

Memo

To: State Library Commission
From: Karen Strege
Date: 12/19/2007
Re: Federation Changes

As you know, the Futures Federation Task Force has been considering changes in the way that the Commission distributes state funds to federations and in federation structure. The group agreed to pursue proposal one and two as outlined below. I discussed these proposals with Jim Scheier, MSL's attorney, and received the following feedback.

Proposal 1: MSL will distribute one annual payment to each federation member to fund activities authorized by the federation's approved plan of service.

Current: MSL distributes funds to each federation's headquarters library. The federation coordinator distributes funds to members according to the approved plan of service.

Proposal details: At the April meeting, the Commission will consider the federations plan of services for the next fiscal year. These will specify in detail the amount of funds to be allocated to each member library and how each expenditure category will advance the state's strategic plan for libraries. With Commission approval, at the start of the fiscal year, the State Library will issue checks to member libraries as specified in the federation's plan of service.

Changes needed: 22-1-413, MCA gives the Commission the authority to receive and administer state funds for federations and to allocate these funds according the formula in rules. Jim suggested the following changes in the following administrative rule. New language is underlined and deleted language is struck. If the Commission approves this change in rule, we will begin the amendment process, which will be completed by the new fiscal year. We will advise federation members of this change at their spring meeting and help coordinators institute these changes.

10.102.5102 ALLOCATION OF FUNDING BETWEEN FEDERATIONS AND GRANT

PROGRAMS (1) At its first meeting following receipt by the library commission of the estimate of the appropriation to public library federations the commission shall allocate all funds received to library federations according to the following formulas:

(a) The portion of the appropriation allocated to library federations shall be distributed among the six federations according to the following formula: 50% of the first \$250,000 shall be divided equally among the six federations and 50% shall be allocated on the basis of population within the six federations.

(b) Any appropriation in excess of \$250,000 shall be divided according to the following formula: 20% of the remainder shall be allocated equally among the six federations. 80% of the remainder shall be allocated among the six federations on the basis of population.

(c) The state library commission does have the responsibility and authority to approve federation plans of service and does have the responsibility and authority to approve or deny funding for the components of the plans of service. A federation and individual member libraries of a federation may not receive ~~an appropriation a~~ distribution of appropriated funds from the state library commission until its the federation's annual plan of service for federation activities is approved by the commission. The state library commission can disapprove a plan of service only because it was not prepared according to the procedures and forms established by the state library commission, or because it does not address the authorized purposes and/or priorities as established by the state library commission to implement its state long range plan for libraries. Following approval of a federation's plan of service, the state library commission, through the state library, will distribute appropriated funds to libraries that are members of the federation according to the federation's approved plan of service.

(d) Each federation's annual plan of service shall be based upon direction given by the state library commission from its consideration of the state long range plan for libraries. The annual plan of service is submitted to the state library each ~~January~~ April for consideration and action by the state library commission ~~at its February meeting~~. Changes or appeals related to the plans of service ~~occur during February/March~~. These ~~changes or appeals~~ are acted upon by the state library commission in ~~April~~ May and June of each year.

(e) Each federation member shall expend the federation funds according to the purposes stipulated in the federation's plan of service. Each member shall annually report how the funds were used for the stated purposes to the federation coordinator and a copy of the report will be provided to the state library commission. If the federation member does not use funds as set forth in the annual plan of service, the federation coordinator shall notify the state library commission within 30 days.

(f) If a federation member does not use funds in accordance with the proposals set forth in the annual plan of service, then the member will be notified by the state library commission and the member shall return the funds to the state library commission within 60 days. The state library commission shall revert such funds to the appropriate state account.

(g) Each federation shall ensure equal opportunity for representation of its member libraries and shall have approved bylaws ~~which~~ that shall address approval procedures for the annual plan of service, proxy voting, quorum requirements and other procedural matters necessary for conducting federation business.

(h) An appeals process shall be available for any federation which that is denied funding or for any member library that is required to revert funds. This appeals process shall follow the appeals process for denial of a grant as set forth in ARM 10.101.206.

Proposal 2: The Commission establishes Federations and their boundaries. Membership in the federation is open to any library within the area. The

federation membership elects the federation coordinator according to procedures set forth in the federation bylaws.

Current: The Commission establishes federation boundaries and appoints a federation headquarters library. The governing body of the headquarters library contracts with other libraries to establish the federation. The library director or designee of the headquarters library serves as the coordinator. Membership in the federation is open to any library within the area.

Proposal details: The Commission would establish federations, thereby eliminating the need for a federation headquarters library to contract with member libraries to establish the federation. The federation members would select a coordinator.

Needed changes: These changes would require changes in at least three statutes. In addition to the difficulties inherent in the legislative process, Jim advised us of his concern about liability.

According to Jim, with the change, the Commission could be viewed as the legal entity that bears ultimate responsibility for anything the federation does that could result in liability. Currently, the board of a public library designated as the federation headquarters library is this legal entity.

Jim says, for example, if a member library employee sues for wrongful discharge, and the discharge is related to duties the employee performed for the federation, the employee could seek damages from the Commission, which “established” the federation. Or, if a member library employee is involved in a motor vehicle accident while engaged in federation-related duties, a person injured in the accident could name the Commission as a defendant in any lawsuit. If the federation enters a contract with another federation, or with an outside library, and there is a contract dispute, the Commission could be drawn into the dispute by virtue of its having “established” the federation.

Darlene and I met with Jim to discuss his concern. We all agreed that these types of situations are unlikely to occur. We also agreed that the Commission has similar liability now for its own staff, of course, and perhaps for non-state library employees when traveling to a required training provided by MSL or when engaged in work required by MSL, such as report writing. That is, the Commission may currently have some exposure to such liability.

Jim suggested that the Commission might consider retaining the contract system of federation establishment. The contract is between the headquarters library board of trustees and member libraries. The law could be altered to give the authority to the federation members to appoint a coordinator. We discussed if a library board would wish to have someone outside their authority and control manage the federation. We also discussed if current library boards that serve as federation headquarter libraries are cognizant of the additional potential liability that they might have when they contract with other libraries to form federations.

The Federation Futures Task Force recommends to the Commission that you approve the rule change as outlined above to implement Proposal 1. We look forward to your discussion regarding the role of the Commission in the establishment of the federations as outlined in Proposal 2.