



E-Government for Government

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Distribution: All Local Unit Chief Administrative Officers, Chief Finance Officers, and Purchasing Agents. Municipal Clerks to forward to Governing Body and recreation program officials.

On-Line Registration Services

Third-party service providers are organizations that provide computer services and expertise to handle specified functions for their clients. Third-party service providers are often called upon to provide services through the Internet for their clients. This EGG provides local units with guidance on the use of third party service providers for on-line registration services.

On-line registration services, for the purpose of this EGG, are those services that allow program participants to use a website to register for local government programs and pay the program fees by credit card. Typically, the activities would include registrations for sports teams, bus trips, community theater tickets and other activities that might be a part of a municipality's recreation or senior citizen programs.

What To Expect

The advent of Internet-based service providers presents new challenges for local governments. Many businesses on the Internet can provide valuable services at lower costs; however, they may involve risks because the businesses are new and local units may be uncomfortable in using relatively untested services. Thus, for those local units looking to "test the

waters," prudence should temper the risk-taking of these ventures.

In most instances, the local unit may choose to use a third-party service provider because it does not have the expertise or resources to perform the requested services in a cost effective manner. To use these services a local unit must enter into a contractual relationship with the third-party service provider.

A third-party service provider should demonstrate to the local unit that the service being offered meets their needs. As appropriate to the service, the third-party service provider's representations or assertions should relate to the provider's business practices, transaction integrity, security, online privacy, system availability, confidentiality, and non-repudiation. If the local unit does not secure such representations the local unit may be purchasing an unknown or uncertain product. A local unit's lack of expertise of on-line registration services can present an additional challenge when determining if claims made by the third-party service provider are accurate or significant. From the standpoint of the third party service provider industry - this problem results in client reluctance to use their services. To allay the fears of clients, third-party service providers have opted in any of a number of

ways to deal with the reservations of clients:

- 1) Some have published their policies (examples include the privacy policies posted on many web pages);
- 2) Some follow a self-declaratory model, tagging their sites with the standards declared to be in use (BetterWeb, TRUSTe, BBB Online);
- 3) Some have tagged their pages with information on peer opinions and shopper ratings (e.g., BizRate consumer-rated shopping);
- 4) Some have tagged their pages with an expert opinion on their ongoing practices (WebTrust);
- 5) Some will provide financial guarantees of service to the customer in the form of performance bonds or other guarantees; or
- 6) Those involved in processing financial transactions may provide American Institute of Certified Public Accountants Statement on Auditing Standards (SAS) #70 audits. A SAS #70 report is authoritative guidance that allows service organizations to disclose their internal control activities and processes to their customers and their customers' auditors in a uniform reporting format. Being able to examine an independent auditor's review of the providers internal control activities can provide insight on the ability of the provider to perform the services.

What Local Units Can Do

Obtain guidance before signing a contract

The local unit should seek out information or advice to determine what requirements should be deemed important of a third-party service provider. Having determined the levels of service (privacy, security, availability, etc.) that are crucial, the local unit should then determine what level of assurance it wants from the third-party service provider.

Require written and measurable assurances as a part of the contract

The local unit has no assurances if the third-party service provider does not offer any written documentation. Even if the third-party service provider does submit documentation, the local unit may not be able to detect or determine compliance. Thus, in addition to written guarantees, the local unit should make certain that the agreed upon assurances are physically met. This may be done through testing, checking with users, and ensuring that contract provisions are being met.

Require that assurances meet industry standards

With the exception of WebTrust, the services listed above, do not offer continuous monitoring of third-party service providers by independent experts. Due to the cost of WebTrust compliance, most third-party service providers who are concerned with the application of security and privacy standards subscribe to the self-declaratory model.

As a guide, the local unit may apply the following with regard to reasonable expectations of a third-party service provider:

1. When choosing to use a third-party service provider, the local unit should look for claims that are reasonable, given the relationship it will have with the third-party service provider. If that provider cannot or will not provide such claims in writing, it is appropriate not to consider that provider.
2. If the services expected from the third-party service provider are generally accepted industry standards, the claims offered by the provider should meet those standards. Examples of industry standards include, but are not limited to, BetterWeb, TRUSTe, BBB Online and WebTrust. However, the standards tend to be specific in nature. Therefore, if the user wants to know if a particular website meets a standard regarding privacy or security, the user should look at the seal or "through the seal" to determine its coverage. Looking "through the seal" means to click on the seal found on a web page to see that the provider is current with its representations, and what the standards are that are being applied. The following are examples of some of the seals you may encounter:



3. Although the claims themselves are critical, the degree to which the local unit will rely on the accuracy of such claims will determine what level of assurance will be required of the provider. The local unit needs to do its homework! Some providers may be able to provide the local unit with a current SAS #70, SysTrust, or WebTrust report. The local unit, could also pay for a similar examination to be performed.
4. Know the third-party service provider. In the vast majority of cases, the local unit will have to do its own legwork. It is recommended that the local unit visit the provider's facilities, ask questions, and get references. Don't rely solely on references given by the provider! Go to the provider's website and find users that were not listed on the provider's reference list and call them. Try other local unit's sites, and get comments from residents or groups that use the sites, not just the municipality that sponsors the sites you sample
5. Use good judgment. Rules like "If it sounds too good to be true, it probably is," are important to apply in this context. Third-party service providers are in a relatively new industry when it comes to taking advantage of the Internet. Many such third-party service providers overestimate their own capacity or rely on their technical experience without having any in-depth knowledge of the services they are supporting.

Involve the governing body

Don't wait until the contract goes to the governing body for approval before getting their input! Going to a Web-based registration can be fun and challenging; be sure to get support at each step along the way. Also, the input of the users can be critical to a successful implementation.

Have a non-Internet alternative plan available

If the local unit is going to provide a service through an Internet-based third-party service provider, make certain that people without access to the Internet can take advantage of whatever program is being offered. For example, if activity registration over the Internet is being offered, also permit residents, who do not have or want to use the Internet, to register at an office (even if it's the local unit's staff accessing the website for them).

Application of the Local Public Contracts Laws

The Local Public Contracts Laws applies to Internet-based third-party service providers as they do to non-Internet based third-party service providers. One primary difference between Internet and non-internet based providers, is that the business model of some service providers do not charge the local unit for their services.

In these instances, it is the user of the service that pays fees, which may be incorporated into the cost of services. An example of this service is an activity registration service where the vendor adds a service charge to the cost normally charged by the local unit as the provider's fee, while only the base fee is remitted to the local unit.

Under the Contracts Laws, this service qualifies as a "concession" type of contract. Under concession provisions, where the service involves a "pass-through" of revenue, the determination of the bid-threshold is based on the amount of revenue retained by the service provider, not the total fee of the program.

Thus, in an activity registration service, the amount of the contract is based on the amount of revenue generated by the service charge to the local unit or the users of the service. If the estimated amount of the service charge exceeds the bid threshold of the local unit, the concession is subject to public bidding or competitive contract procurement. If the amount is under the bid threshold, normal quotation or sound business practices are used.

Application of the Local Fiscal Affairs Law

A third-party service provider, though an agent of the contracting unit, is an independent entity. As such, its collection practices, depository relationships, holding periods, and requirements for forwarding of funds to the contracting unit are controlled by the provider's management and contracting terms. Therefore, contracts with third-party service providers should specify the local unit's requirements. These may include the timing for forwarding payments or collection of fees from moneys received. Such contract provisions are vital because the third-party service provider is not necessarily bound by the statutes and regulations that apply to the local unit.

For example, a third-party service provider is not required to comply with the statutory provision that funds must be deposited within 48 hours. Typically third-party service providers will hold money collected for periodic transfer to the local unit. However, the local unit will want funds

transferred quickly so that it can cover the costs of programs.

The contract should explicitly state when and how such transfers should take place. The options may include:

- daily automatic transfers which could increase contract costs;
- to allow the third-party service provider to hold funds to the date of an event; or,
- to allow the third-party service provider to hold the funds up to a certain date.

Under current law, transfers can be made electronically, by phone, by fax, or by paper instruction, in addition to the traditional check. The contracting unit should favor the fastest and most secure means of receiving funds, which will typically be an automated bank-to-bank transfer of funds. Whatever methods and timing are determined should be a part of the contract.

The Local Fiscal Affairs Law is intended to safeguard the public resources entrusted to the government unit. The local unit should hold a third-party agent to the same standards of internal controls that it uses. This is accomplished in two ways within the contract. First, certain standards may be required as to the timeliness, accuracy and completeness of reporting provided by the third-party service organization. Secondly, the third-party service provider must assume responsibility for any losses that occur as a result of its operations.

Applying the guidelines on page 3 can help the local unit avoid problems before they occur. Nevertheless, steps should also be outlined in the contract that specifically identify remedies when errors and loss do take place. These may include damages, penalties, and termination of the contract. Just as the law requires certain employees

to be covered by a fidelity bond, a third-party service provider should provide the contracting unit with sufficient bonds or insurance naming the contracting unit as loss payee, to cover the highest cumulative level of risk for the calculated exposure that will exist.

Remember that the third-party service provider is representing the local unit. The contract is more than a simple expression of economic requirements. It is the formal recognition of both party's expectations. Do not accept a boilerplate contract from a vendor for these services. The local unit's governing body and its management should see to it that their concerns are clearly expressed in the contract.

For further information on on-line registration third-party services please call 609.943.4724 or email us at egg@dca.state.nj.us.

