MEMORANDUM TO: Directors of Education
Secretary/Treasurers of School Authorities

FROM: Nancy Naylor
Assistant Deputy Minister

DATE: December 10, 2008

SUBJECT: Student Transportation – Contracting Practices

Over the last five years, the education sector in Ontario has undergone significant and positive change. As the Ministry continues to work with boards to increase their capacity to deliver high quality educational programs, we have also focused on strengthening management capacity to increase public confidence in our public education system. I am writing to provide you with additional information on the work undertaken over the last year on contracting practices in student transportation.

Student Transportation reforms introduced in 2006 were one of the first sector-wide initiatives designed to support and strengthen the management capacity of boards. As part of the reforms, Efficiency and Effectiveness (E&E) reviews were conducted to evaluate and assess consortia operations and service delivery. A recurring theme for improvement that emerged through the course of the reviews was contracting practices of student transportation services.

Contracting Practices Advisory Committee

The Ministry recognizes that in order to achieve improvement in the area of contracting practices in student transportation, it is important that affected stakeholder groups have an opportunity to provide input and advice, and to express their concerns. To that end, in November 2007, the Ministry assisted a COSBO sponsored project, led by PPI Consulting Inc., by convening a stakeholder committee in the development of a resource package containing templates and guidelines for fair and transparent contracting practices.

The Contracting Practices Advisory Committee (CPAC) included members from school board transportation managers, school board procurement staff, senior business officials, and the Ontario School Bus Association (OSBA). In the last year, this committee held over a dozen meetings to share their experiences, input and advice with respect to these documents. The resource package released by the Council of Senior Business Officials (COSBO) on December 10, 2008 will assist the sector in increasing the transparency and accountability in contracting practices. The tools and templates in the resource guide include Procurement Guidelines, a Contract Template, and an RFP Template.
The Ministry would like to take this opportunity to thank the Contracting Practices Advisory Committee for their hard work and support in the development of the resource guide. We would also like to express our appreciation to school boards who provided their staff the time to work on this project.

Transition Strategy

With the completion of the work of the CPAC, the Ministry has consulted key stakeholder groups on next steps. Gathering their feedback, the Ministry recognizes that a careful and prudent approach must be taken. The following provides a framework for the transition to implement best practices in contract procurement for student transportation.

1. Contracts and Contract Management Expectations

To support the general findings of the E&E reviews and the first step in building a strong foundation in contracting, the Ministry expects that there will be signed contracts in place between Consortia and operators before the start of service, typically at the commencement of the school year.

In addition, contracts should contain all relevant terms and clauses necessary between school boards and operators for transportation services. This will assist in defining roles, requirements, expectations of both parties entering into the contract, and penalties for failing to comply, which will protect the rights and obligations for both consortia and contractors providing the service. Bringing clarity to the terms of service between parties will enhance the transparency and accountability in student transportation contracting.

The Ministry expects consortia to use the Contract Template for all new contracts in the 2009-10 school year and beyond. Included in the Contract Template are clauses discussed at length and options for alternate wording, optional clauses, and variable content to suit local needs. Consortia should carefully consider the terms and conditions included in the template in order to determine whether adjustments to current contracts may be appropriate. In addition, consortia should take into consideration the findings of the cost benchmark study and the updated funding in determining the appropriate service levels and contract rates in their new contracts.

Once contracts are signed, consortia are expected to ensure that services are delivered according to signed agreements. Contract management and established protocols for monitoring are an important and valuable practice that should be performed on an ongoing basis. Contract management includes best practices such as logs on operator and driver performance, route audits, investigation of incidents, validation of driver training and licensing, and fleet storage facilities audits. The Ministry expects that each consortium will work with its operators to ensure appropriate monitoring of contract performance and contract obligation to ensure safe and on time transportation service to our students, that all contract obligations are fulfilled, and that contract spending is well accounted for.
The Ministry is in the process of organizing a workshop on the Contract Template and performance management for the sector. Further details will follow.

2. Procurement Process Expectations

Another aspect of public procurement is the process of awarding contracts. In general, public sector procurement is expected to be conducted through an open, objective and transparent competitive process in order to ensure best value for money in the spending of public funds. A non-competitive approach, in which a contract is awarded without competition is a possible alternative when an analysis of local market conditions reveals that a competitive process is not feasible, not cost effective, or when the value is below an established policy threshold.

With the significant presence of small and medium sized operators in Ontario, the Ministry understands the importance of supporting the sector to meet public sector procurement standards. Towards this end, the Ministry will be supporting a phased approach to introducing competitive procurement processes to the sector. The ministry will identify three consortia to “pilot” the use of the tools and templates developed by CPAC for competitive procurement. It is anticipated that the scope of each pilot site will be limited to not more than twenty-five percent of the routes in the consortium. This approach is intended to leverage lessons learned from the pilots so that the tools and the procurement processes can be reviewed and refined.

The ministry will offer the assistance of a third party consultant to provide training to consortia staff and local operators on the use of the tools and to facilitate the procurement process throughout the pilot phase. The consultant will facilitate the process from the beginning of the pilot to determine the appropriate area or routes to be included to the point where a contract is awarded. It is anticipated that the results of the pilot will guide these pilot consortia sites to finalize their student transportation procurement strategy, with due recognition and alignment to their boards’ procurement policies and practices.

The Ministry expects that lessons learned from the pilots will be incorporated into the resource package and the draft documents developed by CPAC and will be refined to provide useful strategies and tips to support a stable transition in the province. As such, the RFP template and Procurement Guidelines released by COSBO are intended for information only. Consortia are advised to develop their own procurement strategy by taking full advantage of the results and conclusions from the pilot sites.

3. Transitional Expectations

During this transitional period, the Ministry anticipates that consortia will exercise their discretion and prudence to ensure that the timing of their contracts will allow for flexibility to transition into the new competitive procurement processes, subject to the results of the pilot phase.

Although the transition to competitive procurement calls for a measured transition to accommodate market changes, the Ministry is committed to aligning the sector to public procurement expectations to support our goal to deliver safe, effective and efficient transportation, leading to a better learning experience for our students.
To further assist in the transition, Ministry will collect contracting practices data for analysis through our annual transportation survey in 2009-10.

If you have any questions or comments regarding this project or student transportation reforms please contact Cheri Hayward, Direction, School Business Support Branch at (416) 327-7503, or cheri.hayward@ontario.ca.

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cc: Superintendents of Business  
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