

Office of the Superintendent of Schools  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
Rockville, Maryland

January 7, 2009

MEMORANDUM

To: Members of the Board of Education

From: Jerry D. Weast, Superintendent of Schools,

Subject: Responses to Board Members' Follow-up Questions on Promethean Boards

This memorandum provides responses to questions regarding Promethean Boards from Board members in a memorandum from Mr. Roland Ikheloa, chief of staff, on December 9, 2008. Many of the questions asked by Board members make the assumption that Promethean Boards were purchased through a sole source rather than through a competitive process. This is not accurate. The Maryland Education Enterprise Consortium (MEEC) agreements are awarded through a competitive process. Montgomery County Public Schools (MCPS) often purchases goods and services from, contracts that are awarded by other government agencies (referred to as "piggybacking"). Other agencies sometimes use MCPS bids for their purchases. In preliminary information received from the state legislative auditors, MCPS was recognized for purchasing items through contracts from the state and other local governments as a best practice. (Please see the response to questions 3 and 4 for more detailed information.)

**Question #1**

The June 10, 2008, Resolve of the Board of Education (BOB) states, "[T]hat acquisition of computers, associated hardware, and services in the amount of \$5,000,000 be lease/purchased for a four-year term under the Dell Marketing, LP agreement, and be it further...Resolved, That having been duly advertised, the following contracts will be awarded to the low bidders meeting specifications as shown below...Dell Marketing, LP \$5,000,000." Please explain the difference between the \$5,000,000 in the Resolve and the \$13,421,600 total four-year lease price. Shouldn't the latter figure have been approved by the BOB, since it was binding itself to seek full funding for four years?

**Response**

When MCPS purchases equipment, such as buses and computers, and uses the master lease to finance the purchases, the entire amount of the purchase is included in the Board of Education procurement item. The acquisition of 2,600 Promethean Boards was done through an annual lease agreement, with a minimal price to own the product at the end of the lease. Therefore, each year's lease amount will be approved by the Board as a part of the procurement consent item. This is similar to how we acquire relocatable classrooms and make annual lease payments, with the Board's approval each year of that year's lease payment

Question #2

On June 10 and June 23, 2008, the Board approved a \$5 million expenditure for Promethean Boards yet the contract seems to require only a \$3.3 million payment for this fiscal year. Please explain why we allocated \$5 million rather than \$3.3 million.

Response

The requested \$5 million was to ensure there was sufficient authorization granted by the Board to purchase Promethean Boards and related equipment throughout the year. This includes purchases made through the Capital Budget for modernization and addition projects, and purchases by schools with operating funds, independent activity funds, or contributions by parent teacher associations and foundations.

Question #3

The Resolve also implies that there was a competitive bidding process for the award to Dell. In fact, it appears that the purchase was made following a sole source negotiation with Dell through the Maryland Education Enterprise Consortium (MEEC) state contract. Was the language in the Resolve to support this acquisition methodology appropriate?

Response

This was not a sole source contract. The MEEC agreement has established a number of agreements with various technology products and services vendors to allow for the purchase or lease of required technology. These agreements were awarded through a competitive bid (request for proposal process, following the University System of Maryland's procurement policies and procedures). At the time the current MEEC agreement was bid and finalized, MCPS was the K—12 representative on the procurement committee. The MEEC cooperative is a membership-based purchasing consortium of K-12 and higher education institutions with the following mission:

*"The Maryland Education Enterprise Consortium offers centrally coordinated and negotiated procurement **opportunities** for member organizations to gain economic advantage and value in the acquisition of products and services that are beneficial to the educational enterprise. These member organizations collectively interact with prospective vendors and develop specifications to procure cost effective, high quality product and service solutions."*

Contractual agreements under MEEC call for a minimum discount which varies by vendor. Consortium members are instructed to contact the suppliers directly for actual MEEC pricing, and members are encouraged to work with vendors to obtain greater discounts, especially when buying in large quantities.

#### **Question #4**

Was receipt of the e-Rate funding contingent on use of the MEEC contract? If not, did the Montgomery County Public Schools (MCPS) consider competing this acquisition rather than engaging in sole source negotiations with Dell? Was the conduct of this acquisition, including the terms and conditions of the lease agreement, reviewed for legal sufficiency? Was there a legal determination of whether it is appropriate to apply e-Rate funds against a non-competitive acquisition? Please reference the provisions of the MCPS Procurement Manual, Board policies, and the Maryland Education Article that authorize the procedures used.

#### **Response**

There are no stipulations of the e-Rate program that a specific purchase contract is used to acquire products and services. Again, this is not a sole service contract; Dell was qualified as a vendor through the MEEC competitive request for proposal process. Since the MEEC agreement resulted from a competitive bid process, state law enables MCPS and other local school systems to purchase technology products and services through the MEEC agreement. The Education Article's public bidding statute (Section 5-112) recognizes the ability of MCPS and other Local Education Agencies (LEAs) to enter into these competitively bid, cooperative agreements, and exempts the following from the bid procedures in this article:

*"A county board's participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations if the lead agency for the contract follows public bidding procedures."*

The transaction conforms to state law and MCPS procurement regulations. The terms and conditions were reviewed by MCPS legal counsel and by an independent Bond counsel.

#### **Question #5**

Does the MEEC state contract allow MCPS to enter into a single bidder purchase? By what mechanism does the MEEC contract allow us as an LEA to avoid the need for competitive bids on the Promethean Boards?

#### **Response**

MCPS did not enter into a non-competitive, single bidder purchase. MCPS is a member of the MEEC educational purchasing consortium. On behalf of all of its members, the consortium issued the RFP, as described previously, and made awards to multiple vendors (including Dell) to supply technology products and services at the discounted rates these vendors offered in response to the RFP issued by MEEC. MEEC members can then purchase any of the products these vendors offer at the agreed upon discounted rate or at a lesser cost negotiated directly with

#### **Question #6**

If the County Council only approved \$.7 million in FY 2009 funding, is the balance of the 2009 lease payment coming from e-Rate funds? Will any e-Rate funds be used in either FY

2011 or FY 2012, if they are available? If not, please clarify the funding scheme using the attached spreadsheet format. Since we will not be seeking any additional CIP Technology Modernization funds for FY 2010, will the e-Rate program rebates be able to cover the entire \$3.3 million obligation and, if not, what funds do we have available to meet our obligation? According to the memo, our ability to complete the contract with Dell depends upon receiving \$2.9 million from the Council in the CIP in Fiscal Years 2011 and 2012. What will be the consequence if the Council does not provide this funding?

Response

For FY 2009, the balance of \$2.6 million will come from e-Rate reimbursement funds. For FY 2010, we plan to use e-Rate reimbursements to cover the entire \$3.3 million obligation. In the event the Council does not provide the additional funding for fiscal years 2011 and 2012, we will have to reprioritize the technology funding in the capital budget, as acknowledged in earlier communications to the Board.

Question #7

What are the terms of the contract with the Funds for Learning consulting firm? Do we owe a fee to the Universal Service Administrative Company (USAC) or Funds for Learning for their consulting work on the Promethean Boards? If so, what is the cost of the consulting contract?

Response

The Funds for Learning contract is a firm fixed-price contract of \$58,000 per year to perform all of the tasks specified by MCPS as detailed in the RFP's written "Scope of Work." In summary, their professional services responsibilities to MCPS include: providing updates on program changes, advising on the impact on the cost and benefits of current and planned services and products, completing and filing all required e-Rate forms, retaining all required documentation, assisting in answering Program Integrity Audit questions, filing appeals, responding to Selective Review Information Requests, and preparing for program audits.

There were no consultants involved and we owe no fees for work related to the purchase of Promethean technologies. The Funds for Learning contract is specifically to ensure program compliance and to support the district with the process of obtaining maximum reimbursement for eligible products and services needed to provide telecommunications and internal connections for MCPS schools and offices. USAC is the organization that administers the e-Rate program for the Federal Communications Commission. They are not consultants.

Members of the Board of Education



There are no separate considerations beyond the contracted payment terms for the value-added services identified in the June 9, 2008, memorandum to the Board. All of our technology partners know that they are not permitted to use MCPS testimonials in advertising.

#### Question #10

The November 26 memorandum to the Board indicates that other than the \$3.3 million annual lease payment there are no ongoing costs and that ongoing maintenance and servicing will be completed by MCPS staff. It also states that MCPS has a five-year warranty with Promethean for replacing defective boards. Is the warranty covered by a separate contract with Promethean as the lease agreement is with Dell? Do MCPS employees have the technical expertise necessary to maintain or repair these systems or will there need to be separate maintenance agreements? What is the life expectancy of consumable parts, such as batteries for the student response systems and replacement bulbs for the boards? What are the costs associated with replacement of these parts? What are the costs estimated for loss or breakage of these systems over the four-year term? Will these costs be borne by the local school? If so, will schools receive sufficient additional funding? Shouldn't these estimated costs have been included in the plan presented to the Board on June 9?

#### Response

The manufacturer's warranties are provided for by Promethean Incorporated. As an authorized reseller of Promethean Incorporated, Dell does not provide these warranties. There are no separate maintenance agreements. MCPS staff (school-based and non-school based) is being trained to support the interactive classroom technologies. The battery life of the student response systems is dependent on the amount of use and is projected to be between 18-24 months. The replacement cost for all batteries is \$45,000 or \$700 to \$800 per school every year or two. The projector bulbs carry a 3000 hour warranty (replaced every 3 to 5 years) and cost \$260 each. These costs will be paid by the schools from their materials accounts. In addition, Promethean has agreed to provide approximately 150 replacement projector bulbs. It is not anticipated that there will be significant costs due to loss or breakage.

#### Question #11

In order to support expansion of the Promethean Board technology, MCPS has elected to reprioritize other technology funding in the capital budget. Please explain what impact this will have, if any, on the local schools. For example, will there be fewer computer terminals in school buildings or what other trade offs are we making to support expansion of the Promethean technology? Please also explain the mechanism for transferring funds to this new priority.

## **Response**

As indicated previously, we may have to reprioritize use of technology funding in the capital budget in FY 2011 and FY 2012 if additional funding is not provided by the County Council. We will not know this for another year and a half. Failure to receive Council support would more likely require that the scheduled refreshment of school computers be postponed or a smaller number of computers updated through the Technology Modernization Program. This capital budget program funds the refreshment and update of schools' technology on a four-year cycle. A central assumption for the refreshment program is that schools will receive a minimum of one computer for every five students enrolled. Since the capital budget funding for technology activities is one project, no transfer of funding would be required.

## **Question #12**

How does the Technology Enhanced Critical Inquiry Project initiative fit within the strategic efforts of our existing middle school reform? What are the implications of launching this effort on staff time and training resources? If there are additional costs associated with implementation, how will we be able to fund this effort given existing fiscal restraints?

## **Response**

The Technology Enhanced Critical Inquiry Project is a K-12 action research project that involves eight schools: two elementary, three middle, and three high schools. The Technology Enhanced Critical Inquiry Project is aligned with and supports the Middle School Reform initiatives around rigorous instruction. Central office staff collaborated with staff from the participating middle schools to ensure alignment and consistency in the implementation of the Middle School Reform program requirements.

The staff volunteered to participate and attend four training sessions during the 2008-2009 school year. Existing training resources are being used to fund this action research project. In addition, Promethean is funding the professional development provided by the Critical Thinking Consortium. Ongoing professional development on use of the interactive classroom technologies is being completed through a job-embedded model. There are no current plans to increase the number of participants, and the program is not expected to incur additional expenses.

JDW:bsr

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Staff