” and “*contracting*.” Sometimes these terms are used interchangeably. Other times there are specific distinctions used to provide definition parameters. However, there is disagreement on the definitional distinctions. Because of this it is difficult to use these terms without first understanding how the person or persons to whom you are speaking define them as they relate to the library and its relationship with the local governmental entity and the for-profit company and to the governmental entity’s relationship with the company and the library.

Sometimes even when an organization defines the activity as outsourcing or contracting, it then turns around and refers to it as privatization. By using this term, people conger up images of problems with public services that might have been privatized at the local level in the past. The term is painted with a broad brush of “poor service,” “lack of accountability,” and “loss of public input.”<sup>24</sup>

In the 1999 report, *Assessing Privatization in State Agencies*, OPPAGA found that when privatization is being considered the following concerns are raised: higher long-term costs, reduced public accountability, reduction in service quality, and workforce issues. For each of these negatives, however, the report presents ways in which they can be addressed through the contract, monitoring of performance, and maintenance of a contingency plan. OPPAGA stated that privatization is often proposed as a way to improve public services, cut government fat, increase employee productivity, and save tax dollars. The report clearly articulated that privatization is not for every service or program. Privatization experiences have had mixed results, ranging from very good to problematic. The best services or programs for privatization are those with clearly defined tasks to be done, where good unit cost data can be developed for comparison, where there are good quality and quantity measures available to aid monitoring of the delivery of services, and where private sector providers already exist. Finally, the report indicated that there are three decisions to make prior to privatization: determine appropriateness, determine if there is a potential for cost savings or improvement in service, and plan to study the impact of the decision to determine if the desired results are achieved.<sup>25</sup>

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<sup>24</sup> See Appendix F, *Florida Public Libraries & Privatization - A Guide for Florida Library Boards and Friends*, September 2000, prepared by the Division of Library and Information Services, Department of State.

<sup>25</sup> Office of Program Policy Analysis and Governmental Accountability, *Assessing Privatization in State Agency Programs*, Report No. 98-64, February 1999.

In the review of literature on public libraries and in discussions regarding library operations, it was found that public libraries have contracted with outside sources, including private for-profit companies, for the performance of specific tasks and functions for many years. Some of the widely accepted or used types of services procured from a vendor include such things as janitorial services, photocopying services, equipment maintenance, courier and security services, binding services, cataloguing, development of automated systems, and the acquisition of materials. Oftentimes this contracting out is referred to as “outsourcing.” It appears that the primary distinction that can be drawn between the terms “*contracting out*” and “*outsourcing*” might be that that “*contracting out*” is for a specific, limited, non-core library function involving no transfer of decision rights.<sup>26</sup>

Simply defined according to Black’s Law Dictionary, a contract is “an agreement between two or more persons which creates an obligation to do or not to do a particular thing.”<sup>27</sup> All three terms, involve a contractual arrangement. The types of functions involved in the contract, the transfer of property, and the degree of decision-making control appear to be the defining factors as to the classification of the contract with regard to public libraries.<sup>28</sup> There are 12 statutory definitions in Florida law for what constitutes a contract; however, each is very narrowly drawn to the specific area of law and often the word “*contract*” is used to define the term.<sup>29</sup> There is no definition in Florida law for “*outsourcing*” or “*privatization*.” With regard to libraries, there are no contracting or outsourcing prohibitions for an eligible political subdivision under s. 257.17, F.S. Specific Florida laws relating to library funding are discussed on pages 45 through 55 of the report.

The term “*outsourcing*” has been referred to as a new name for the old practice of contracting out for services that organizations chose not to provide internally with their own staff.<sup>30</sup> Or it can mean “...the procurement of services from an outside vendor to perform functions that are not core to the mission of the library and for which the library is unable or uninterested in providing for itself.”<sup>31</sup> The American Library Association (ALA) in its Outsourcing Task Force report defined “*outsourcing*” to mean contracting to external companies or organizations, functions that would otherwise be performed by library employees. The Task Force then defined the terms “*privatization*” and “*core services*” as follows:

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<sup>26</sup> *Outsourcing: A Public Library Checklist*, Public Library Association, American Library Association, August 2000. 5-6.

<sup>27</sup> *Black’s Law Dictionary*, (6<sup>th</sup> ed.), 1993. 322-326.

<sup>28</sup> Robert S. Martin, Ph.D., et al. *The Impact of Outsourcing and Privatization On Library Services and Management: A Study for the American Library Association* (Texas Woman’s University School of Library and Information Studies, June 2000). *Outsourcing: A Public Library Checklist*, Public Library Association, American Library Association, August 2000. California, New Jersey, North Dakota, and Texas interviews relating to library contracts.

<sup>29</sup> See ss. 420.503, 520.02, 520.31, 520.61, 559.3902, 559.927, 671.201, 672.106, 668.50, 713.01, 721.05, and 766.1115, F.S.

<sup>30</sup> James Marcum. “Outsourcing in libraries: tactic, strategy, or metastrategy?” in *Library Administration and Management* 12(1): 15-24.

<sup>31</sup> Arnold Hirshon and Barbara A. Winters. *Outsourcing library technical services: a how-to-do-it manual for librarians*. 1996, Neal-Schuman, New York. 1.

- “*Privatization*” is the shifting of policy making and management of library services or the responsibility for the performance of core library services in their entirety, from the public to the private sector.
- “*Core services*” are those professional activities that define the profession of librarianship. These include collection development and organization; gathering and providing information; making the collection accessible to all library users; providing assistance in the use of the collection; and providing oversight and management of these activities.

The ALA Task Force noted that the distinctions between these two definitions are not exact and subject to interpretation. It was further stated they viewed *outsourcing* as contracting for specific services and *privatization* as delegating to an external commercial agency the responsibility for day-to-day management of a library or for establishing or altering policies that affect the delivery of service.<sup>32</sup>

In the study prepared for the ALA by the Texas Woman’s University School of Library and Information Studies in June 2000, *The Impact of Outsourcing and Privatization On Library Services and Management*, the ALA Outsourcing Task Force’s definitions of privatization and core services were discarded because they were “unworkable in the research context and completely unamenable to the development of operational definitions.” The study stated that there was no consensus about what constitutes a core service. In some instances what is considered by some to be a core service might be considered peripheral by others. The report raised concerns about how many core services it would take to be outsourced to the private sector in order to constitute privatization. According to their research the extent of outsourcing of “core services” was significant; therefore, they felt it was misleading to label the majority of American public libraries as “privatized.” The study team felt that “day-to-day management of a library” could be viewed as a specific service to be contracted out. Therefore, an operational definition for “*privatization*” was developed that did not include any reference to core services and removed debate regarding what is included:

*Privatization is contracting out for services in a way that shifts control over policies for library collections and services from the public to the private sector.*

Under this definition, the study found no examples of privatization but only of different degrees of outsourcing.<sup>33</sup>

In the surveys/interviews of the persons in the county or municipalities in the country that have contracted out the day-to-day management and operation of their libraries to a private, for-profit company, the respondents consistently and emphatically stated that they had not privatized their libraries. They used the terms “*outsourced*” or “*contracted out*.” They stressed that policy decisions rested with the public sector and not the private

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<sup>32</sup> *Outsourcing and privatization in American libraries: Report of the ALA Outsourcing Task Force*, 1998-99 Council Document #24, American Library Association. 1999a.

<sup>33</sup> Robert S. Martin, Ph.D., et al. *The Impact of Outsourcing and Privatization On Library Services and Management*. 3-4.

company; that no property had been transferred – buildings, books, etc.; and that resources bought under the contract was the property of the public sector.

Management of library services by outside entities is not unusual. Contracting, however, with a private, for-profit company is. Usually, contracting is with other governmental entities or with local not-for-profit organizations. For example, a community can contract with the county to provide library services, counties can join together to augment library services to people in their respective counties, in some states a community can contract with a neighboring county for services, and in some areas there are library special districts. Women's clubs, fraternal organizations, and other private, not-for-profit organizations have been contracted with by communities to secure public library services. Prior to the development of public libraries in the 1800's, communities did contract with for-profit companies to manage public libraries and provide library services. In the late 1990's, the first outsourcing of library management in a public library to the private, for-profit sector reoccurred in Riverside County, California. Since then Calabasas and Hemet, California, Jersey City and Linden, New Jersey, Fargo, North Dakota, and Lancaster, Texas have outsourced the day-to-day operation and administration of library services to a for-profit company.

#### *Outsourcing of Management and Operations*

Outsourcing presents challenges with no simple solutions. It is clear from the growing interest in all types of outsourcing, including the outsourcing of the management and operation of individual public libraries as well as public library systems, that the use of outsourcing will continue to grow.

In the Texas Woman's University School of Library and Information Studies study prepared for ALA, several findings were made concerning outsourcing in general and regarding outsourcing of management and operations specifically.

- No evidence that outsourcing per se represented a threat to library governance, or to the role of the library in protecting the First Amendment rights of the public. In fact, elected officials and county officers in Riverside County, California, stated that through a commercial vendor contract they had increased control over policy matters and resource allocation decisions and enhanced the accountability of the library to the people served.
- Some indications of the change in the use of professional staff with nonprofessional staff performing some functions previously done by professionals. The report indicated that such a shift needed more study because it could represent a trend toward more innovative approaches to staffing patterns in order to find more effective allocations of scarce resources.
- No evidence that outsourced library management has had any negative impact on interlibrary cooperation. Riverside County, California has reported the opposite.

The study found that outsourcing of library services and management has been an effective managerial tool that has resulted in enhanced library services and improved library management.

This study, as did other literature reviewed, concluded that inadequate planning, poor contracting processes, or ineffective management of contracts appeared to be the primary contributors to libraries that had problems with outsourcing.<sup>34</sup>

Repeatedly in the literature and in interviews and meetings with people in the library field, there were some common concerns and recommendations to help outsourcing for management and operations be successful.

1. Know when to consider outsourcing. First look for ways to improve internal processes and become as efficient and as effective as possible. Undergo process reengineering to ensure that outsourcing is the best course of action.<sup>35</sup>
2. Use a checklist to help in understanding the impacts in legal, economic and quality of service, policy, political, organizational, and administrative issues.<sup>36</sup>
3. Consider the contract elements carefully to ensure that, among other things, the following are included:
  - Policy control is retained by the elected public officials and representatives of the public.
  - Maintenance of quality assurance.
  - Outcomes are specified and they are quantitatively measurable.
  - Reports are presented to the elected public officials, library board, etc. by the provider regarding progress in implementing the contract requirements and meeting the service and other outcomes required.
  - Maintain overall budget control with parameters outlined.
4. Have your own in-house expert, a qualified professional, to manage the contract and oversee provider performance.
5. Maintain close oversight of the budget.
6. Choose the provider carefully; be certain they have the experience and qualifications to deliver on their commitments.
7. Build into the process from the beginning an evaluation or analysis of contract performance, possibly by an outside source.

Being able to definitively state what the long-term positives and negatives are regarding the use of a for-profit company to administer and/or operate a public library is not possible at this time. The earliest contract was signed in 1997 and the latest in September 2001. There are no definitive studies of the long-term effects on service of outsourcing the management and operations of a public library or public library system. Information has to be gathered from those libraries and governmental entities currently involved in

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<sup>34</sup> Robert S. Martin, Ph.D., et al. *The Impact of Outsourcing and Privatization On Library Services and Management*. 7-9, 17-19, 39-55.

<sup>35</sup> Hirshon and Winters. Outsourcing library technical services: a how-to-do-it manual for librarians. 26.

<sup>36</sup> See Appendix G for Outsourcing Checklist from *Outsourcing: A Public Library Checklist*.



the contracts, from a review of the respective contracts, and a review of any short-term analyses that have been compiled on specific libraries.

### *Survey of Other State Experiences*

Each municipality or county that has contracted with a for-profit company for the administration and operation of a public library or public library system was contacted. A questionnaire was used when interviewing persons on the telephone. If a person's schedule made it difficult to devote the time necessary for a telephone interview, a copy of the questionnaire was electronically sent. Most people preferred to be interviewed by telephone with follow-up calls offered as an option for both the interviewer and the person interviewed. Usually, additional contact was necessary because of the request for contracts and other written materials and follow-up questions pertaining to those materials.

The survey questions addressed the following areas:

1. Reason for outsourcing.
2. Size of library or library system before and after outsourcing.
3. Process for vendor selection and reason for selection of a particular vendor.
4. Contractual elements including responsibilities of the parties, specification of outcomes, budget, and contract management.
5. Policy control over the public library or library system.
6. Effects of for-profit vendor outsourcing on library volunteers, private contributions, and public financial support.
7. Pros and cons in using for-profit vendor.
8. Advice to other municipal or county libraries contemplating using such a vendor for library management and operations.

The following is a brief review of the findings from the individual areas followed by a comparison of the locales and analysis of the findings.<sup>37</sup> When reviewing these findings, it should be noted that the laws governing public libraries in California, New Jersey, North Dakota, and Texas are very different from Florida in requirements for library funding, for structures for budget and policy oversight and control, for qualifications of librarians, and even required levels of staffing.<sup>38</sup> Additionally, the unionization of library staff in some areas of the country plays into the decisions regarding outsourcing of management and operations. This is noted in discussions related to the Jersey City Free Public Library in Jersey City, New Jersey.

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<sup>37</sup> See the Contact List on pp. 67-68 of this report for persons interviewed/surveyed and Appendix H for an example of the survey questionnaire.

<sup>38</sup> For a discussion of other state laws see pp. 11-12, 25-27, 36-37, and 41-42.

## CALIFORNIA

Before discussing the California examples of outsourcing to a for-profit vendor, there are some general comments about library structure, funding, and California budgetary history that might help in understanding the decisions that were made.

Library services in California are funded in part through a minimum required property tax levy. Whether it is a city or a county that receives the money is dependent upon its ability to meet certain criteria.

In California, there are “charter” cities and “general law” cities. After the 1920’s cities that were established were “general law” cities. A charter city has its own library and can operate outside the county library system. The charter city has a board of library trustees which is advisory. Until 1997, general law cities were required to be part of a county library system and the property taxes collected were used for the county system. At that time the law was changed to allow general law cities to withdraw from a county system and to use its property taxes for its own municipal library. Those cities must meet certain requirements including having an administrative library commission or board of library trustees. The members of a city library commission or board of library trustees are selected by the city council.

Counties have library commissions that are advisory. They are named by the Board of Supervisors and are answerable to them. Counties are required to have a County Librarian with a Masters in Library Science (MLS) degree.

In 1978, Proposition 13 was passed which set limits on the amount of property tax increases. In 1993, the passage of the Educational Revenue Augmentation Fund caused millions of dollars to be drawn from California counties, cities, and special districts to fund the state’s troubled educational system. Some county systems lost significant portions of their dedicated revenue source: the County of Los Angeles Public Library lost 50 percent (reportedly the hardest hit) and the Riverside City and County Public Library lost 40 percent.<sup>39</sup> Counties throughout the state without sources of immediate fund replacement “all experienced the necessity to cut library books and materials purchases, service hours, and operating costs to operate within their remaining revenue.”<sup>40</sup> While trying to find alternative permanent or one-time revenue sources, many county libraries closed branches, reduced staff, and eliminated services. Regardless of the management structure used in the county libraries, each needed a “sufficient ongoing revenue to sustain reliable public services, to retool technologically, and to sustain its collection of materials.”<sup>41</sup>

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<sup>39</sup> The loss did not affect the City of Riverside Library but only the county-funded libraries. See the explanation under discussion of Riverside County Library System.

<sup>40</sup> *Study Report of The Riverside County Contract For Provision Of Library Service with Library Systems And Services, Inc. (LSSI)*, prepared by Los Angeles County Public Library Commission, December 1998,

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<sup>41</sup> Ibid.

Eligibility for California's state aid to public libraries is called the "Public Library Fund." The amount received is determined by a per capita funding formula. The only restrictions on the state funds are that they must be used for direct library services and that the municipality or county receiving funds must maintain their budget. That is, there can be no reduction in funds from year to year and state funds cannot be used to supplant local funding.

*Riverside County Library System  
Riverside, California*

Differing from most California counties, Riverside County has always outsourced its county library operations. From 1911 to 1997, the county contracted with the City of Riverside to administer and operate the system. On June 17, 1997, however, Riverside County became the first jurisdiction in the nation to outsource its entire public library operations to a private, for-profit company.<sup>42</sup> The county has continuously contracted with the same private vendor through annual contracts until July 2000 when the county signed a two-year contract.

Currently, the Riverside County Library System (RCLS) provides library service to more than 800,000 residents through 25 outlets spread over 7,000 square miles stretching from the Arizona border to the coast. Riverside County has been the fastest growing county in California over the last 20 years. RCLS has a legal requirement to provide basic library service at no charge. All residents within Riverside County are afforded free library service at any public library within the county. RCLS is also part of a multicounty library system for reciprocal borrowing privileges to residents of those jurisdictions.<sup>43</sup>

Conflict with the City of Riverside over operational management of the County Library System led to the ending of the contract with the County Board of Supervisors. This conflict had been exacerbated by the passage of the state-mandated shift of property taxes to the Educational Revenue Augmentation Fund (ERAF) which resulted in reduced funding for the county library system. Funding losses led to reduced library services and hours, layoffs, greatly reduced materials purchases, and volunteers running some library branches. When funding had become progressively tighter, the City of Riverside "responded not by reducing administrative costs but by reducing services." Additionally, the City of Riverside charged a 10% overhead assessment. Cities complained about not receiving the level of services for the amount of funding they contributed and the lack of a voice in decisions. Consideration of financial control by those paying the bill (the county residents in unincorporated areas and the participating cities choosing not to operate an independent library) became paramount.

The City of Riverside jointly managed the city and county library systems<sup>44</sup> but had never joined the county system. It had chosen instead to remain a city library with a different funding mechanism than the county-supported libraries. For 86 years, by contract, all

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<sup>42</sup> Library Systems and Services, LLC (LSSI) of Germantown, MD.

<sup>43</sup> Inland Library System is composed of Riverside, San Bernardino, and Imperial Counties.

<sup>44</sup> Riverside City and County Public Library (RCCPL).

decisions relating to the administration and operation of the county library system were made by a city-appointed Board of Library Trustees (all city residents) and the Riverside City Council. The contract between the city and the county called for the city Board of Library Trustees to serve as the county library's policy making board and for the city library director to be the county librarian. All library staff were city employees, not county. Additionally, the city library system was funded primarily through General Fund revenues while the county system was funded primarily through property tax revenues making its own city library system less vulnerable to budget shortfalls caused by ERAF.<sup>45</sup>

In 1996, an internal audit of library operations was conducted by the county. The audit recommended that the county take more direct control of the county library system, especially the finances. In December 1996, the City of Riverside did not renew its contract to run the county system effective July 1997. Within six months, the county had to create a new county agency from scratch or find a new vendor to run the library system. The county had little knowledge of the organization of the library system and no expertise in running libraries. According to Tom DeSantis, Deputy County Executive Officer at the time, "the decision to seek another vendor was thus not ultimately a funding issue, but rather a matter of structure, policy, and governance."<sup>46</sup> The county set up local regional library zone structures to give cities greater input into services in their areas. A county librarian was hired to serve as the in-house expert to manage the contract and oversee vendor performance.

A new contractor was sought based upon elements of a Request for Proposal for Administration and Operation of the Riverside County Free Library System that was prepared with the assistance of consultants from the California State Library. Responses were sought to cover all or part of the library system components. The RFP basically provided the elements for the future contract(s) through the scope of services to be provided and the available funding. Riverside County stated three main goals:

1. to increase library services without increasing cost;
2. to have partnership with the cities served by having them at the table in the decision-making process; and
3. to enter into a contract that still kept the Board of Supervisors in control of the system.

Additionally, the county encouraged the utilization of existing staff in the library system and stated it would look with "greater favor" on respondents using the most staff.

There were three respondents: San Bernardino County, the Riverside County Superintendent of Schools, and Library Systems and Services (LSSI), a private company

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<sup>45</sup> Riverside County experienced a 40% reduction in property tax revenues available for the library. Concern by cities over resource management led to five cities passing resolutions to leave the county system; thereby worsening the potential revenue shortfall. In July 1998, Murietta and Moreno Valley withdrew from the Riverside County Public Library System.

<sup>46</sup>Robert S. Martin, Ph.D., et al. *The Impact of Outsourcing and Privatization On Library Services and Management*. 45.

based in Maryland.<sup>47</sup> The county contracted with LSSI to operate all components of the county library system (the three regional service zones, the courier service, and the automated system). LSSI offered the county certain advantages:

- Experience in library services and automation;
- A strong team of consultants from the national library industry;
- Good financial support from their connection with Follett publishers;
- Investment of \$200,000 of its own money as start-up capital; and
- Commitment to hire as many of current library staff as possible and at the same salary rate.<sup>48</sup>

The initial contract and subsequent contracts include specific requirements regarding hours of operation of library outlets, minimum staffing at outlets, and minimum funding for materials in each regional zone. Specific directions are given with regard to the Riverside County Network (RCN), the automated system and upgrades. The contracts also require LSSI to fulfill the contracts that the City of Riverside, Murrieta, and Moreno Valley and a local community college have with the County for library catalog and automation services.<sup>49</sup> Finally, the contracts provide very explicit language indicating the control of the county regarding all policy decisions and the required chain of command for decisions.<sup>50</sup>

According to Mr. Gary Christmas, the Riverside County Librarian, the RCLS is not privatized. The administration and operation of RCLS is outsourced to a private vendor. All materials, equipment, automated systems, bookmobiles, buildings, etc., purchased for use by the library belong to the county. The private vendor operates entirely under the supervision of the County Librarian. All decisions regarding policy remain with the county and first go through him. Decisions such as material selection must be approved by him before any purchases can be made. Although these are employees of LSSI, hiring of manager level and above staff in the library system requires consent of the County Librarian. All State Aid, receipt of federal grant funds, and donations from the private sector go to the county for disbursement according to the provisions of the grants or donations.

Based upon the interviews, the RFP, the contracts, and the analysis of the first two years of the contract, the following general findings were made about the impact of Riverside County's outsourcing its library operation and administration with a private, for-profit vendor:

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<sup>47</sup> LSSI has 20 years experience in providing services to corporate, educational, federal, and public libraries. Contracts range from outsourcing of selected tasks, e.g. streamlining functions, managing electronic resources, and technical services, to managing complete operations. LSSI is not a book wholesaler or vendor of any products. Its corporate partner, Follett, serves over 30,000 libraries, operates over 850 college bookstores, and is known for its inventory of K-12 materials.

<sup>48</sup> *Study Report of The Riverside County Contract* by Los Angeles County Public Library Commission. 3.

<sup>49</sup> Moreno Valley and Murrieta are the two cities that withdrew from RCLS in July 1998.

<sup>50</sup> See Appendix I for copies of the "Key Elements" provisions of those contracts, the Project Organization Chart of General Division of Responsibilities for FY 2001-02, and the Riverside County Library System Organization Chart as of July 2001.

- **Measurable Outcomes** – The two primary objectives in the contracts relate to staffing and hours open and they are routinely evaluated. There are other requirements that can be measured for contract compliance as well.<sup>51</sup>
- **Hours of Operation** - Required weekly hours of operation have increased from the FY 1996-97 total of 507 to 971 for FY 2001-02 (beginning 9/1/01), representing a 91.5% increase. Actual total hours of operation generally exceed the contract required number of hours.
- **Staffing** - Required staffing has increased from 62.97 in FY 1996-97 to 111.6 in FY 2001-02, representing a 77.2% increase. It should be noted that in the first year of the contract with the private vendor staffing increased from an actual number of 67.09 to 117.26 or almost 75%. Two cities withdrew in FY 1997-98, but the overall staffing for the remaining libraries for FY 98-99 still represented a 57.13% increase.
- **Initial Staff Placement & Benefits Level** - An estimated 90-95% of staff from FY 1996-97 was retained by LSSI. When the shift was made from public, city employment to that with private sector, full-time employees received:
  - Social Security in lieu of PERS retirement plan under city.
  - Health and Dental plans through Kaiser.
  - A 401K plan to which employees could contribute.
  - No deferred compensation or term life insurance plans as under city.
  - Same paid holidays as before.
  - Same rate of base pay.
  - Retention of accumulated vacation time and vacation accrual rates.
  - No longer organized for collective bargaining. Previous union was for City of Riverside employees only.
- **Contract Funding Level** -The annual contract for operating budget was \$6.3 million in FY 1996-97. The initial year for contracting with LSSI in FY 1997-98, the budget was \$5,349,159 and the contract for FY 2001-02 is for \$6,334,153.
- **Materials** -The minimum required amount for purchase of books and other library materials for placement in library branches has increased from \$180,000 in FY 1997-98 to \$450,000 in FY 2001-02, representing a 250% increase. This does not include one-time appropriations for new or remodeled facilities that have received additional materials dollars through the contract.
- **Automated Systems** - The automation system for RCLS has improved over the contract. More computers are available at the various library outlets. The county library facilities Internet connectivity is upgraded to a minimum of T-1 speed, to better utilize the 200 new public PC's added over the last three years. A toll free dial in number is available so people can connect with the library system from their homes. Work is being done on accessing e-books through the County Library.
- **New or Remodeled Facilities** - Several older buildings have been remodeled or replaced. Individual contracts specify which libraries and what is to be done.

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<sup>51</sup> See Appendix J for a summary of the *Analysis of LSSI's Riverside County Library System Operation For FY 1997-98 And FY 1998-99*, prepared by Ruth M. Metz, Consultant.

- **Impact on Friends & Volunteers** - The County has very active Friends of Libraries and volunteers. Since Riverside County sets all policies and controls all contributions, any initial concerns or misgivings by those groups were short-lived. The contractor works with the Friends, volunteers, and others to improve service delivery.
- **Impact on State or Federal Aid** - There has been no negative impact on receipt of state or federal funding. State and federal funds have been received throughout the contract period.
- **Handling Fee** – For the first time, in the FY 2000-01 and FY 2001-02 contract, the contractor is to be paid a 4% handling fee representing the administrative costs of the contractor incurred in purchasing library materials for a new facility and a 2% handling fee on budgeted material purchases which total \$600,000 to \$1.2 million. The County Librarian is required to approve all purchases in advance.

The overall reaction of the County to the contract is very positive. The County Librarian states that the “arrangement has worked well in providing the service the County desires.” He states that other governmental entities considering this type of arrangement should realize that it does not necessarily save money. Further, he commented that a governmental jurisdiction needs to be clear about the level of service for which it contracts.

The last contract amendment regarding changes in the contract for FY 2001-02, required the County Librarian to return by September 30, 2001 with options for county library services in future years. The County Librarian has not indicated any change in the contractual relationship. Committee staff has requested a copy of the options for library service recommendations when presented, nothing has been received as of this date.

#### Calabasas Public Library City of Calabasas

The City of Calabasas, California, located in Los Angeles County, is now into its second 3-year contract with a private, for-profit vendor to manage and operate its library. The first contract was signed in April 1998 and the second in August 2001. Prior to that time it was part of a county library system.

Like Riverside County, the City of Calabasas was unhappy with the level of library services it was receiving for the funding it provided. Like Riverside, it too was concerned about the seeming lack of control it had over the management of resources and services. And, like Riverside, the governing body was receiving complaints from library patrons.

Unlike Riverside, Calabasas was one of more than 50 cities belonging to a county library system: the Los Angeles County Public Library (LACPL). All of the resource materials and equipment in the “small local outlet” of the LACPL belonged to the county system and all of the staff were county employees. The Calabasas library outlet serving over

20,000 people was located in a small room in the Calabasas City Hall that consisted of 1400 square feet of space; therefore, the space and some of the furniture belonged to the City. Complaints were received by the City Council concerning the level of service provided, the adequacy of the materials, and the unfriendly attitude of library staff.<sup>52</sup>

In 1997, Calabasas paid \$530,000 in property taxes to Los Angeles County for library services. The City of Calabasas, however, calculated that it received between \$240,000 and \$250,000 worth of services. City officials and local library supporters asked for an analysis to determine if an independent municipal library would better serve the community. The City contracted with a private consulting firm to conduct a feasibility study to examine the withdrawal of the City of Calabasas from the LACPL. As part of that study, the City had requested the consulting firm to review the feasibility of contracting with a private vendor for library services (management of the library) since this was an approach the City had taken with other services it performed. Based upon that study, the City decided that in order to maximize its resources it would withdraw from the LACPL. When the City withdrew from the LACPL system in 1998, the County offered to sell the materials in the library to the City. When the City declined, all library materials and equipment and other items belonging to the County were removed.

The City of Calabasas contacted only one vendor because the feasibility study indicated that there was only one that could provide the services required to completely operate and administer a library: Library Services and Systems, LLC (LSSI).

In 1998, the Calabasas City Council voted to approve the awarding of a three-year contract to LSSI for library management. In late April 1998, LSSI signed a contract with Calabasas to provide library services following its withdrawal from the LACPL system effective June 30, 1998. Between the signing of the contract and the opening of the new independent Calabasas Public Library on July 11, staff were hired, an opening day collection was purchased, a library computer system was installed, and supplies, memberships, and related services and equipment needed for the library were provided. Since the vendor could not access the library until July 1, the installation of the library computer system, loading of library database, and staff training took place between then and July 11, 1998. On that date, library programming was implemented and library patrons were registered and provided new library cards.

In February 1999, because of increased programming and library usage, the library moved into leased space in the Calabasas City Hall which increased the space to 4000 square feet. A 1998-99 increase in the California State Aid to public libraries helped in the facilitation of the move to a bigger library. Over the next 4 to 5 years, the City is planning to build a new civic center and the library is slated to move into a space of 20,000 square feet. The current library has over 8000 patrons and is expected to grow. The City allows anyone to use the library. There are no residency requirements.

The contracts between the City of Calabasas and LSSI are not as detailed and as explicit as the ones with Riverside County. General direction and requirements are provided in

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<sup>52</sup>According to the City of Calabasas, the library collection was over 15 years old.



the contracts regarding collection of fines, library grants, staffing, hours and days of operation, collection development, automation, and expenses. The relationship is dictated as that of an independent contractor and the contract simply states that the agreement is governed by and construed in accordance with California laws. Specific language on ownership of materials, policy control, budget oversight, and required reports are not provided in the contracts.

The City Clerk, who is the contract administrator, states that the City and the Library Commission retain policy control and budgetary control. Staffing, automation, general office supplies, collection development, and day-to-day operation and management of the library are the purview of the vendor. Many of these are done within the confines of direction in the contract.

As required by state law, Calabasas has a Library Commission which maintains policy control over the library under its jurisdiction. Decisions relating to such things as collection selection and development and programming, review and approval of major cost items and grant proposals, and library budget recommendations are under the auspices of the Library Commission. The City ultimately controls the budget for the library. Contracts are reviewed and negotiated by the Commission with input from the City Council and patrons. The City Council gives final approval to any contracts.

Based upon the interviews and the contracts,<sup>53</sup> the following general findings were made about the impact of the City of Calabasas controlling its library budget and outsourcing its library operation and administration with a private, for-profit vendor:

- **Measurable Outcomes** – According to the Contract Administrator, there are no performance/quality issues delineated in the contract. The contract does, however, specify hours and days of operation and staffing with flexibility for changes if there is movement to a new facility or if hours increase. All is tied to the budget provided.
- **Hours of Operation** - Required weekly hours of operation for FY 2001-02, FY 2002-03, and FY 2003-04, are required to be 52 hours per week for six days of service including 5 hours on Sunday. For the three previous fiscal years, the hours were 40 per week for 6 days of service including 5 hours on Sunday.
- **Staffing** - Staffing has increased from 6.5 in FY 1997-98 to 7.7 in FY 2001-02. This staffing level is to remain the same for the subsequent two fiscal years unless renegotiated due to move to a larger facility or an increase in hours of operation. Prior to FY 1997-98 the staffing had been under the control of the county and not the city. LSSI, however, did hire two of the previous county employees.
- **Contract Funding Level** -The vendor contract specifically provides funding for staffing, automation, and general office expenses. Over the contract, the funding has increased from \$227,000 in FY 98-99 to \$340,900 in FY 2001-02 with it scheduled to increase to \$416,900 in FY 2003-04. The contract funding level does not indicate the city's entire budget for the library. Materials and other

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<sup>53</sup> See Appendix K for a copy of the most recent contract.

aspects of the library, such as children's and seniors' program, are included in the specific library budget. According to the contract manager, it currently costs \$500,000 to run the system (majority of budget is for staffing).

- **Materials** -The budget for materials and materials requirements are not included in the contract with the provider. This is handled through the materials budget appropriated by the City. The vendor is required by contract to administer the materials budget. In late 1999, the library had a new collection of approximately 14,000 titles. Since the library is a member of the Metropolitan Cooperative Library System, patrons have free access to the collections of more than 80 other public libraries.
- **Automated Systems** – When the City of Calabasas separated from the Las Angeles County Public Library system, it had to install a library computer system. Various electronic products, including public-access terminals to the Internet and online research databases also had to be added.
- **New or Remodeled Facilities** – The City moved from the small original space into a 4000 square foot space which in addition to providing more space for library operations and materials included a computer room, public meeting room, and expanded seating. The vendor coordinated the space planning and eventual move into this facility. The City is planning to move the library into a 20,000 square foot facility. Funding for this is coming, in part, from increased property tax revenues and savings realized from the contract.
- **Impact on Friends & Volunteers** – Calabasas did not have volunteers nor an organized Friends of Libraries while under the county system. Now, the City has an active Friends group and a network of volunteers: a viable volunteer program. The contractor works with the Friends, volunteers, and others to improve service delivery.
- **Private Contributions** – No concerns evidenced by having a management contract. Now, Calabasas library is receiving donations of books and collections. A \$25,000 donation is being held in a special account.
- **Impact on State or Federal Aid** - There has been no negative impact on receipt of state or federal funding. State and federal funds have been received throughout the contract period. The vendor, by contract, is required to assist the City, as directed by the Library Commission, in its efforts to apply for federal and state library grants and/or discounts for which the City may be eligible.
- **Handling Fee** – By contract, the vendor is to be paid a 7.5% handling fee on all collection resources purchased or licensed for the library.

The overall reaction to the contract is very positive. The contract administrator stated that the contract management and operation has provided “expertise that the City would have not otherwise been able to provide or afford.” She further stated that the “quality of the collection, the automation, the expanded services (new programming), and the attitude of the staff have moved the library forward and patrons are happy.” The City is now in control of the use of its property tax money and the City with the Library Commission control the quality of the library and can respond more quickly to the patrons.

Although Riverside cautioned about this type of arrangement not being viewed as one to save money, Calabasas has found that they are providing more and better services while their growth in property tax revenues (now \$800,000) has exceeded the cost to run the program. More money is expected to be put into the betterment of the library program while the rest is being put aside for the new facility. The growth of revenues is expected to continue to increase.

Like Riverside County, the City of Calabasas does not consider this arrangement to be “privatization” but “only a management contract” because they own everything and control policy.

According to the contract administrator, Ms. Parker, there has been some discussion of the City of Calabasas taking over the operation and management of the library when it moves into the larger facility in four to six years. She also states that LSSI is aware of this but they are working with the City on the plan to move to the new facility. Ms. Parker stated that the City Council and the Library Commission might extend the contract; however, in other programs that were contracted out, as the City grew and gained expertise in areas it began to bring them in-house.

*Hemet Public Library*  
*Hemet, California*

The City of Hemet differs in the following ways from the earlier examples of local governmental entities that contracted with a private, for-profit vendor to provide management services:

- Reasons for contracting;
- Contractual description of services to be provided;
- Requirements and expectations of vendor;
- Relationship of local governmental entities involved with the library; and
- Staffing.

The City of Hemet is located in Southern California’s San Jacinto Valley in Riverside County. The City of over 61,000 was not part of the Riverside County Library System. As a “charter city” it has operated its own municipal library with advice from its Library Board of Trustees. Its property taxes and other designated funds are used for its own library and the City has always exercised control over the library.

Even so, in late December 1999, the City of Hemet entered into a 2-year “special services agreement” or contract with LSSI for specified management services for the Hemet Public Library. The contractual arrangement for January 2000 through December 2001 provides for a third year extension at the discretion of the City Council. The agreement refers to LSSI providing “consulting services related to operation of the City’s existing public library and similar services related to the construction and operational design of

the new City public library.”<sup>54</sup> The new library is to be operational within the scope of the 2-year contract. Although termed “consulting services,” at least for the duration of the contract, the vendor is performing management functions and assumes responsibility for the day-to-day operations of the library. At the same time, as in Calabasas, the vendor is planning the new facility, determining the new library needs, and how to meet those needs.

According to Mr. Steve Temple, the City Manager who manages the contract and oversees vendor performance, the decision to contract out for services was precipitated by the difficulty the City was experiencing in filling a vacant Library Director position. The City had conducted a recruitment for the position and was “disheartened with the prospect of finding a viable candidate.” It was, therefore, the lack of qualified people to fill the director’s position that led to the contract for library management with LSSI.

At the same time the City of Hemet was without a Library Director, it was in the planning stages for development of a new civic center complex to include a new 47,000 square foot library. The City had outgrown its existing 11,000 square foot library.

Mr. Temple stated that the City reviewed “all” options for management of the library. The City of Hemet reviewed the experience the County of Riverside had with LSSI. Based upon the reputation of LSSI in the County and upon its proposal to the City of Hemet, the vendor was chosen.

The contract with LSSI is not as detailed as the Riverside County contract but is much more explicit than that of Calabasas. Contract management relationships are explicitly dictated. Ownership of materials by the City is plainly stated. Control of reports and information and the release of such rests with the City, not the contractor. The contract also states that all work done and all materials furnished “shall be subject to the CITY’s Contract Manager’s inspection and approval.”<sup>55</sup> LSSI is instructed in the contract to keep abreast of all existing and proposed federal, state and local laws, ordinances, regulations, orders, and decrees that may affect the library and the contract. LSSI is to keep the City informed of changes impacting the library.

The level of compensation is set in the contract only for the LSSI staffing that will be used to perform services dictated in the “consultant’s special services proposal.” The contract does not deal with library services and materials which are handled under the budget for the Hemet Public Library.

The requirements for LSSI under the “special services proposal” are as follows:

1. Under direction of the City Manager and the Library Board, provide an interim management team to oversee day-to-day operations of the library (full-time Interim Director/Project Manager to implement transition project to new library facility; full-time Interim Assistant Director to manage daily service operations;

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<sup>54</sup> Special Services Agreement between the City of Hemet and LSSI, December 28, 1999. 1.

<sup>55</sup> Ibid., 4.

- and additional professional librarian to develop a volunteer program, working with City and Library Board on fundraising and other development activities, and providing public service);
2. Manage existing staff who are City employees;
  3. Use LSSI corporate resources to conduct Community Needs Assessment, to provide guidance on automation implementation and planning for new technology, and to assist the City in planning for service in the new library facility;
  4. Conduct a comprehensive review of the condition of the library's collection and develop a collection development plan with both short-term and long-term implementation that is realistic for the City's resources.
  5. Evaluate the greater use capability of the current automation system and make recommendations. Evaluate changes that need to be made for the new facility.
  6. Review all aspects of library operations to analyze effectiveness of current operations and the opportunities for change resulting from the facility relocation, with changes being phased in prior to relocation. (Recommendations for change are submitted to the Library Board and City Manager for approval.)
  7. Develop budget proposals for library operations, including resource allocation, service levels, etc., for each fiscal year. Develop a budget for the move into new facility and project operating costs for library services in the new facility. (Budget will be submitted to the Library Board and City Manager for consideration.)
  8. Assess library staff training needs and develop a plan to ensure core competencies required for a library are met. LSSI is to provide the training to prepare staff for move into larger facility.
  9. Examine ways to develop high-quality children's services for library and make recommendations to the City and the Library Board.<sup>56</sup>

Based upon the interviews and the contract,<sup>57</sup> the following general findings were made about the impact of the City of Hemet outsourcing its library operation and administration to a private, for-profit vendor:

- **Measurable Outcomes** – The contract requires that certain evaluations and assessments be performed and certain actions be taken based upon the nine items listed above; however, there are no “quality” performance measures specified.
- **Hours of Operation** – When LSSI assumed the management responsibilities for the Hemet Public Library in January 2000, the library was open 5 days and 41 hours per week. The LSSI proposal stated that such would continue until a community needs assessment was conducted and recommended changes made are approved by the City and the Library Board. No information on increased hours or days of operation was received from the City of Hemet.
- **Staffing** – The Library had 18 city employees who remained as library staff. On a day to day operation basis they report to the LSSI management. Disciplining

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<sup>56</sup> Proposal to: City of Hemet for Library Management Services, by Library Systems & Services, November 12, 1999. 1-7.

<sup>57</sup> A copy of the most current contract is found in Appendix L.

and dismissal of city staff is done by the City Manager. The LSSI staff are disciplined and dismissed by LSSI. No information on changes in number of staff was received from the City of Hemet.

- **Contract Funding Level** -The vendor contract specifically provides funding for LSSI staff only and the provision of services indicated in the LSSI proposal of services (Exhibit A of the contract). Year 1 - \$247,156; Year 2 - \$259,512; Year 3 - \$272,484 (subject to exercise of third year option). The contract does not indicate funding level for any other functions of the library or for City employees. According to the Contract Manager there has not been a change in the public financial support of the library.
- **Materials** -The budget for materials and materials requirements are not included in the contract with the provider. This is handled through the materials budget appropriated by the City. The vendor is to handle the day-to-day operations of the library which would include administering the materials budget. In January 2000, the library circulated about 250,000 items annually.
- **Automated Systems** – LSSI over the contract period was to evaluate the automated system and make recommendations for short-term and long-term change. The contract manager did not indicate what changes had been made at this time.
- **New or Remodeled Facilities** – The City is planning to move the library into a 48,000 square foot facility. The contract specifically requires LSSI to assist in the planning of all aspects of the facility and its operation.
- **Impact on Friends & Volunteers** – According to the contract manager, volunteers and Friends have been indifferent to the change.
- **Private Contributions** – No concerns evidenced by having a consultant agreement or management contract with a private, for-profit vendor.
- **Impact on State or Federal Aid** - There has been no negative impact on receipt of state or federal funding.
- **Handling Fee** – No handling fee is specified in the contract.

The contract manager stated that the initial findings have been very positive regarding the use of LSSI for the Hemet Public Library. All aspects of the change have been made in a professional manner and no true concerns have been voiced.

The City of Hemet does not consider this arrangement to be “privatization” but “only a management contract” or “a contract to provide consulting services” because they own everything, control policy and budget, all but the upper level interim staff are City employees, and the contract is time-limited.

*Los Angeles County Public Library System  
Los Angeles County, California*

Although the Los Angeles County Public Library System does not contract with an outside source to manage the LACPL, a 15-month study was conducted of the Riverside County experience and its management contract to determine the feasibility of such an approach for Los Angeles County. At the time of the study, the LACPL delivered library

service to most of the unincorporated area of Los Angeles County and 51 of the County's 88 cities.

In September 1997, the Los Angeles County Board of Supervisors ordered the LA County Library Commission, in conjunction with certain city administrative officers and the County Librarian, to examine the Riverside County management contract with LSSI. The study was to include recommendations to the Board of Supervisors for possible action in LA County. Since the Riverside County contract only became effective July 1, 1997, the group gathered information from all sources including LSSI prior to submitting its completed report on December 14, 1998. This gave more time to observe how the contract progressed.

As stated in the earlier discussion on the financial problems in California, Los Angeles County had lost 50% of the property tax revenues for its library during the state tax shift to fund a faltering educational system. When this happened in 1993, the LACPL had to streamline operations, adapt to lower financing, trim service hours, and reduce staffing.<sup>58</sup> Unlike Riverside that had no other sources of local revenue, LA County received resources from other ongoing replacement streams of revenue. Hours of operation and materials funding increased in most areas. However, in 1995-96, the materials budget decreased by half in some of the areas served by LACPL. According to the report, in 1997-98, additional resources were provided in the County of Los Angeles Public Libraries where service hours and materials budget remained steady.

Expenditures per capita for the library were near or in the lower quartiles as compared to other national libraries which served similar population sizes in 1996-97 and 1997-98. The expenditure for books and materials per capita was building back up because of a new dedicated tax source for the library (Library Parcel Tax).

Not only did the study reveal that revenues in LA County were beginning to revive, but that many of the methodologies implemented by LSSI in Riverside County were already being used in LA County to a large degree. LSSI was increasing use of paraprofessionals, subcontracting support functions and technical services functions to other private sector firms, and realigning staff duties.

Other issues considered when LA County reviewed the possibility of outsourcing was the fact that all of the library staff were county employees unlike Riverside and the county contracting requirements that stated for a service to be contracted to a private vendor there must be a showing of a cost savings and an increase in service.

The study found that the county did not have the same problems with administration and management as did Riverside. Additionally, although there were still problems with revenue, the situation in LA County was improving. LA County was already outsourcing directly to private vendors or through other county offices many of its services.

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<sup>58</sup> Loss of \$31 million resulted in closing of 10 libraries permanently, reducing service hours by 21% with 2 to 4 day schedules in remaining libraries, a 65% reduction in materials budget, and a lay off of 68 permanent staff and 300 hourly employees.

According to the current LACPL County Librarian, they determined that the library system had in-house staff with experience and knowledge needed to accomplish what was needed. It was determined that LSSI could not offer what they needed any better than what they could provide themselves.

Although the study chose not to recommend moving forward on outsourcing management because it was still too early to draw long term conclusions from the Riverside experience, it was recommended that the Los Angeles Library Commission continue to monitor models of library service that include but are not limited to the Riverside model and the City of Calabasas model. This should be done to “assure that the County of Los Angeles Public Library utilizes the most effective structure and practices to benefit its customers.”<sup>59</sup>

In an interview with the current County Librarian for LACPL the following statement was made which mirrors what was said in the study:

*I believe in the democratic process. If a local government believes that better library service can be provided through a contract, then they should be able to make that choice. The main thing is to serve the people and provide good, quality library service that will meet their needs.*<sup>60</sup>

## ***NEW JERSEY***

In order to better understand the two municipal libraries in New Jersey that outsourced their operations and management to a private, for-profit vendor, it will be helpful to understand some of the requirements imposed by law and rule.

The State of New Jersey has very specific laws pertaining to the establishment of libraries and the role of library boards and library commissions, certification of professional library staff, local funding for libraries, use of local funding, state aid for libraries, grants for libraries, and the establishment of library networks. In addition to those chapters of law, there are over 30 other chapters containing provisions that relate to certain aspects of library operation or that impact that operation.

### **Structure & Funding**

The New Jersey Administrative Code provides additional direction regarding regional libraries, library cooperative networks, and eligibility for receipt of state aid and other library grants.

Basically, New Jersey law requires a county to establish a county free public library for areas of the county that do not maintain and control free public libraries, permits any

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<sup>59</sup> *Study Report of The Riverside County Contract*, prepared by Los Angeles County Public Library Commission. iv.

<sup>60</sup> Telephone interview of Ms. Margaret Todd, County Librarian, LACPL.



municipality to establish a free public library within its corporate limits, permits municipalities to withdraw from a county library system, and permits the establishment of differing forms of library cooperatives or joint libraries.

A county is required to establish a county library commission that has responsibility for rules and regulations governing the establishment and maintenance of the library, hiring a library director and other employees, managing the budget, and accepting gifts. The members of the commission are appointed by the county governing body.<sup>61</sup>

A municipality is required to establish a seven to nine member library board of trustees. The membership is composed of the mayor or other chief executive officer, a school principal or other educational system representative, and from five to seven members appointed by the mayor. The board is a body corporate that holds in trust and manages all property of the library. It may rent rooms, construct buildings, purchase all library materials, hire librarians and other staff and fix compensation, make proper rules and regulations for the government of the library, and generally do all things necessary and proper for the establishment and maintenance of the free public library in the municipality. Funds are made available to the board for its library budget through a minimum required one-third of a mill assessment on property, donations, grants, and state and federal funding.<sup>62</sup>

Within its budget, the board of trustees of the free public library for any municipality or a joint free public library is allowed to purchase library materials, binding or rebinding of library materials, and specialized library services without advertising.<sup>63</sup>

For the State of New Jersey, the state aid to libraries program has not been fully funded for the last 10 years. State aid represents about 3% to 3 ½% of libraries budgets. During this fiscal year, state aid received approximately \$8.7 million and an additional \$600,000 to \$700,00 was provided for other state library grants. Many of the older cities in New Jersey are ratable poor.<sup>64</sup>

### Staffing

By law, a library serving 10,000 or more people that receives any public funds may be required by the governing body to hire only certified professional librarians to fill any professional library position or office. The New Jersey Administrative Code elaborates that the requirements include a master's degree in library or information science in an approved library program. Another section of law relating specifically to state aid to libraries, states that the distribution of funds will be in accordance to rules adopted. The New Jersey Administrative Code for such state aid requires all libraries serving 7,500 or more to employ certified librarians in professional positions.<sup>65</sup>

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<sup>61</sup> N.J.S.A. 40:33-1; 40:33-6; 40:33-7; 40:33-8

<sup>62</sup> N.J.S.A. 40:54-1; 40:54-8; 40:54-9; 40:54-11; 40:54-12.

<sup>63</sup> N.J.S.A. 40:54-12.1

<sup>64</sup> From interview on state aid with Mr. Bob Fortenbaugh, New Jersey State Library

<sup>65</sup> N.J.S.A. 45:8A-1; 45:8A-3; N.J.A.C. 6:11-11.6; N.J.S.A. 18A: 74-1; N.J.S.A. 74-3.2; N.J.A.C. 15.21-2.3

A library receiving state aid is required to maintain specified levels of staffing as set forth in the New Jersey Administrative Code.<sup>66</sup>

Staff in libraries are governed by the civil service laws of the state unless specifically exempted. New Jersey law requires that civil service employees report to a civil service manager.<sup>67</sup>

Unions play a significant role in New Jersey libraries. The unions representing the employees are: A/W International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (maintenance, etc.) and the Distillery, Wine and Allied Worker's Division, United Food and Commercial Workers International Union, AFL-CIO and CLC (professionals). Additionally, the American Federation of State, County and Municipal Employees plays a part in the union representation of employees in libraries.

*Jersey City Free Public Library*  
*Jersey City, New Jersey*

The Jersey City Free Public Library (JCFPL) is an autonomous agency that is run by the Library Board of Trustees whose members are appointed by and include the Mayor. The library serves an ethnically diverse population of 240,000 residents of Jersey City as well as serving others who work or attend school in the City. The library consists of a main library, four regional branch libraries, and seven neighborhood branch libraries. The Library Board of Trustees is currently in its second 2-year contract with a private vendor, LSSI, for management and operation of JCPL. The first 2-year contract was for June 1, 1999 to May 31, 2000 and the current contract runs from June 1, 2000 to May 31, 2003.

The initial contract between the Board and LSSI, however, was for less than three months in 1998 because of a preliminary injunction enjoining the further performance of the contract. Under this contract, as library positions became vacant through attrition, LSSI was empowered to create an LSSI alternate work force. The unions representing library staff brought suit. The Hon. Arthur N. D'Italia's decision to issue an injunction was primarily based upon the failure of the Board to adhere to the requirements of the New Jersey Open Public Meetings Act in their actions prior to the vote to award the contract.<sup>68</sup> The Board ended the contract to avoid a lengthy court case and costs and preventing future contracting to address their concerns. The Board chose to cure the concerns of the court.<sup>69</sup> In subsequent contracts, there is specific language prohibiting the creation of an alternate workforce.

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<sup>66</sup> N.J.A.C. 15.21-2.4

<sup>67</sup> *Operational and Performance Analysis of the City of Jersey City*, prepared by Arthur Andersen for the Division of Local Government Services, Department of Community Affairs, State of New Jersey, April 26, 2001. 154.

<sup>68</sup> *AFSCME Council 52, et al., plaintiffs, vs. Board of Trustees of Jersey City Library, et al., defendants*. Superior Court of New Jersey; Hudson County; Law Division-Civil Part; Docket No. HUD-L-6154-98 Order to Show Cause.

<sup>69</sup> Interviews of Mr. Gregory Corrado and Ms. Joan Lovero.

The Board's concerns leading to the initial contract and the first 2-year contract centered around displeasure with the management of the library and the library's progress in updating and improving its systems through better technology and improving its services. Unlike most libraries in New Jersey and all libraries in the area serving a significant population, the JCPL in 1998 was not automated.

Initially, there was consideration for outsourcing the automation needs of the library; however, after further review, the Board determined that the overall management and condition of the library warranted management and operations changes. Mr. Corrado, the Assistant Business Manager for Jersey City and the Contract Manager for LSSI contracts, stated that the City and the Board were frustrated by the civil service status of all employees, including the Director, which exacerbated desires to move the library forward. Both Mr. Corrado, and Chief Librarian and Contract Monitor, Ms. Lovero described the library's situation as "moribund" or as the "patient was dying on the table."<sup>70</sup>

The situation was so dismal that then-New Jersey State Librarian, Jack Livingston stated that Jersey City needed to change its way of doing business. He refused to release grant funds to the library because library management had failed to submit documentation on a previous grant. Funds were not released until a new library management contract had been signed with LSSI.

According to Mr. Corrado and Ms. Lovero, LSSI was selected initially because it was the only vendor known to provide library management services. At that time, both employees and trustees traveled to Riverside County, California to observe the system before a decision was made about the contract. In the subsequent contracts RFPs were issued and advertised in library professional journals and local newspapers. The only respondent was LSSI.

The contracts between the Board of Trustees and LSSI are very detailed providing explicit roles and responsibilities of the parties and their relationships with JCPL staff and operations, specific actions to be taken by LSSI, reports to be prepared, hours of work required by the contractor, and funding of the contract, including the earning of incentive dollars. Many of these required actions by the vendor have measurable components while others seek to establish quantifiable measures. Although the contract does not specify increasing hours of service by a specific amount or increasing the numbers of patrons by a specified amount, it appears that these would be natural outgrowths of the fulfillment of the contract provisions.

Two formal reports by the contract monitors have been reported to but not released by the Library Board of Trustees.<sup>71</sup> Another report that was prepared by Arthur Andersen on

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<sup>70</sup> Mr. Gregory Corrado also sits on the Library Board of Trustees. Ms. Joan Lovero is an MLS librarian who has been employed by the JCPL for 30 years.

<sup>71</sup> The contract monitors are the library's Director of Finance, who administers the business operations of the library, and the other is a MLS librarian with the title of Chief Librarian, who has worked with the library for 30 years.

various Jersey City departments, authorities and functions addresses the Jersey City Free Public Library's operation over the last two years. The April 26, 2001 report provides recommendations for improvements and findings on how the system has changed. The study stated that:

*While outsourcing management may be a new concept in public library operations, it was and continues to be the right course of action for Jersey City. The library lacked automation, training and leadership prior to LSSI's arrival.*<sup>72</sup>

Some of the recommendations of this report are included in the latest contract between the Board and LSSI.

The 2001-2003 contract with LSSI provides among other things 5 areas identified by the Board to be of great importance as indicated by incentive fees associated with them: staff development and training; library foundation development; management restoration plan; marketing; and revenue enhancements. Each of these specify what is required in the first and second years of the contract. The "management restoration plan" is to provide the Board with a plan specifying how the JCFPL staff will provide the management services needed to operate the JCFPL system. It is to include a detailed proposed Table of Organization, detailed job descriptions of all administration titles included in that Table, a proposed timetable for implementation and a projected budget. The plan, to be updated by LSSI annually, provides the mechanism for eventual movement away from contracting out for management.<sup>73</sup>

This restoration plan is consistent with the response of the persons interviewed. The use of a vendor is not viewed as a permanent arrangement. Instead, it is contemplated that within six or eight years the contract will be terminated and the control of the day-to-day operations will return to the library. By that time it is anticipated that the problems of the library will have been resolved. According to those interviewed, the changing of the culture of an institution takes years and the current culture of the library is only partially responsive to the changes that have been made.

Overall, the Board of Trustees has been pleased with the performance with LSSI stating that it had "timely and consistently met its obligations" under contract and that, "as a result, the quality, quantity and effectiveness of free public library services have improved within the City of Jersey City."<sup>74</sup>

The contract between the Library Board of Trustees and LSSI is one for "management consultant services". Pursuant to law and the contract, the Board asserts that it makes policy; maintains authority over the JCFPL; and hires, fires, disciplines, terminates, lays off, demotes, transfers, assigns, reassigns, negotiates with and pays the library workforce. The Board also controls the overall amount of the budget and votes on all expenditures. LSSI handles the day-to-day operation and other functions as dictated by the Board on its

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<sup>72</sup> *Operational and Performance Analysis of the City of Jersey City*, Arthur Andersen, April 26, 2001. 149.

<sup>73</sup> See Appendix M for a copy of the contract between the Board of Trustees and LSSI.

<sup>74</sup> Contract between the Board of Trustees for the JCFPL and LSSI for 2001-2003. 2.

behalf. Practically, the Board is not involved in day to day issues related to the selection of materials. According to Ms. Lovero, all book and materials selection is done by the JCFPL staff in consultation with LSSI. LSSI had employed the team approach to management. Many decisions are made by the library staff in concert with LSSI.

The persons interviewed did not view the contract arrangement as “privatization” of the library.

Based upon the interviews, reports, and contract, the following general findings were made about the impact of the Board of Trustees contract with LSSI:<sup>75</sup>

- **Measurable Outcomes** – The goals of the contract are to improve the quality, quantity and effectiveness of library services. There are no specific requirements in the contract for an increase in hours of service or days of operations or specific increases in materials or modifications in staff. There are specific requirements for staff training hours and for hours of service by LSSI staff and for completion of certain activities by LSSI. There are also requirements for reports and recommendations related to all phases of library operations and management with deadlines. See excerpts from the latest contract in Appendix M for details on these. Some of these would have to be analyzed to determine a cause and effect on the quality, quantity and effectiveness of services.
- **Hours of Operation** – Hours have been increased and extended. This was possible in part from the reduction in absenteeism of staff, reduction in overtime hours, and redeployment of staff. Part-time staff were reassigned to small branches so that they could stay open during the lunch hour. System wide libraries’ hours changed from closing at 5 pm to 6 pm, with staying open one night until 8 pm. In the summer of 2001, the main library was kept open all day on Saturdays. In the past, it had only been open for four hours and employees were paid overtime for working those hours.<sup>76</sup>
- **Staffing** – Under the new contract LSSI has seven onsite staff including the LSSI Head of Library Operations who is responsible for all day-to-day operations of the library system. All other staff are employees of the Board of Trustees. Because of streamlining and automation of functions staff have been able to be redeployed to other library functions. Within the library not all staff are happy with being moved or with LSSI. The leadership of the library employees’ union (clerks and maintenance employees) has been opposed to the contract. The leadership of the librarians’ union is in favor of the contract.

Staff training programs increased from 120 in 1999 to 462 in 2000 with staff training hours increasing from 900 to 3648, respectively. The current contract requires the implementation of a performance review process and 1200 hours of

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<sup>75</sup> For some specific examples, a portion of Ms. Lovero’s survey response is included in Appendix N.

<sup>76</sup> Total service hours increased from 26,856 in 1999 to 28,336 in 2000 and is anticipated to increase to 30,288 in 2001. Days absent by staff, after all sick, personal, and vacation leave was used, was reduced from 94.5 in 1999 to 5 in 2000. For those same two years, overtime hours decreased from 87,871 to 51,120.

training each calendar year emphasizing computer competency and customer service.

- **Contract Funding** – The current vendor contract provides for \$660,000 each year with a maximum of incentive fees of \$125,000 the first year and \$137,500 the second year.
- **Materials** – The budget for materials is not included in the contract. This is in the library's budget handled through the Board of Trustees. LSSI streamlined and automated the process of book ordering reducing processing time from 28 days prior to contracting with LSSI to 5 days (one source said from months to less than 2 weeks). Elimination of products that were not used by the library but for which it was paying. Expansion of circulation of videos. The book budget is now fully expended versus being used at only 77%.
- **Automated Systems** – Implemented office and library automation. Automated registration, circulation, cataloguing, and public access to library materials. Designed and implemented a Library Web Page ([www.jclibrary.org](http://www.jclibrary.org)). Extensive expansion of staff computers. Introduction of public Internet access computers at each library location. Continued training, expansion and upgrading are part of the second contract.
- **New or Remodeled Facilities** – Capital improvements have been made to seven libraries. One regional branch was completely redone.
- **Impact on Friends & Volunteers** – The library did not have a Friends group prior to LSSI contract. Since then, one group did form for the purpose of renovating a branch library.
- **Private Contributions** – Nonexistent before contract. Now through library marketing initiatives, private firms have paid for repair and refurbishing of the library's bookmobile and banners have been donated to each branch library.
- **Impact on State or Federal Aid** – Through improved management and automation of the library, aid has been enhanced. For the first time the library received NJ State Library approval of the Library's Technology Plan and subsequent eligibility for e-rate discounts.
- **Handling Fee** – The contract does not provide any indication of a handling fee.

According to those interviewed, the contract with LSSI enabled the library to make many changes that would not have occurred without such intervention. Ms. Lovero stated that:

*None of the library staff had the ability to introduce and manage automation, and none of us had demonstrated the ability to effect the other changes in operation that have improved our service. Are people happy? I believe that the citizens who use the library are very pleased, but that is not universally the opinion of the staff. It takes many years to change the culture of an institution.*

Additionally, it was stated that one of the greatest strengths of LSSI is its ability to bring in its own employees or contractors to perform a specific task that requires a unique expertise. They remain until the task is completed and then they leave. The interviews indicated that without such expertise there have been instances that a problem would not

have been recognized by library staff nor would they have known how to locate specialists to correct the problem or communicate the need.

When asked about “privatization” and the perception of the community, Ms. Lovero stated that some people erroneously compared the library contract with the privatization of the municipal water delivery system. She remarked that all of the library’s employees are still board employees, not private sector like the water system. Misinformation about the extent of “privatization” causes some people concern or else they are concerned because they have “an ideological position that automatically discounts any private involvement in the public sphere, regardless of results.”<sup>77</sup>

#### Comments by NJ State Librarian & NJLA Position

The current New Jersey State Librarian, Ms. Norma Blake, stated that she has requested LSSI to share more information with her on the impact of their contracts on library service in both Jersey City and Linden. She believes there should be more concrete performance measures upon which to make decisions and to understand what has really happened. She also believes that library staff in those libraries need to be more involved in the state and national library associations. She did state that the condition of the library in Jersey City had greatly improved.

Ms. Blake stated that at the time LSSI contracted to manage the Jersey City Free Public Library, the New Jersey State Library Association did not take a stance in opposition to the move because it knew that the library was in terrible shape and that going outside to a private vendor was probably needed.<sup>78</sup>

When Linden, New Jersey contracted out its management, the New Jersey Library Association felt that the circumstances were “politically motivated” and, therefore, amended its “Statement on Outsourcing Public Library Services” to include the following statement:

*It is the position of the New Jersey Library Association that outsourcing the management of a public library is a most serious step and should only be undertaken after careful study and as a last resort. Prior to Board consideration of outsourcing the management of any public library, the New Jersey State Library should perform an evaluation and review of library operations. The findings and recommendations of the New Jersey State Library shall be formally communicated to the Board of Trustees which shall develop and implement a plan of action.*<sup>79</sup>

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<sup>77</sup> Interview of Ms. Lovero.

<sup>78</sup> Interview of Ms. Norma Blake, New Jersey State Librarian.. The New Jersey Library Association is a private professional association with no authority over the operations of any library in the state.

<sup>79</sup> Statement on Outsourcing Public Library Services, New Jersey Library Association, revised March 2001.

The complete document on outsourcing is based on three philosophical premises:

1. residents of New Jersey deserve quality library services;
2. trustees of a public library have specific duties and responsibilities under law; and,
3. professional librarians must perform duties of professional librarians.

*Linden Free Public Library*  
*Linden, New Jersey*<sup>80</sup>

On September 2, 2000, the City of Linden became the second municipality in New Jersey to contract with LSSI for the management and operation of a free public library. The City's library consisted of a main library and three branches (downsized to two).

The City of Linden has a population of 40,000 and is primarily a blue collar area. There are diverse ethnic groups including Polish, Hispanic, and Haitian. Unlike other areas in New Jersey where libraries have experienced cuts and there has been a loss of industry, Linden has brought industry to the area through local redevelopment initiatives. According to the President of the Linden Free Public Library Board of Trustees, Mrs. Marilyn Coplan, the Linden Free Public Library (LFPL) has not been faced with budget cuts. Yet, the City and the Board sought assistance with the operation of LFPL.

According to the interviews with Mr. Tom Boland, City Councilman and Council Liaison with the Library Board of Trustees, and Mrs. Coplan, the reasons for seeking outside assistance were many. Primarily, the management of the library and its branches were poor. The library was viewed as being stagnant and the management was seen as not willing to move forward. The librarian was described as not being assertive when it came to the use of funds for the library and uncooperative when the Board requested changes be made. The library was receiving \$50/day/person; however, the Board felt that people were not receiving the level of service warranted. Additionally, the physical conditions of the library and the service attitude of all in the library was described as poor. The librarian was close to retirement and the Board was hesitant to act. Over a year before the contract with LSSI, the Mayor and Board members met with representatives of LSSI. At that time, the idea was dismissed by the Board as being too drastic. For a year, the Board began micromanaging the library. At that point, the Board again contacted LSSI to discuss a potential contract. Upon learning of the discussions for a potential contract, the librarian went out on sick leave and remained on leave until September 2001. Now in even greater need for management assistance, a 2-year contract was signed.<sup>81</sup>

The stated reasons for contracting with LSSI were to improve the quality, quantity and effectiveness of free public library services for the City of Linden.

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<sup>80</sup> Information provided is from surveys and interviews of persons in Linden and the contract documents.

<sup>81</sup> Interviews with Mr. Tom Boland and Mrs. Marilyn Coplan. It should be noted that there is no specified contract manager. Both Mr. Boland and Mrs. Coplan serve jointly in that capacity with legal and financial assistance being provided by staff of the City.



The contract between the Library Board of Trustees and LSSI is one for “*management and operation.*” The contract specifies the authority of the Board of Trustees as well as that of LSSI. Pursuant to law and the contract, the Board asserts that it has the sole authority to make policy; set budgets and appropriate funds; maintain authority over the LFPL; and hire, fire, discipline, terminate, layoff, demote, transfer, assign, reassign, negotiate with and pay the library workforce. The contract also specifies that all facilities, equipment, furniture and materials purchased for the library belong to the Board and the library. The responsibility for collection development policies rests with the Board of Trustees; however, book and material selection is the responsibility of the library staff and the LSSI on-site staff. LSSI handles the day-to-day operation and other functions as dictated by the Board on its behalf. LSSI had employed the team approach to management. Many decisions are made by the library staff in concert with LSSI.

Based upon the interviews, reports, and contract, the following are general findings regarding the impact of the Board of Trustees contract with LSSI:

- **Measurable Outcomes** – The goals of the contract are to improve the quality, quantity and effectiveness of library services. There are no specifications for increase in hours of service or days of operations or specific increases in materials or modifications in staff required in the contract. There is a requirement for maintenance of a certain level of hours of service and of staffing in order to retain eligibility for state aid. The contract calls for the development and implementation of certain assessments and action plans based on a hierarchy of priorities. To help the Board evaluate what is being done, the scope of work is to be based on a set of realistic goals and time lines with measurable objectives at each interim step. Nothing specific is set forth in the contract itself. See Schedule A from the latest contract in Appendix O for details on the assessments and action plans.
- **Hours of Operation** – By contract, the main library is required to be kept open the public for at least the number of hours necessary to maintain eligibility for State Aid.
- **Staffing** – Under the contract, LSSI provides the director/manager and any staff they bring for assistance. The Board had problems with initial staff brought in by LSSI but staff was replaced at the request of the Board. All other staff are employees of the Board of Trustees. By contract, LSSI is required to maintain the level of staff in the main library and the two branches necessary to maintain eligibility for state aid. The majority of the staff are union staff with the exception of administration, business management, and public relations staff. The Board had initially thought that the staff were part of the problems at the library; however, LSSI informed the Board that the staff were very qualified. According to the Board, since the contract the staff seems completely changed, morale has improved.
- **Contract Funding** – The contract provided for a Fiscal 2000 annual operating budget of \$1,920,081 which included \$208,500 for materials. The amount excluded building maintenance costs. In the late summer, the City increased the

library budget by \$100,000. This additional money was not made a part of the contract but was earmarked to be used as the Board saw fit to help the library.

- **Rebate** – If in any year the Board pays LSSI more than what it needed to perform the obligations under the contract, then 20% of that amount is to be rebated to the Board.
- **Materials** – The budget for materials in Fiscal 2000 was \$208,500. This included total library materials: books, periodicals, newspapers, microfilms, standing orders, audio tapes, video tapes, records, CDs, automated reference services, binding, related cataloging and processing costs, and LSSI handling fee.
- **Programming** – The library now has a very good children's program. Senior citizens are now involved in educational programs at the library.
- **Automated Systems** – The main library had only two computers and the branch libraries had none. There are now 10 computers in the main library and five in each branch. Computer use program and instruction of patrons was enhanced.
- **New or Remodeled Facilities** – The two branch facilities and the main library have received some facelifts. Branches were downsized and made more viable.
- **Impact on Friends & Volunteers** – There is a problem with some Friends group because of a close relationship they had with the previous library director. Some of the them are waiting to contribute until there is a library expansion. They have \$30,000 they want to use to honor one of the Friends. The use of volunteers in the library has been aided by LSSI with other persons assisting in the programs.
- **Private Contributions** – The only private contributions have been from private industry. The Board has received \$84,000 from private industry for the library building. Private industry raised no concerns about the contract with LSSI.
- **Impact on State or Federal Aid** – The contracting has had no negative effect on the receipt of state or federal aid. Improvements being implemented are expected to help in receipt of funding of other sources, including grants.
- **Handling Fee** – The contract provides for LSSI to receive a materials handling fee of 5% of the cost of materials. This fee is paid for the placement of orders for all book and material selections with suppliers and for the performance of all accounting functions related to those orders, including prompt payment.

Mr. Boland and Mrs. Coplan are very positive about the results of the contract thus far. They state that they are only halfway through the contract period. They feel that they have been "brought out of the dinosaur age of library programs into the computer age." The budget is used better now. An outstanding issue are that the branch libraries are still not where they should be although they have been improved.

Mrs. Coplan stressed that turning over the management of the library is something you do not want to do but things were so bad in Linden that they had nothing to lose. If you do, she stresses to always watch the budget.

## ***NORTH DAKOTA***

Although the laws governing library structure and requirements for state aid in North Dakota are different from that of the previous two states, there are some similarities. For example, North Dakota requires the establishment of a library board of directors in areas establishing a public library, requires appointment of the members by the local governing body, sets forth specific duties and responsibilities of the board and requires a method of payment for the library through property taxes. Unlike California and New Jersey, there are no levels of certification for library directors required by law or administrative code. As in the discussion of the other states, it is beneficial to have some understanding of the North Dakota library laws prior to discussing an individual city or county experience.

### Establishment & Governance of Public Library Services<sup>82</sup>

The establishment and maintenance of public library services in a geographical area is required to be agreed to by a majority of the electors in the area. The funding of the public library service in a municipality or county is based upon a millage rate that is adopted by the electors in the area. The moneys collected are placed in a library fund which is the repository for any other federal, state, local, or private funding for library services. The moneys can only be used for the purposes designated.

The law allows for the discontinuance of library services in a city or county in the same manner in which it was established; however, once established it cannot be discontinued until it has been operational for five years.

The governing body of the respective area establishing a public library and reading room is required to establish a five-member library board of directors to govern the public library and reading room. A member of the governing body is to be appointed to the board. The statutory responsibilities of the board are to:

- Make and adopt bylaws, rules, and regulations for the management of the library and reading room;
- Control, exclusively, the expenditures of all moneys collected for or contributed to the library fund;
- Have the supervision, care, and custody of the library property, and of the rooms or buildings constructed, leased or set apart for library purposes;
- Contract to furnish library service and receive library service from other counties, school districts, and cities of the state and adjoining states, and the state library;
- Employ qualified personnel to administer the public library and dispense library services;
- Purchase, build, or lease a building for the library (with the approval of the local governing body); and,
- Annually report to the local governing body and the state library on the condition of the library, the funding received and expenditure of such funds, library materials, and other information as requested.

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<sup>82</sup> North Dakota Century Code 40-38-01 through 40-38-09.

### Role of State Library & State Aid<sup>83</sup>

According to Ms. Larson, Assistant State Librarian for Fiscal and Administrative Services in North Dakota, the state library does not have any legal responsibility with regard to the operations and management of the city and county libraries in North Dakota. Decisions on contracting of any kind are strictly local decisions. Decisions on services provided are local decisions. The only requirements are that the city or county, depending upon the library system, have a mil levy for the library that is set by a vote of the people and that a library board is established. The board is an autonomous body that controls the policy and budget for the library.

In order to receive state aid funds, the library must be funded by a mil levy, have a board, must maintain the mil levy (show maintenance of effort), and participate in the North Dakota network for knowledge interlibrary loan and information network. The amount of money received is based upon a formula: city is \$1 per capita; county is \$1 per capita plus \$5 per square mile of service area. There is also a mechanism to provide for increased funding to libraries where local funding above the required mil levy is provided. For public libraries operated by cities, funds granted under the state aid law are limited to not more than 33% of the total expenditure of mil levy money and other public funds for the preceding year. State Aid, however, is funded only at 50% so the local areas only receive half of the funding they are eligible to receive.

State Aid funds are to be used only for the purchase of library materials, supplies and equipment, salaries of library staff, and services. The State Library is required to receive an annual report on expenditures.

### *Fargo Public Library Fargo, North Dakota*<sup>84</sup>

The City of Fargo has 95,000 residents. The Fargo Public Library, a 30,000 square foot facility with 150,000 volumes, serves approximately 150,000 people because of outlying areas. Approximately 38% of that population are card carrying patrons.

On December 29, 2000, the Fargo Public Library Board of Directors entered into a 2-year contract with LSSI for the management and day-to-day operation of the Fargo Public Library. The contract which began January 1, 2001 runs through December 31, 2003. The vendor had requested a three year contract; however, the City Council advised against this because it felt that the contract should not run longer than the length of time they were in office.

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<sup>83</sup> Conversation with Ms. Larson; North Dakota Century Code 54-24.2.

<sup>84</sup> Information provided comes from interviews with the President of the Fargo Public Library Board of Directors, who also serves as the contract manager between the Board and LSSI, and Ms. Diane Briggs, staff of the library for 35 years. Information also is derived from the December 12, 2000, Memorandum of Understanding between the City of Fargo and Fargo Public Library and the contract for management with LSSI.

The situation leading to the contract related to poor library management. The library experienced a series of library directors who had problems in managing the library and had not paid attention to the needs of the community and the library. In fact, there had been three directors in five years. The alienation of staff by the last director and allegations of inappropriate behavior led to the City buying out the remainder of his contract as the library director and his termination. According to the President of the Library Board of Directors, Mrs. Dambach, the Board had used national search teams and it had not worked.

The Board was looking for “interim management to clean-up the mess and get the library on its feet.”<sup>85</sup> The Board contacted the American Library Association (ALA) for suggestions on possible contacts. Mrs. Dambach stated that three private entities were suggested: a company in Chicago, LSSI, and a consulting company that later worked with LSSI. When contacted, the only vendor interested in talking with the Board was LSSI. By that time, the library had already been without senior leadership for six months and was in need of immediate assistance.

The Board contracted with LSSI because of the solutions it offered to their particular problems: viable recruitment system to bring in a librarian; an immediate approach to deal with the library during the interim; and buying power and expertise in technology needed.

Prior to the contract, a memorandum of understanding was entered into by the City of Fargo and the Board of Directors. This agreement was to clarify the operations of the library and the roles of each regarding staff, budget, payment of bills, legislative issues, and financial policies. The City is responsible for employing all staff excluding the director; approving and consolidating the budget; providing for auditing and payment of bills; coordinating legislative issues, including those of the Board; and establishing financial policies. The Board has as its duties: the employment of the library director; establishing library operational policies; development and submission of library budget recommendations; approval of all bills; represent public interest in establishing and maintaining library services; receive public input regarding public library service; establish strategic mission planning; and recommend to the city changes in organization, policy-making structure to provide library services including any recommendations for mergers or joint operating agreements.

The contract is not as detailed as the Riverside or Jersey City contracts but does delineate clearly what the roles of the parties are to be and what the expectations are of the vendor in the day-to-day operation and management of the library. The contract for 2001 sets forth eight directives:

1. Initiate a development and training program for library staff to enhance the ability of the library to provide top-notch library service to the people of Fargo.

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<sup>85</sup> According to library staff interviewed, there had been a flurry of adverse press relating to the previous director and surrounding situations. Because of the press and of previous history, the Board was faced with difficulty in recruiting a new director.

2. Establish effective internal and external communications.
3. Develop a system of periodic needs assessments.
4. Rebuild the Fargo Public Library's credibility and stature with the City and community resulting in a measurable increase in library card holders and in library use and circulation.
5. Maintain library operating hours at the current level or higher.
6. Expend the books and materials budgets allocated in each year in full for that purpose.
7. Maintain an adequate workforce necessary to provide circulation, reference, children's and other library services to the public at current levels or higher.
8. Development of a long-range plan.

The contract also specifies that vendor performance will be evaluated not only by compliance with specific requirements but also on its ability to meet the Board's adopted goals for library management that are made a part of the contract.

Based upon the interviews and contract, the following general findings are provided regarding the impact of the Board of Directors' contract with LSSI:

- **Measurable Outcomes** – See the eight directives described above. Also, see Appendix P for more information on requirements of the contract.
- **Hours of Operation** – By contract, the library operating hours must be maintained at the current level or higher. Hours during the winter were increased to include being open Sunday from 1 pm to 6 pm.
- **Staffing** – By contract, an adequate workforce necessary to provide circulation, reference, children's and other library services to the public at current levels or higher must be maintained. Under the contract, LSSI provides an on-site MLS-degreed and qualified Library Director/Project Manager who is hired by LSSI but assigned to the project at the discretion of the Board. The Board can have the person removed and replaced if not satisfied. LSSI pays for and controls any of its other staff and contractors brought in for assistance. All other staff are employees of the city but managed by LSSI and can be disciplined only pursuant to city rules. Additional part-time staff have been requested to augment current library staff. According to library staff, LSSI sent a team of experts to talk with staff and assess needs; supported existing staff and boosted morale; empowered staff to help take over making decisions on operations; helped reorganize staff to make facility operate more efficiently; and convinced the Board to have a library staff member sit as an advisor to the Board at its meetings.
- **Contract Funding** – The contract provided for a Fiscal 2001 annual operating budget of \$1,489,506 which includes all expenses of the library. LSSI told the Board that any profit would be made from making the library more efficient and using money more effectively.
- **Materials** – Responsibility for collection development policies remains with the Board. Book and material selection is the responsibility of the library workforce and LSSI's onsite workforce. The budget for materials for Fiscal 2000 was \$287,500. Library book budget was increased by \$42,000 by City Commission.

According to Mrs. Dambach, this was an unheard of increase that was accomplished by the efforts of the vendor in improving services and confidence in the library and in preparing the documentation warranting such an increase in the budget. Instead of it taking two to three months for books to go from the back door to the shelves, it now takes seven days.

- **Programming** – Programming has increased. An example used was a doubling of the summer reading program with a significant increase in completion rate.
- **Automated Systems** – Technology systems and offerings have been improved. The City has given \$30,000 more to be used by the library for its technology needs. According to Mrs. Dambach, this was accomplished because LSSI was able to prepare documentation that convinced the City that the technology needs of the people served by the library and the importance of meeting this need warranted giving money outside the citywide technology plan.
- **New or Remodeled Facilities** – Reportedly the appearance of the facility was improved. There was no money provided in the contract for any remodeling of the facility. The assumption, therefore, is that there was no major capital expenditure.
- **Impact on Friends & Volunteers** – Volunteers and Friends are happy that the library is functioning better. Donations have increased. Friends are working with the library and have recently donated several thousand dollars for collection and other improvements.
- **Private Contributions** – There is a local community foundation that raised funds for the library and funds have increased.
- **Impact on State or Federal Aid** – The contracting has had no negative effect on the receipt of state or federal aid. The Board anticipates receiving more federal money because LSSI has identified areas where grants had never been requested, such as funding for internet connection. LSTA funds are being sought. Other grant requests are being prepared by LSSI on behalf of the library and Board.
- **Handling Fee** – The contract provided for LSSI to receive a materials handling fee of 5% of the cost of materials. This fee is paid for the placement of orders for all book and material selections with suppliers and for the performance of all accounting functions related to those orders, including prompt payment.

The persons interviewed are very positive about the results thus far. Library staff viewed them as a “lifesaver for the library”. Mrs. Dambach commented that the changes that have been made have improved the delivery of services, the patrons are pleased, and the library staff are happy. She believes that things are being turned around for the library. Initially, the Board thought of the contract as being short-term; but, Mrs. Dambach stated that she no longer thinks of it in the same way. Others spoken with stated that eventually the management and operation will be turned back over to the Board and City.

Mrs. Dambach commented that private industry involvement in management and operation of a public library is viewed negatively by some in the area of libraries because “there seems to be a feeling that people in such a business cannot be mission driven.”

## **TEXAS**

As with all of the other state laws, the body of law governing the establishment and funding of public libraries in Texas is far more extensive than that in Florida law.

In Texas, like in Florida, special districts can be created for providing library services in an area. The purpose of the library district, the method of creation, the funding of library services through a sales and use tax approved at the local level, the territory of the district, the administration of the district by the board of trustees, the management of the district, and powers and duties of the district are all set forth in Chapter 326 of the Texas Code. The purpose of the special district is to establish, equip, and maintain one or more public libraries for the dissemination of general information relating to the arts, sciences, and literature. The relationship of the district with incorporated and unincorporated areas within a district, especially with municipalities having municipal libraries, is specifically spelled out. The board of trustees is required to employ any person, firm, partnership or corporation it determines needed to conduct the business of the district and it may employ a library director to administer its affairs.

The establishment and maintenance of county libraries is provided in Chapter 323 of the Texas Code. The Texas law is similar in ways to how Florida's county library systems are established through local initiatives for the receipt of State Aid based on broad statutory structure requirements in s. 257.17, F.S.: the single county consolidated county library and the single county public library cooperative. Many of the details for these structures and their operation are included in the rules governing aid in Florida and not in the statute, as in Texas. Like other states, the Texas law provides specific funding for county libraries based on a set amount of the property tax on property in the unincorporated areas and in municipalities that are supporting a free public library and that have elected to become a part of the county library system. Funding for systems in Florida is left to the local governments based upon statutory millage caps with the exception of State Aid and other grants.

The commissioners court of a county with a county library is required to employ a county librarian who serves at their pleasure. The librarian must be certified by the Texas State Library and Archives Commission. The requirement for permanent certification is graduation from an American Library Association accredited library school or master's degree in library science from an institution of higher education accredited by an organization that the commission determines has high accreditation standards. Municipal librarians under a county system must also be certified by the commission.

Under the Texas Library Systems Act, Subchapter 1 of Chapter 441 provides for the establishment of multi-jurisdictional library cooperatives through major resource systems or regional library systems. These systems composed of various types of libraries – academic, state institution, local non-public libraries, etc. – must be approved by the Texas State Library and Archives Commission and can be reconfigured by the Commission. These systems are similar to the multitype library cooperatives created in



Florida law under ss. 257.40-257.42, F.S. The Texas law, however, is much more detailed regarding the systems and their operations.

Libraries in Texas have library boards that give administrative direction or advisory counsel to individual libraries or library systems.

Texas has several grant programs established in law. However, according to the Texas State Librarian, Peggy Rudd, Texas had never funded a state aid program like Florida's until this last year. She stated that Texas was one of six states that did not provide state aid. Last year approximately \$2.9 million was appropriated. Rules were being approved on November 16, 2001, for implementation of the program.

According to the Texas State Librarian, there are no provisions in Texas law or rules that prohibit the outsourcing of management of day-to-day operations of a public library to a private, for-profit vendor. Nor are there any that would impact the receipt of any state funding for such outsourcing.

*Lancaster Veterans Memorial Library  
Lancaster, Texas*

The City of Lancaster has a population of 25,000 and provides library services not only to that population but serves smaller surrounding communities as well as working cooperatively with three cities of comparable size in their region. The City recently built a new \$4 million library facility of 23,000 square feet to replace an old facility of 6,500 square feet built in the 1950's. The facility has 25 public access computer terminals with high-speed Internet connection and about 60,000 books, audio books, video cassettes and periodicals.

The City has a Library Board that serves in an advisory capacity to the City Council and Mayor. The Board controls policy issues related to the library, e.g., hours of operation and collection development, and makes recommendations to the City Council on the library budget. The City Council controls the budget. Library employees historically have been City employees covered under the civil service rules of the City.

Prior to the facility opening, the library director resigned to accept a position in another community. Lancaster was left with only six library staff and no professional librarian with the director-level qualifications and expertise needed to bring the facility online. Additionally, one of the biggest supporters of the building of the library and a recreation center (community park), a company that was a large contributor to the sales tax collected in the community, relocated. This move caused millions of dollars in sales tax revenue loss. The library funding is based on 2/3 coming from sales tax and 1/3 coming from property tax. The City had a new library ready to go but insufficient staff and resources to get the expertise needed to manage and operate the library. According to the Assistant City Manager, Ms. Iwanicki, the City was in a "crisis mode."

The City began exploring ways to cut operating expenses citywide. At the request of some City Councilmen, LSSI was invited to speak with the City Council, the Library Board, and the City Manager. LSSI informed the group that they could run the library for a set amount and increase the hours of service. The City spoke with areas where LSSI was managing libraries as well as with Dr. Robert S. Martin of Texas Woman's University School of Library and Information Studies. The City contracted with LSSI for the operation and management of the Lancaster Veterans Memorial Library (LVML) for July 2001 through September 30, 2006. The contract spans the last three months of one fiscal year and is renewable annually for a 5-year period. The contract was not bid and there were no public hearings on the issue. According to Ms. Iwanicki, legal counsel for the City advised that it did not have to be bid because it was a contract for "professional services." Appendix Q contains a copy of the contract.

Based upon the interview and the contract, the following general findings are provided concerning the City of Lancaster contract for management and operations of LVML and preliminary observations:

- **Measurable Outcomes** – The contract provides for hours of operation and staffing that can be measured. Over the next 15 months action plans and assessments are to be done. These can be monitored to see if they are done. Use of the budget can be monitored. Fulfillment of required reports to the City and Board can be monitored. Specific measurements on collection development or use, automation, etc. cannot be determined from the contract. Possibly these can be determined from the assessments and subsequent recommendations.
- **Hours of Operation** – According to the contract, from July 1 through September 30, 2001, the library would be open at least 38 hours per week. After that, the library would be open for at least 48 hours per week.
- **Staffing** – By contract, LSSI is required to provide the appropriate staffing levels to keep the library open to the public for the agreed upon hours of operation. The contract requires LSSI to hire an onsite MLS-degreed and qualified library director/project manager. Within two weeks of the contract, a person was hired. Although hired by LSSI, the director is assigned to the project at the discretion of the City. The City can have the person removed and replaced if not satisfied. LSSI pays for and controls any of its other staff and contractors brought in for assistance. The employees of the library prior to the contract remained City employees for the first three months of the contract. After that two were to become employees of LSSI and the remainder were to remain City employees until December 31, 2001. The City employees are managed by LSSI and can be disciplined only pursuant to City rules. The contract also states that the City agrees not to increase the number of employees in existing positions or add positions to the City employee library workforce after July 1 or during the contract.
- **Contract Funding Level** – The funding for July 1 through September 30, 2001 was \$48,980 per month. For Fiscal 2002, the operating budget was set at \$587,767 (including \$53,000 for materials). The budget had to be modified to reflect an additional resource cut of \$23,000. LSSI asked whether to cut hours or

development of collection. According to the Contract Manager at the time of this report, discussions were still being carried on concerning the cut and the levels. The operating budget does not include electric utility charges or building and grounds maintenance for which the City pays directly.

- **Materials** – The budget for materials for 2002 is set in the contract at \$53,000 with a stipulation that it must be spent on the items listed or returned to the City. The contract states that responsibility for collection development policies remains with the City and all book and material selection is the responsibility of LSSI's onsite workforce. During the first 15 months of the contract, LSSI is undertaking an assessment of library policy and practices which includes materials lending, selection, cataloguing, and processing.
- **Automated Systems** – Within the first 15 months of the contract, LSSI is undertaking an assessment of the automation systems: inventory control, on-line public access catalog, on-line resources, acquisitions, serials control and office support. Recommendations for action are to be prepared for the City.
- **New or Remodeled Facilities** – Not applicable at this time.
- **Impact on Friends & Volunteers** – According to the Contract Manager, the Friends have been receptive as has the Genealogy Society. LSSI has met with Friends and Society to keep them involved. Friends have worked with Library Board on setting priorities for the library.
- **Private Contributions** – In the past library received donations primarily for the building of a new library. LSSI has suggested a foundation for the library which has been well received by the Board and the Friends. Although this is not mentioned specifically, the contract states that revenue opportunities will be one of the assessments to be undertaken during the first 15 months of the contract.
- **Impact on State or Federal Aid** – According to the Contract Manager, there is not a problem with receipt of state aid because the library and its contents belong to the City and it is a public library. The City of Lancaster must demonstrate a maintenance of effort in funding in order to continue state aid.
- **Handling Fee** – The contract provides for LSSI to receive a materials handling fee of 5% of the cost of materials. This fee is paid for the placement of orders for all book and material selections with suppliers and for the performance of all accounting functions related to those orders, including prompt payment.

The Contract Manager has stated that on the whole things seem to be going well, that people are pleased with the services being provided, and that LSSI has worked closely with all of the players in the contract as well as the Friends and Genealogy Society. She further stated that contractual arrangement is still very new. The City was told that LSSI would not make a profit in the first two years but that they wanted a presence in Texas; but she feels that they are or will be making some profit because of efficiencies and because of possible savings on personnel costs. The City and the Board are reviewing the contract in a couple of months and annually thereafter. More can be discerned after those reviews about the progress of the contract for management and operation of the LVML.

Finally, according to the Texas State Librarian, as long as the library is still controlled by the governmental entity that the contract for library management and operation is only a

contract for service. Her main concern was that quality library service be provided to the citizens of the state. She also said that the contract in Texas was still in its early stages and would be closely monitored to determine its impact on library service.

### ***Florida Law and Rules Governing Establishment and Funding of Public Libraries***

#### **Florida Law**

Unlike California, New Jersey, or North Dakota, there is nothing in Florida law that requires the establishment of or prescribes how local governments are to establish public libraries, control policy or operation of those libraries, or have a specified local tax millage to serve as a base for such libraries.<sup>86</sup> County and municipal public libraries in Florida are discretionary through home rule laws and are largely locally supported.

Florida law does not prescribe qualifications of or certification of librarians in public libraries as does California, New Jersey, and Texas. The only statutory exception to this is the State Librarian, serving as the director of the Division of Library and Information Services in the Department of State, who is required to have completed a library school program accredited by the American Library Association.

Florida law does provide authority under which local governments can provide services to their citizens. This authorization includes the provision of library services if determined needed by the respective local government. Under s. 125.01(f), F.S., counties have the power to “provide parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.” Likewise, s. 166.021(1), F.S., authorizes municipalities to render municipal services and to exercise any power for municipal purposes, except when expressly prohibited by law. Finally, the Florida Interlocal Cooperation Act of 1969, s. 163.01, F.S., permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage. Florida law also provides for the creation of dependent and independent special taxing districts. This mechanism has been used in some areas of the state to create library special districts solely for the purpose of providing library services to a particular geographic area.

Technical assistance and financial assistance to public libraries is specifically authorized in Chapter 257, F.S. Under this chapter, the Secretary of State appoints a State Librarian who is to serve as the director of the Division of Library and Information Services and who is required, among other things, to be in charge of the division’s efforts “in organizing new libraries and improving those already established.” To this end, s. 257.04, F.S., requires the division to perform whatever services and engage in whatever activities, that are not contrary to law, that it deems appropriate in the development of library services to the libraries and library profession of the state and the citizens of the

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<sup>86</sup> When public libraries seek state financial assistance, the law does dictate certain structural and funding requirements and the state rules further the requirements for staffing and policy in order to obtain aid. This will be discussed below in the discussion on State Aid and Florida Rules.

state. The division is specifically permitted, upon request, to give aid and assistance, financial, advisory, or otherwise, to all public libraries, and to all communities which propose to establish libraries. The assistance is to encompass such things as the best means of establishing and administering libraries, selecting and cataloging books, and other facets of library management. In furtherance of the charge to improve library services and enhance the development of the library profession, the division is to conduct courses of library instruction and hold librarians' institutes throughout the state.

Section 257.14, F.S., provides the division with authority to adopt rules to implement the provisions of Chapter 257, F.S.

The specific provisions of Chapter 257, F.S., relating to the financial assistance provided to public libraries will be discussed in the following section on "funding".

To assist the division in the efforts described above, in its responsibilities for administration of federal and state aid to libraries, and other programs it administers, there is a State Library Council created under s. 257.02, F.S. The seven member council appointed by the Secretary of State regularly meets to discuss issues. The State Librarian serves as a nonvoting member of the Council.<sup>87</sup>

#### Funding of Libraries - General

Public libraries in Florida are supported by several sources of tax revenues at the local level. Most income for public libraries is derived from county ad valorem property taxes. Until September 30, 2001, Polk County used the proceeds from a cable franchise fee to serve residents in the unincorporated parts of the county. Several derive funds from Municipal Service Taxing Unit (MSTU) taxes on unincorporated areas to pay for service for persons living in unincorporated areas. Many public libraries are supported by special taxing districts. Some of these are independent districts where the specific tax is enumerated on the county property tax bill and does not fall within the 10 mil tax cap. Several are dependent special districts where the tax may be enumerated but is within the 10 mil cap. In FY 1999-00, 84.36% of public library support was from local funding, 9.03% was from state funding, 0.98% was from federal funding, and 5.63% was from other sources such as donations, gifts, and fines.<sup>88</sup>

Funding from the state for public library services comes primarily through the State Aid to Libraries grant program. Other state grants include public library construction and literacy grants. The state also has a Library Cooperative grant program which funds the development of consortia of different types of libraries, referred to as multitype library cooperative, to provide expanded services to Florida's citizens. These consortia consist of academic, school, special, state institutional, and public libraries. With regard to a library's eligibility for receipt of state funding, the Division of Library and Information Services is required, under s. 257.15, F.S., to establish reasonable and pertinent operating

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<sup>87</sup> A list of the most current members of the State Library Council is found in Appendix E.

<sup>88</sup> 2001 Florida Library Directory With Statistics, Department of State, Division of Library and Information Services. 173.

standards under which a library will be eligible for such funds. The following additional requirements are placed on receipt of or use of funding:

- Unless the funds are specifically appropriated for construction purposes, no funds received under grants can be used for the purchase or construction of a library building or library quarters (s. 257.24, F.S.).
- A library receiving a grant under ss. 257.14-257.25, F.S., must file with the division an annual financial report on its operation and must furnish any other information the division requires (s. 257.16, F.S.).
- On the application for a grant, the board of county commissioners or the chief municipal executive authority of a municipality, whichever is applicable, is required to agree to observe the standards established under s. 257.15, F.S., to certify the annual tax income and rate of tax or appropriation for the free library or free library service, and to furnish any other information required by the division (s. 257.23, F.S.).

Federal funds from the Library Services and Technology Act (LSTA) flow through the division, as the State Library Administrative Agency, to public libraries, public school libraries, academic libraries, special libraries, and multitype library cooperatives. Unlike the State Aid program, the federal LSTA funds can be used by any publicly funded library. The funding under LSTA is discussed in the section on federal law and funding.

#### *Funding of Libraries – State Aid*

As with the receipt of any state or federal assistance, there are requirements attached to the receipt of state assistance for public libraries. Although there are no statutory requirements regarding the establishment of a library or its operation or its level of funding, if a public library is to be eligible for State Aid under Chapter 257, F.S., there are statutory requirements that dictate what local political subdivision is the controlling entity through which state assistance will flow to all local public libraries. There are also other requirements related to local effort. Rules that govern the receipt of state assistance provide more detail as to what operational requirements must be met.

The State Aid to Libraries grant program (State Aid), established in 1961, is an incentive program designed to encourage local governments to establish and continue development of free library service to residents and to provide funding to support that library service.<sup>89</sup> At the time of its inception, counties were determined to be the political subdivisions most suited to provide library services because 43% of Floridians lived in unincorporated areas. The county service model was the same model chosen for public school education. By 1999, the percentage of Floridians living in unincorporated areas had increased to 51%.

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<sup>89</sup> Ch. 61-402, L.O.F.

Grant formulas for State Aid are based largely on local funds invested in library service. The more local money spent on library services, the higher the grants earned under the State Aid to Libraries program. There are several forms of State Aid grants for which libraries may apply: equalization grant, multicounty library grant, establishment grant, and operating grant. In order for a library to receive funding under any of the State Aid grants, it must first qualify for an operating grant.<sup>90</sup> Grants are awarded through an application process with the Division of Library and Information Services reviewing the applications for eligibility and completeness.

Section 257.17, F.S., establishes requirements for *operating grants*. Under this section, a political subdivision that has been designated by a county as the *single library administrative unit* is eligible to receive from the state an annual operating grant of not more than 25% of all local funds expended by that political subdivision during the second preceding fiscal year for the operation and maintenance of a library under certain conditions. Eligible political subdivisions include:

- 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 with such county.
- 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.
- A special district or special tax district that establishes or maintains a library and provides free library service.
- A municipality with a population of 200,000 or more that establishes or maintains a library and gives free library service.<sup>91</sup>

A library that is established or maintained by a political subdivision is required to be operated under a single administrative head and must expend its funds centrally. Further, it must have an operating budget of at least \$20,000 per year from local sources. It also must give free library service to all residents of the county or residents of the special district or special tax district.

A time limited exception to the requirement for designation by a county is contained in s. 257.17(4), F.S. Until July 1, 2002, this permits receipt of State Aid by a municipality

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<sup>90</sup> The State Aid to Libraries grant program is set forth in ss. 257.14-257.25, F.S. For additional information on State Aid and the award process see Appendix A.

<sup>91</sup> This provision was placed in law in 1983 to grandfather the City of St. Petersburg, which was designated by Pinellas County as the single library administrative unit, to continue to receive state aid to serve all residents of Pinellas County, but without any county appropriations being paid to the city. It was the only municipality ever to serve as the library for all of a county's residents without receiving any payment by a county to do so under a provision of Florida's State Aid law that was in effect from 1972 to 1983. This situation ended in 1990 with the establishment of the Pinellas County Public Library Cooperative.

with a population of 200,000 or more that meets specific requirements relating to the municipality. This language refers to the City of Hialeah in Miami-Dade County.

Section 257.18, F.S., establishes the *equalization grant* which is fully funded and is available to 34 counties that qualify for operating grants and that have limited local tax resources. The equalization grant provides a supplement to local funds for those libraries serving counties that fall below certain median standards of tax resources and per capital local funds expended for library support.

Section 257.172, F.S., establishes the *multicounty library grant* which is fully funded and is available to provide additional support to counties that qualify for operating grants and choose to join together to provide an expanded level of service to their residents. The grant is available to the single library administrative unit of the multicounty library that qualifies and serves a combined population of 50,000 or more or three or more counties.

Section 257.19, F.S., establishes the *establishment grant* which is awarded for the first year to any county, counties and municipalities entering into an interlocal agreement (Ch 163, F.S.), or a special district or tax district, any of which qualifies for an operating grant. The maximum grant allowable is \$50,000. This establishment grant is equal to and in addition to the total operating and equalization grants for which a county qualifies.

The funding for State Aid in FY 2000-2001 was \$33.4 million and in FY 2001-2002 the funding is currently \$32.4 million.

#### *Funding of Libraries – Other State Grants*

Section 257.191, F.S., authorizes the Division of Library and Information Services to accept and administer library construction money appropriated to it on a matching grant basis. The *Public Library Construction* grant program, established in 1973, provides assistance in the construction of new buildings, site acquisition and the acquisition, expansion or remodeling of existing buildings to be used for public library services in municipal, county, and regional public libraries. The grants are required by law to be matched on a dollar for dollar basis. By rule, the maximum state grant is set at \$500,000 in non-recurring funds and the minimum is set at \$10,000.

Sections 257.40 – 257.42, F.S., establish the *Library Cooperative* grant program which provides funds to multitype library cooperatives (combination of school, academic, state institutional, special, and public libraries) to encourage cooperation among libraries of all types for the development of library service to all Floridians. Grants are available to consortia organized as not-for-profit corporations that are qualified pursuant to Ch 617, F.S., and are in good standing. The administrative unit of a library cooperative is eligible to receive an annual grant from the state equal to 10 times the local cash match amount up to a maximum grant award of \$400,000, for the purpose of sharing library resources based upon an annual plan of service and expenditure and an annually updated 5-year, long-range plan of cooperative library resource sharing. Grant funds are specifically prohibited from being used to supplant local or other funding. The Division of Library



and Information Services reviews the plans and makes recommendations for inclusion in the Department of State's budget request.

Section 257.192, F.S., gives broad authorization to the division to accept money for library program grants and to make the grants according to the Florida long-range program for library services. The plan is required by the federal LSTA, P.L. 104-208, as amended, in order for the state to receive federal funds for library services. Under this section, the division has established state funded literacy grants and has administered the federal LSTA grant program.

### Florida Rules

Section 257.14, F.S., provides the division with authority to adopt rules to implement the provisions of Chapter 257, F.S; s. 257.171, F.S., provides specific rulemaking authority and standard development for multicounty libraries; s. 257.191, F.S., provides specific rulemaking authority for administration of the library construction grants; s. 257.41, F.S., requires rules and standards for the library cooperatives (multitype); and, s. 257.192, F.S., requires the division to establish reasonable and pertinent operating standards under which a library will be eligible to receive state funding.

As stated in the section on general funding provisions in Florida library law, there are two other general statutory requirements for libraries that are applying for and have received state funding:

1. On the application for a grant, the board of county commissioners or the chief municipal executive authority of a municipality, whichever is applicable, is required to agree to observe the standards established under s. 257.15, F.S., certify the annual tax income and rate of tax or appropriation for the free library or free library service, and furnish any other information required by the division (s. 257.23, F.S.).
2. A library receiving a grant under ss. 257.14-257.25, F.S., must file with the division an annual financial report on its operation and furnish any other information the division requires (s. 257.16, F.S.).

The reason that these are restated is because of the importance they play in the rule governing the library grant programs and the grant guidelines and applications for the various grants.

The rule governing the library grant programs is 1B-2.011, F.A.C.<sup>92</sup> The rule states that it provides procedures for library grants administered by the division and that each program is governed by guidelines which set forth eligibility requirements, application review procedures, evaluation and funding criteria, grant administration procedures, if applicable, and application forms. Applicants for grants are required to meet the

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<sup>92</sup> State Aid to Libraries; Library Construction; Library Cooperative; LSTA (federal) grants; Florida Library Literacy; and Community and Library Technology Access Partnership.

eligibility and application requirements that are contained in the various grant guidelines that are incorporated into the rule by reference.

Rules must be tied to the law. They are not to restate the law nor to expand the law. They are to add clarification to the law and to provide guidance on how the law is to be implemented so that those impacted will better understand the procedures and how to comply with requirements they must meet, if any.

The analysis of the guidelines will focus on those for the State Aid to Libraries grant program since that is the largest state grant program and since participation in other grant programs refer to libraries eligible to participate in the State Aid program. Specifically, the concentration will be on the requirements for the structures established in s. 257.17, F.S., for *operating grants*. These requirements dictate the ones acceptable for receipt of all State Aid and provide guidelines for control and expenditure of funds. This particular provision of law was the subject of amendment during the 2001 Legislative Session that lead to discussions on whether or not a for-profit company could be contracted to manage or run the day-to-day operations of a public library under existing law and regulation or if eligibility for State Aid would be at risk. Additionally, questions were raised by the Joint Administrative Procedures Committee concerning the Department of State's and the Division of Library and Information Services' basis for and interpretation of certain rules. The questions regarding the rules will be discussed at the end of this section.

#### *State Aid to Libraries Structure, Administration, and Operation*

The basic requirements for receipt of State Aid by law are that:

- A county designate an eligible political subdivision to serve as the *single library administrative unit* that will receive the State Aid for the library.<sup>93</sup>
- The library established or maintained by that unit, must be operated under a *single administrative head*; expend its funds centrally; have a minimum of \$20,000 from local sources for operation; give free library services to all county residents or residents of the special districts.

The guidelines provide the following additional procedures and requirements:

- The *single library administrative unit* must designate a “*governing body*” to provide service. The division must be sent documents verifying that the body has the authority to set policy, adopt plans, adopt budgets, designate the single administrative head, and enter into contracts on behalf of the library.
- The governing body must be the governing body of the county or another county, a legally established administrative board established by the political subdivision to govern the library, governing body of a special district or special taxing district, board of a non-profit library corporation or association, or a municipality.

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<sup>93</sup> See Appendix R for the *County-By-County Status Report on Public Library Development in Florida*, prepared by the Division of Library and Information Services, September 10, 2001. This document provides information on local taxation, what entity provides library service, and municipal participation.

- Contracts or interlocal agreements outlining decision-making powers and responsibilities of participating local governments when multiple entities are involved and that such agreement are provided to the division. Public library cooperative agreements are required to cover specific issues relating to responsibilities and funding decisions.
- *Single administrative head* must be “hired or designated” by the library’s governing body; must have completed a library education program accredited by the American Library Association and have 2 years of successful, full-time paid professional experience, after obtaining the degree, in a public library open 40 hours per week or more.
- *Single administrative head* is specifically made responsible for overall management or coordination of the library within agreement, plans, policies, and budgets. The administrative head cannot delegate the responsibility for managing or coordinating the development of a budget, long-range plan for all library outlets, annual plan of service, implementation of the plans or budget, nor preparation of reports for the library.
- *Expenditure of State Aid grants* must be by the single administrative head, except in multicounty library cooperatives where some State Aid grants must be expended by the individual counties. In multicounty areas, local funds are to be expended pursuant to the agreement of the participating counties.
- *Minimum operation standards for the library* require that at least one library outlet or member library is open 40 hours or more per week; provide access to materials, information, and services for all residents in area served (free library access required by law), have a long-range plan, annual plan of service and an annual budget (provided, in part, in law).

The guidelines require that certain documents be provided to the division, including information necessary for federal, state, and local reporting.

On the whole, the above requirements for receipt of State Aid appear to comport with the statutory requirements for implementation of the operating grant structure. The variances between the law and the guidelines that are cited above could be argued to support the statutory requirement for “establishment of reasonable and pertinent operating standards for receipt of State Aid.” Although not included in law or in the guidelines, interlocal agreements or other agreements provide “opt out” provisions for local governments that decide to withdraw from a library system. The details of the “opt out” are left to the participating local governments.

In other states reviewed, hours of operation are part of their administrative codes. The certification of the librarian, however, is either required in law or not required at all. In other states, their laws specifically established governing boards for libraries and dictated the relationship of that entity to the local governing body. In Florida guidelines, the entity is broadly established with powers required. Although in Florida’s situation, the entity is described as being the decision making arm of the political subdivision chosen by the county to receive State Aid. Some codes are far more detailed on library

operations even dictating levels of staffing and required level of funding for certain library functions, such as collections development.

Operationally, Florida has three basic structures for library governance for the receipt of State Aid: consolidated county public library, county public library cooperative, and multicounty library cooperative. For an explanation of how these governance structures function, the relationship of the participating local governments, and the differing role of the single administrative head in each structure, refer to Appendix B. This document also provides examples of what counties fall under which governance structure. Currently, there are 29 municipalities that do not belong to a county system but operate independent municipal libraries; however, one of those municipalities, the City of Hialeah, receives State Aid without being part of a county system. There are also 15 municipalities that are not taxed for library services and are not served.

*Questions on State Aid Rules: Prohibition of Private Sector Library Management & Operation?*<sup>94</sup>

In March 2000, Representative Posey asked the Joint Administrative Procedures Committee (JAPC) to review the state's library rules and policies to determine if there was a prohibition against the use of private, for-profit companies providing library services under contract with a local government. And, if there was, to provide the statutory justification. The Representative stated that he had been told this was the case, that this would tie the hands of local governments in managing their resources as they determined needed without losing state funds, and that Florida was the only state with such a ruling.

On April 26, 2000, Representative Posey sent a letter to Secretary Harris requesting that he be sent the Department of State's policy applicable to receipt of State Aid by a library that outsourced its day-to-day operation to a for-profit company. Senator Posey clarified his request by stating that the governmental entity would retain full control of the library and authority over policy. On May 3, 2000, the Secretary sent the Senator a copy of a February 2000 review of the issue of privatization and public libraries that had been prepared by the department's assistant general counsel.

On April 26, 2000, JAPC prepared a response to the Senator's request. In its response, the Department of State's assistant general counsel's analysis was reviewed.

In essence, the Department of State took the position that a county or municipality becomes ineligible for library grants if the library is operated by a for-profit corporation and that the law and rules support such a position. The department's assistant general counsel stated that the statutory requirement under s. 257.17, F.S., for operation under a single administrative head and expending funds centrally are "contrary to the notion of privatizing the management of public libraries." Counsel further stated that the statutory requirement for the library "governing body" that has the responsibility for employing or designating the administrative head of the library, pursuant to rule, also prevents a for-

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<sup>94</sup> See Appendix S for correspondence between the Department of State and JAPC.

profit company being used for the management of a library receiving state funds. Counsel also stated that the law supports outsourcing of incidental services by libraries but not outsourcing of decisions relating to general management and operations.<sup>95</sup>

The JAPC counsel's conclusion after review of the law and rules differed from the department. Mr. Rosner stated that 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 this chapter."<sup>96</sup> Further, he concluded the following:

- There is no apparent legislative intent relating to the single administrative head that prevents the hiring of a for-profit entity for operating and managing a library with ultimate oversight of a governmental entity;
- The statute is silent regarding what can and cannot be outsourced; and,
- The rule promulgation authorization and authorization to establish operating standards under which libraries can receive state money under Chapter 257, F.S., do not extend 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 grant funding eligibility.

On June 13, 2000, JAPC sent a copy of Mr. Rosner's response to the Department of State's memorandum on the operation of public libraries by for-profit corporations to Secretary Harris.

In June 2001, the Division of Library and Information Services sought to amend its rule governing library grants. In June in its review of proposed rule changes, JAPC began asking for clarification on the changes and guidelines and applications included by reference. With the exception of three issues, all were addressed by the division director. One of the remaining issues dealt with eligibility for receipt of State Aid. In late July 2001, JAPC sought clarification on the issue and the response provided by the division.

The question posed by JAPC in June was whether the rule was to make libraries which are operated by a for-profit corporation ineligible for state funding. The particular reference was to the provision in the State Aid to Libraries Grant Guidelines and Application which designates the governing body for library service. The initial response by the division's director was that for-profit corporations were not eligible under law. In July, JAPC asked the following question and required specific statutory authority supporting a conclusion, if negative:

*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?*

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<sup>95</sup> Memorandum is in Appendix S.

<sup>96</sup> JAPC response is in Appendix S.

On August 23, 2001, the division director responded by stating that 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 entity hired the single administrative head for the library.”

The Guidelines, however, provide for the “employment or designation” of the single administrative head. It is questionable as to what statutory authority or rationale requires this situation to be different. Why should the use of a for-profit company be different? Why should the governing body of the eligible public entity or the eligible public entity not be able to “designate” the single administrative head when a for-profit company is being used? This appears to need more clarification.

#### *Other Library Grant Eligibility – Rule Requirements*

Below is a recitation of those entities eligible for receipt of moneys through other state funded library grant programs. The listing only includes what is not specifically provided in law.

- *Public Library Construction grants* – Any of the 67 county general governments, incorporated municipalities, special districts, and special tax districts that establish or maintain a public library and provide free library service.
- *Literacy grants* – Any public library eligible to receive State Aid to Libraries grants and any city, county or nonprofit association-funded library that provides free library service to their legal service area. Additionally, to receive a grant, a librarian who has completed a library education program accredited by the American Library Association must administer the library’s services program.

#### ***Federal Law and Funding Pertaining to Public Libraries***

The Library Services and Technology Act (LSTA) Program is a federal grant program administered through the federal Institute of Museums and Library Services (IMLS) with funds appropriated annually by Congress. Grants are awarded to states based upon a population-based formula with a minimum award of \$400,000.<sup>97</sup> The law requires that in order to receive funds states must designate a State Library Administrative Agency, submit a 5-year state plan for library services that must be approved by the IMLS director, and prior to the end of the 5-year period have an independent evaluation prepared on the activities under the plan assisted by LSTA funds and submitted to IMLS.

The Division of Library and Information Services, Florida’s designated agency, is required by LSTA to administer the grant authority to fund local level projects or statewide projects as dictated by the division and its approved state plan. The purposes of the LSTA and, therefore, the use of its funds are to use technology to bring information to people in innovative and effective ways, and to assure that library service is accessible to

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<sup>97</sup> In FY 2001-02, Florida received approximately \$7.66 m with \$5.9 m used for grants to libraries.

all, especially those who have difficulty using the library. LSTA funds can be used for any type of publicly funded library.

Florida libraries and nonprofit organizations primarily related to the provision or support of library services are eligible to apply for LSTA funds. Eligible entities include public libraries, public elementary school or secondary school libraries, academic libraries, multitype library cooperatives, and special libraries. To receive a grant

1. the library's services program must be administered by a librarian who has completed a library education program accredited by the American Library Association, and
2. the library must agree to make their resources available to the public either on site or by participation in the Florida Library Information Network.

There is nothing in the federal law nor rules that prohibits funds being used by libraries that outsource their management and day-to-day operation to a private, for-profit vendor.

### ***Positions on Management and Operation of Public Libraries:*<sup>98</sup>**

#### ***Division of Library and Information Services, Department of State***

In the February 24, 2000 memorandum of the department's assistant general counsel on public libraries and privatization, discussed above under the section on "Rules and Policies," several positions of the Division of Library and Information Services were recounted. To begin with, the purpose of the memorandum was to determine if the division's position of advising against privatization and for stating that such privatization made a library ineligible for state funding was backed by law and rule and if those rules were statutorily based. A private corporation had expressed interest in managing the day-to-day operations of public libraries in Florida and had questioned the legal interpretation of the division.

The following are some specific positions of the division at that time:

- Privatization is not allowed because the public libraries have a long and successful history of being managed and operated by the public through local citizen boards and local governments and legislative financial support is based on this.
- Management and operations of libraries, including basic core services, should remain under direct public control.
- Separating 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.

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<sup>98</sup> Positions expressed by other states where library management is outsourced to a private, for-profit corporation are provided in the information on those individual states.

- Wholesale contracting would reduce local government accountability by placing a for-profit corporation between citizen library users and local elected officials.
- Public libraries would not be eligible to receive grant funds if operated or managed by a for-profit corporation.<sup>99</sup>

In September 2000, the Division of Library and Information Services prepared a document, *Florida Public Libraries & Privatization - A Guide for Florida Library Boards and Friends*, which stated that companies interested in contracting to administer public libraries had been contacting local governments. It warned that such efforts could result in private administration and all library staff being transferred to a corporation. While outsourcing or contracting for incidental services from the private sector is fine and has been done for years by libraries, the document reiterated the Florida Library Association's position that going further in outsourcing would not be in the best interests of Florida communities.

The document listed the following as concerns for public library "privatization":

- Reduces Local Government Accountability to Citizens for Quality of Service. "In some cases it appears that privatization is actually a local government strategy for reducing services and avoiding accountability." The document used privatization of trash collection as an example.
- Communities Are Particularly Vulnerable to Loss of Citizen Input in Library Decision Making. The document stated that since Florida has only optional citizen library boards at the local level unlike many other states, local governments "could eliminate or drastically reduce accountability by contracting for library administration with a private firm and abolishing the library advisory board."
- Outsourcing Savings Are Already Being Realized. The document states that the library community does not believe that it is appropriate to outsource "functions and decision rights that are core to the mission of the library."
- Questionable Economics & the Threat of Harmful Results. According to the document, "privatization cost savings are often illusory and are achieved by reducing quality of service." It further states that contractors achieve savings "either through increasing efficiency or reducing expenditures for services." It stresses the use of staff cost reductions as a method used and the adverse effect on service quality.
- Eliminates Publicly Employed Library Director as Leader and Advocate. According to the document, privatization would replace the communities lead library advocate with a corporate office which raises questions of the company employed manager's motivation: profit or more services?

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<sup>99</sup> See the earlier discussion of the Department of State and JAPC positions on library law and rules.



- Public Libraries Are Not Well Suited for Privatization. The document reports that where this has been used there has been controversy or no library administration. It states that privatization of other government services is different from libraries and the service needs and decision processes.
- Eligibility for State and Federal Funding Not A Sure Thing. The document states that privatized libraries would have to meet all requirements of Florida law to receive funding. Specifically, the document warned, “there is no assurance that privatized libraries would be eligible for State Aid and Federal Library Services and Technology Act funding.”

Since his response to JAPC, according to the division director, the use of a private, for-profit company to manage the day-to-day operations of a public library is now a decision to be made at the local level. All they have to do is to hire the administrative head.<sup>100</sup>

### State Library Council

In the March 26, 2001 meeting of the Council, a position was adopted to be in opposition to amendments to change the State Aid law to specifically add language that prohibited a denial of state funding to an eligible local governmental entity solely because it contracted out its library management to a private, for-profit company. The Council also stated that legislators should be made aware that there was “no philosophical resistance to the concept” of outsourcing because outsourcing of other areas was already done in libraries. The Council raised concern about possible suffering of volunteerism in an outsourced, for-profit setting.

In subsequent meetings, the Council spoke about adopting an official position on privatization or outsourcing of library management and day-to-day operations. No position statement, however, was adopted.

### Florida Library Association

In May 1999, the executive board of the Florida Library Association adopted a statement on the “privatization of publicly funded libraries” which stated that they opposed any efforts to provide library services by contracting with for-profit organizations because they believed that it was not in the best interest of Florida residents for publicly supported libraries to be managed by for-profit organizations.

In the 2001 Legislative Session, during Senate Committee consideration of an amendment to the State Aid to Library law that would permit funding to libraries involved in such contracting, the Florida Library Association’s representative reiterated the Association’s position in opposition. Such fund use was referred to as an incentive for “administrative profit” and a movement which would dampen volunteer activity.

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<sup>100</sup> Conversations with Mr. Barratt Wilkins, Director, Division of Library and Information Services.

*American Library Association (ALA)*

According to information provided by Mr. Barratt Wilkins, at the ALA's 2001 Annual Conference in June 2001, the ALA adopted a resolution affirming its position that publicly funded libraries should remain directly accountable to the publics they serve. The Association stated that it "opposes the shifting of policy making and management oversight of Library Services from the public to the private for-profit sector."

## Conclusions

### Definitional Issues:

Based upon the findings, both *outsourcing* and *privatization* are different degrees of *contracting out* services that have been provided by an entity such as a public library.

One conclusion that can be drawn from the findings is that the interpretation or definition of the terms *outsourcing* and *privatization* are most often linked to the personal or professional biases of those using the terms. For public libraries this is exacerbated by the fact that elements used in the definitions such as “core services” are not universally agreed to by persons in the field.

Also, if a private non-profit entity or another governmental agency performs any core services via contract, even the management and day-to-day operation of a public library, it is most likely to be referred to as *outsourcing*. Contracting with private, for-profit vendors to perform services with the exception of the day-to-day operation and management of a public library is referred to usually as *outsourcing*; however, contracting for such management or operation of a public library is referred to as *privatization*. The decision on which term is used seems to focus on the intended reaction sought and the audience. The term *privatization* congers up images of problems with public services that have been privatized at the local or state level in the past. Poor service, lack of accountability, and loss of public input are some of the negative images that have been portrayed by the use of this term in the public library field.

The lack of an accepted definition and the inconsistency in the use of these terms creates confusion among all affected parties: local governments, library users, library professionals, library Friends and volunteers, and vendors.

### State Surveys & Contracts:

Several conclusions can be reached from the information obtained from the surveys of other states, the review of contracts for management of public libraries by a private, for-profit company, and the literature review. These range from the issue of privatization to why and when do you contract to what provisions should be part of the contract.

To begin with, based upon the literature and the survey findings from other states, a conclusion reached is that when policy and budget control and property ownership rests with a public entity, there is no privatization but only outsourcing. Therefore, it can be concluded that there are no public libraries in the country that are privatized.

It can also be concluded that outsourcing the management and day-to-day operation of a public library is not something that is sought for a library that can readily solve its own problems. Such outsourcing is sought because of the multiplicity of problems and the need for immediate action. The inability of the library system to correct identified

problems, the lack of expertise within the system to address service needs, inability to find qualified persons to address needs in a timely manner, and budget constraints are some of the reasons used by other local governments. The individual local government must determine if its needs are such that outsourcing could benefit its citizens in improving library service.

Another conclusion from the surveys is that such contracts should not be entered into to cut funding and library services. All the contracts requested specific levels of service with requirements for improvement of services. Even when money was an issue, the contracts sought more services for the dollars available. Efficiencies brought about by automation and other operational or management changes enabled provision of more service in areas.

Outsourcing of library management of public libraries to private, for-profit companies is relatively new and there is currently no competition in vendor selection. Therefore, based upon the information gathered, it is concluded that local governments would benefit from the experiences of other areas that have contracted for such services. Model contracts should be developed and provided to local governments, upon request, for them to use and technical assistance should be offered to assist them in tailoring a contract to meet the library service needs of the community. This need is evident when reviewing how contracts have evolved in the process. Contracts should contain elements to ensure local government control, improved library service, meeting of needs specific to the community, and measurable performance outcomes.

Checklists for reviewing the status of a library to determine outsourcing needs are already available and could be modified to assist the local government. It is concluded that such a tool would be beneficial to local libraries and to local governments.

After reviewing the other states' experiences, it is concluded that is advisable for a local government outsourcing the management and operation of its public library to have an in-house expert or persons knowledgeable in library management and operation to serve as the contract manager(s).

The final conclusion drawn from other states' experiences, is that the quality of the preliminary analysis leading to the decision to contract, the commitment of the responsible public entities to library services and the need to contract, the attention to contract detail, the experience of the contract manager(s), and the oversight of contract performance are essential to the success of this type of contracting with a private vendor to ensure continued or enhanced community support. Based upon this, even in some very volatile political environments, success was achieved for better library services for the communities.

### **Federal and State Law and Rules:**

Upon review of federal and state law and rules, it can be concluded that there are no prohibitions for receipt of state or federal assistance by a governmental entity that

outsources the management or day-to-day operations of its public library or library system to a private, for-profit company. Local governmental decisions on such matters are clearly left to the local government. The only structural restrictions for State Aid to Libraries in Florida are those set forth in s. 257.17, F.S., which are directed to a consolidated county public library, a county public library cooperative, or a multicounty library cooperative.

Local governmental entities and libraries, however, have been informed by the Department of State that they would not be eligible for funding under State Aid or that it was questionable if they would be eligible for such aid or for federal assistance if they outsourced the management or day-to-day operations of their public libraries. This has created confusion among local governmental entities and the library community and has limited the options of local government for provision of library services. The department has recently changed its position which is noted in its response to JAPC. In order to alleviate any continued confusion because of the earlier position and the change, the department should notify these entities of the change in position that has recently occurred.

A final conclusion regarding the *State Aid to Libraries Grant Guidelines and Application* is that there are provisions in those which should be handled in law and not rule (such as, the educational requirements for the single administrative head of a library or library cooperative) and that current interpretations regarding requirements for use of a for-profit company for library management are soundly based on law (such as, the designation or employment of the single administrative head).

### **Summary & Overall Conclusion**

In summary, true privatization does not exist in the management and operation of public libraries, only outsourcing under contract with a governmental entity. The fear of privatization and the distrust of for-profit companies in a service area coupled with the lack of information about what has happened in other states and the fear of loss of State Aid and federal assistance, has made this option unavailable to local governments in Florida in the past. With the study on State Aid required under CS/HB 337 due to the Legislature no later than January 2, 2002, some issues concerning existing required structures for library service delivery will be addressed including recommendations for statutory modification.

The final and overarching conclusion of this report is that the provision of good, quality free library services to the greatest number of people in our incorporated and unincorporated areas should be the goal of the state's financial assistance program and not the structure nor the method of management and operation.

## Policy Options

Based upon the background leading to the report development, findings of the research efforts, and the conclusions reached from those findings, the following options are presented for consideration by the Committee on Tourism.

- Review the Department of State's report on State Aid structure and funding that is required to be presented to the Legislature no later than January 2, 2002, to determine what recommendations for action should be addressed this Session that could give local governments greater operational options in order to improve library services.
- Review the final *State Aid to Libraries Grant Guidelines and Application* to determine the clarity of the language regarding the use of private, for-profit companies to provide public library management through contract with an eligible political entity.
- Consider the need for clarification in law regarding those issues in rules which other states require statutorily, e.g., librarian certification, and those which have needed clarification over the recent past, e.g., the use of for-profit companies by local governments to manage public libraries.
- Define the terms "*outsourcing*" and "*privatization*" to provide for a consistent understanding of those terms as they relate to public libraries and to alleviate confusion among local governments, library professionals, library Friends and volunteers, and library patrons.
- Direct the Division of Library and Information Services, either in-house or through contract, to develop checklists, guidelines, and model contracts to aid librarians and local governments in making decisions about outsourcing of library services. In the preparation of material related to management and operation outsourcing, the division should be directed to work with those communities in other states that have outsourced such functions to determine needed elements in contracts and in what elements need to be considered prior to such outsourcing and in preparation for terminating such outsourcing contracts.
- Direct staff to continue to monitor the outsourcing of public library management and operations in other states to determine the long-term effects of these outsourcing efforts and the implications for public libraries in Florida.
- Direct staff to follow any efforts in Florida to outsource the management or operation of public libraries and report on such efforts.

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Florida Statutes: ss. 125.01; 166.021; 257.01-.04; 257.12 -.25; 257.40-42.

Florida Administrative Code 1B-2.011.

North Dakota Century Code 40-38-01 through 40-38-09; 54-24.2.

New Jersey Statutes Annotated 11A:3-5; 18A:73; 18A:74; 40:9A; 40:33; 40:54; 40A:4; 40A:5-1 through 40A:5-6; and 45:8A-1 through 45:8A-4.

New Jersey Administrative Code 5:30-12.1 through 12.4; 6:11-11.6; 15:20; 15:21; and 15:22.

Texas Code Annotated s. 323.001-323.013; chapter 326; ss. 441.0091-.0092, 441.071-.075, 441.121-.139; Texas 2001 Session Laws: Chapters 61 and 995.

Library Services and Technology Act, P.L. 104-208.

## Contact List

### Respondents to Survey

#### *California:*

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Riverside County, California

Ms. Robin Parker, City Clerk  
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Contract  
Calabasas Public Library  
Calabasas, California

Mr. Steve Temple, City Manager  
Contract Administrator for LSSI  
Contract  
City of Hemet Public Library  
Hemet, California

#### *New Jersey:*

Mr. Tom Boland, City Councilman  
Liaison with Library Board of Trustees  
Contract Manager for LSSI Contract  
Linden Free Public Library  
Linden, New Jersey

Ms. Marilyn Coplan, President  
Linden Free Public Library Board of  
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Contract Manager for LSSI Contract  
Linden, New Jersey

Mr. John Gregorio, Mayor  
Linden, New Jersey

Mr. Gregory Corrado, Assistant  
Business Manager for  
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Contract Manager for LSSI Contract  
Jersey City Free Public Library  
Jersey City, New Jersey

Ms. Joan Lovero, Chief Librarian  
Jersey City Free Public Library  
Contract Monitor for LSSI Contract  
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#### *North Dakota*

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Fargo Public Library  
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Contract Manager for LSSI Contract  
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#### *Texas*

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