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**IDAPA 08
TITLE 02
CHAPTER 05**

08.02.05 – RULES GOVERNING PAY FOR SUCCESS CONTRACTING

000. LEGAL AUTHORITY.

In accordance with Sections 33-125B(8), Idaho Code, the State Board of Education may promulgate rules implementing the provisions of Section 33-125B, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 08.02.05, “Rules Governing Pay for Success Contracting.” (3-29-17)

02. Scope. These rules constitute the requirements for Pay for Success Contracting. (3-29-17)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, written interpretations, if any, of the rules of this chapter are available at the Board. (3-29-17)

003. ADMINISTRATIVE APPEALS.

Unless otherwise provided for in the rules of the Board or in the Board Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. (3-29-17)

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (3-29-17)

005. OFFICE INFORMATION -- OFFICE HOURS AND CONTACT INFORMATION.

The offices of the Department are open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (3-29-17)

01. Street Address. The offices of the Department are located at 650 W. State Street, Boise, Idaho. (3-29-17)

0027. 02. Mailing Address. The mailing address of the Department is P.O. Box 83720, Boise, Idaho 83720- (3-29-17)

03. Web Address. The electronic address of the Department of Education is www.sde.idaho.gov. (3-29-17)

04. Telephone Number. The telephone number of the Department is (208) 332-6800. (3-29-17)

05. Facsimile. The facsimile number of the Department is (208) 334-2228. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-17)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The State Board of Education. (3-29-17)

02. Department. The State Department of Education. (3-29-17)

03. Oversight Committee. Committee formed pursuant to Section 33-125B(6), Idaho Code, to evaluate pay for success contracting proposals. (3-29-17)

04. Pay for Success Contracting. Contracting for services with private entities whereby services are

reimbursed based on the achievement of outcomes pursuant to Section 33-125B, Idaho Code. (3-29-17)

011. -- 100. (RESERVED)

101. INITIATING CONTRACTING.

01. Two Routes for Initiating Contracting. Contracting may be initiated through two (2) separate routes. (3-29-17)

a. Initiated by Department. The Department may issues a request for information upon identification of a need for a service; or (3-29-17)

b. Initiated by interested party. An interested party or service provider may identify a need for service and submit a proposal to the State Department of Education. Proposals must include a letter of intent to participate in a pay for success contract and must include the following information: (3-29-17)

i. Special service(s) that the service provider will provide; (3-29-17)

ii. How the services will enhance student academic achievement; (3-29-17)

iii. Source of education funding from which savings will be realized; (3-29-17)

iv. Identity of one (1) or more qualified external evaluators; (3-29-17)

v. Provide external evaluator's qualifications and expertise as required pursuant to Section 33-125B, Idaho Code; and (3-29-17)

vi. Identify local education agencies (LEA) that have expressed interest in participating in the service and documentation that LEA meets the requirements pursuant to Section 33-125B, Idaho Code. (3-29-17)

02. Additional Information. As part of the review process, the oversight committee may request additional information. (3-29-17)

03. Format. Proposals may be submitted in electronic or hard copy format. (3-29-17)

102. PROPOSAL EVALUATION.

01. Timeline. (3-29-17)

a. Within five (5) business days of receipt of the complete proposal, the proposal will be forwarded electronically to the oversight committee. (3-29-17)

b. After receiving the proposal, the oversight committee will determine if additional information is needed to evaluate the proposal. The oversight committee will request additional information from the interested party within thirty (30) days of receiving the initial proposal. (3-29-17)

c. The interested party shall respond to a request for additional information within fifteen (15) days of receiving the request. (3-29-17)

i. Requests for additional response time may be granted at the discretion of the oversight committee. (3-29-17)

ii. If the interested party fails to respond or additional information is not received within the specified time, the oversight committee may reject the proposal without further consideration. (3-29-17)

d. The oversight committee shall hold an initial meeting either in-person, telephonically, or by other means, to consider the merits of the proposal within forty-five (45) days of receipt of the proposal. (3-29-17)

e. The oversight committee chair shall inform the Department designated staff person, and the interested party, of its decision on a proposal within ninety (90) days of receipt of the complete proposal. (3-29-17)

02. Oversight Committee Action. Following consideration of a proposal, the oversight committee shall take one (1) of the following actions: (3-29-17)

a. Require the Department to start negotiations with the interested party; (3-29-17)

b. Require the Department to start negotiations with the interested party, subject to conditions imposed by the oversight committee; (3-29-17)

c. Reject the proposal with suggestions for improving the proposal prior to considering resubmittal, or; (3-29-17)

d. Reject the proposal. (3-29-17)

03. Proposal Resubmittal. Proposals that have been rejected may be resubmitted for consideration if amendments have been made to the proposal or additional information has been added for the oversight committee's consideration. (3-29-17)

103. CONTRACT NEGOTIATIONS.

01. Negotiation Teams. Contract negotiations for accepted proposals shall involve the following individuals: (3-29-17)

a. The Department chief budget officer or designee; (3-29-17)

b. One (1) or more individuals with a background in complex financial instruments; (3-29-17)

c. One (1) or more individuals with a background in complex financial instruments, at least one (1) of which will be from the state treasurer's office or the state endowment fund board; (3-29-17)

d. One (1) or more financial officers from a local education agency. In the event a local education agency has already been identified to participate in the proposal, the chief financial officer for the local education agency shall participate. (3-29-17)

e. One (1) or more individuals representing the interested party. (3-29-17)

02. Negotiation Timeline. Negotiations shall be completed within ninety (90) days unless extended by the oversight committee. To be extended by the oversight committee, the committee must determine that all parties have made a best effort to negotiate the contract. (3-29-17)

03. Negotiation Updates. The Department shall provide regular contract negotiation updates to the oversight committee, not less than every thirty (30) days during contract negotiations. Failure to negotiate mutually agreeable terms within ninety (90) days shall be reported to the oversight committee. The committee may extend the timeline for negotiations, appoint a new negotiations team or terminate the negotiations. (3-29-17)

04. Time Tracking. State employees' time spent on the evaluation or negotiation shall be tracked and recorded on a per proposal basis and be provided to the oversight committee, or to other interested parties upon request. (3-29-17)

104. CONTRACT MONITORING.

Contract monitoring reports will be submitted to the oversight committee by the Department in a timeline and format established by the oversight committee. (3-29-17)

105. -- 999. (RESERVED)

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