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October 17, 2024, Non-Profit Task Force Meeting Notes

Participants for Today's Meeting:

1. AHCOPA
2. Kimberly Ali
3. AM
4. Amanda Stewart Hause
5. Angela V, ECS
6. Anne Rice-Burgess
7. AnnMarie McDowell
8. Arthur Fields
9. Arun Prabhakaran
10. Atif Bostic
11. Ayana Bradshaw
12. Camille Duchaussee
13. Casey O'Donnell
14. Catherine Lamb
15. David Chiles
16. Donna Frisby-Greenwood
17. Emily Dowdall
18. Frank Franklin
19. Gfontan
20. Jacqueline Eklund
21. Jamila HM
22. Jawad Pullin
23. Jen Clendening
24. Karen Buck
25. Kate McGlinchey
26. Katie Martin
27. Kelly Devlin
28. LaShawnda Tompkins
29. Linda Donovan-Magdamo
30. Martiza Padua
31. Mark Dodds

32. Matt Rader
33. Michael Cooke
34. Molly Hartman
35. Otis Bullock
36. PACDC
37. Rachel Meadows
38. Regan Kelly
39. Rida Haq
40. Regina Kelly
41. Rue Landau
42. Sharee Heaven
43. Shani Meachem
44. T Vieira
45. Vanessa Garrett Harley
46. Will Gonzalez
47. Xhulio Binjaku

Topics for Task Force Discussion/Review:

1. Review of meeting guidelines, which were shared in the agenda
 - a. All participants should share the goal of improving the City's business practices with non-profit organizations and work in good faith to achieve that goal.
 - b. Each task force member will have the opportunity to participate at every meeting; however, due to the size of the group and to ensure all members have an opportunity to participate, we will limit speaking opportunities to twice per meeting for a maximum of two minutes.
 - c. The task force's priorities will be selected by the group at large through a vote on suggested topics for discussion.
 - d. The task force will meet at least once monthly with the goal of releasing recommendations in December 2024. Additional meetings will be scheduled in order to meet the timeline.
 - e. Questions regarding meeting times, meeting schedules, and other task force business should be directed to the Office of Majority Leader Katherine Gilmore Richardson. Please email eliza.alford@phila.gov or call 215-686-0454.
 - f. Once the task force issues its recommendations to the Mayor and the Council President, the business of the task force will be concluded.
2. Meeting Dates
 - a. Thursday, October 29 at 10:30 AM– Location: MSB Innovation Lab
 - b. Thursday, November 14 at 2 PM– Location: City Hall City Council Caucus Room
 - c. Wednesday, December 4 at 2 PM– Location: MSB Innovation Lab
3. Discussion
 - a. Presentations from Administration
 - i. DHS
 1. Process takes on average 6 months

2. 3 individuals in DHS type up contracts and give them to Law for review in advance
 3. Initially select provider through DHS and renewals are not rebid
 4. Only uses exemption for two reasons:
 - a. Blended funding with CBH for residential psychiatric treatment for young people
 - b. Kinship care
 5. Monitoring and evaluation
 - a. Do evaluations with families, providers, and visit verification
 6. Questions:
 - a. Does DHS provide an advance at the start of the contract to provide the capital needed to begin services until a first reimbursement is paid?
 - i. No, advances to providers are not done. If it is a new contract that was bid out through RFP, but they try to stagger the start of provider having to start providing services, but they do provide start up costs which is reimbursed and then stagger the time at which you begin servicing families.
 - b. Are you saying that exercising the renewal option for an existing contractor would require a new procurement process without the non-profit exemption?
 - i. DHS does exercise conforming contracts with the four renewals. Renewals do go through the same process as conformance. One question is whether departments could create a different conformance process for renewals?
- ii. PDPH
1. Two types of contracts: professional services and misc purchase orders
 2. PDPH both drafts their own contracts and has Law draft contracts
 3. Conformance managers oversee process in ACIS
 4. Have different timelines for advertised v. non-advertised opportunities for professional services contracts
 5. PDPH does take advantage of renewals, but they are also the same process for conformance as a new contract
 6. Fiscal issues:
 - a. PDPH can have different fiscal years due to type of funding
 - b. There is a difference between increasing an encumbrance and increasing a contract
 7. Questions:
 - a. Given that you don't know the budget until end of June, when do you initiate procurement for new contracts effective July 1, how do you set the contract amount

without a budget in place, and are those contracts fully conformed by July 1?

- i. Budget is finalized in June, but they start working on the process in November, so they are not totally in the dark until June, so they have some idea of what the budget will be in advance. Some of the contracts they can start before the budget is finalized, particularly renewals.
 - ii. Most contracts are not up and running on July 1 – there is always a lag with making payments for previous fiscal years.
 - iii. If they know someone has a contract on multi-year grant funding, they can start working on renewals
 - iv. If it is a renewal process, there would not be a disruption in service because there is always a lag because payments for May and June take place in June and July while contracts are being conformed in June and July and when you start submitting next fiscal year invoices for July and August.
 - v. Concern from providers around service interruptions at the beginning of each fiscal year
- b. We are part of the Mental Health Unitary Contract which includes about 40 providers on one contract. How does that impact the timelines? We just signed that contract for FY 25 last week.
- i. Process takes longer because of the number of signatories – most of variability is contributed to signatory process
 - ii. Is Mental Health the only group with a Unitary Contract?
 1. Public health also has unitary contracts
- c. How do you consider capacity to deliver services as you evaluate parity? In other words, can one vendor have greater capacity to deliver than you are currently taking advantage of vs. the other vendor?
- i. Would need to see and understand capacity to do work
- d. Based on history of renewals, procurement does not happen until September. We are still waiting on our procurement for a July 1st contract.
- i. Trying to understand timeline – it looks like renewals take about 11 weeks based on presentation. Why would there be a further delay?
 1. It could vary – example actually relates to OHS, so Dr. Franklin cannot respond.

iii. DHCD

1. DHCD has 106 non-profit contracts, but only 6 currently undergo RFP process
2. Many of their contracts are funded by federal government, so their fiscal year is different. They also do annual housing plan that goes through how they plan to spend federal money from four types of federal funds. Takes about two months for HUD to review plan – submitted by end of June. This can lead to delays in contracting.
3. Uniform Project Management System
4. DHCD has 1 contract and planning administrator and 6 contract analysts
5. DHCD has 1 monitoring supervisor and 2 monitoring analysts
 - a. Working on staffing up this unit
6. Contract review Committee
 - a. Reviews and provides evaluation of all contracts
7. Questions:
 - a. Why does DHCD use the exemption for such a large share of its contracts and what impact does loss of the exemption have on its ability to deliver services?
 - i. It can be quicker than going through RFP process and they are contracting with the same orgs year after year and in the plan they have line items that are essentially dedicated to single organizations
 - ii. Funding can be around \$400M at its peak – rely on partners with established relationship and feel as if they are best able to do business with those organizations
 - iii. Have done contracts for housing counseling and neighborhood advisory committees, but the pandemic did create delays
 - iv. To RFP a contract for a small number of organizations that do something like give out rental assistance, there would have to be agreements with all the landlords again to agree to receive payments from another organization which would be difficult
 - v. Internal contract review is how they assess risk and determine with an organization will be on a higher risk list meaning they receive higher scrutiny during contract term
 - b. how many contract analysts should ideally be in place with your current contract load? Do you have unfilled analyst positions?
 - i. They are staffing up now – filling three vacancies right now, but cannot comment on ideal number
 - ii. Probably need more hierarchy as well

- c. More broadly speaking, do you have the staff capacity to comfortably handle your current load, and do you have the staff capacity to handle going through RFPs for all of your exempt contracts for next year?
 - i. Probably on track to effectively administer and get out the same number of contracts as they have in the past
 - ii. Could they be doing this quicker and lessen the burden on their contract staff? Yes
- d. Can you share the % of contracts that are completed with non-profits prior to the start date of the contract?
 - i. None because of the annual action plan and approval of the plan by HUD
- e. When waiting for a contract do you typically provide reward letters? Should we continue operations if a reward letter and/or contract has not been provided even though we all know the work must continue?
 - i. Do not issue award letters before they have formal allocation, so waiting for that from HUD does create a delay
 - ii. All work must continue – have not asked organizations to cease work because a contract is not in place
 - iii. A lot of things with the federal government is based on their fiscal year and the signing of grant agreements.
- f. Does DHCD have the staff to then put all out to RFP for competitive bid?
 - i. There was a time when DHCD had contracts conformed within three months. As of late, it has been taking longer. Many contracts start July 1 and another big batch start October 1. Right now it may be six months into the contract when the contract is conformed. This is not ideal, but it is not DHCD's intent to delay services and activities, but it's just not a perfect science. Looking at ways to try to expedite process and one would include the work to staff up the units.

iv. Law

1. Commercial Law Unit reviews most of the professional services contracts
2. Clarification: Conformance process is the very last stop in process when law dept determines and ensures that all steps as required have been taken.

3. Different process when department compiles documents/contracts v. when the law department drafts the contracts
4. Best practices:
 - a. Avoiding waivers – if they cannot be avoided, they should be submitted to law as early as possible because it essentially stops the process and requires additional negotiations
 - b. Issues with legal names – also stops the process because it has to be determined who is actually being contract with – this has started happening more
 - c. State law dictates authorized signers – provide copy of board resolution to conformance manager or department contact as early as possible because that will speed up signing process
5. Clarification: Contract structure that has one base term year and then has options to renew with up to 3 amendments. “Renewals” has been used to reference both these amendments and the expiration of contract term. Law considers a renewal to be an amendment to a base contract. A new provider agreement is what comes after all those amendments have been used even if the terms are roughly the same as the previous contract term.
6. Questions:
 - a. Is there any reason all city depts could not include the renewal production that human services uses?
 - i. Not sure if that is a legal question – more of a departmental or operational question – currently the process that DHS uses is tied to the timeframe for their funding and the exemption. Not every contract that departments enter into is on the same fiscal year schedule. Some challenges might be whatever departments need to meet the requirements of their funding sources.
 - b. If a (trusted and long-term) provider has already applied before within the system are there "common documents" that are reused automatically without having to repeat the input of "proforma" info for every new contract?
 - i. Within ACIS, there are some forms that can be carried forward – a lot of time supporting documents for that providers application
 - ii. Not sure if she can answer that question directly though
 - iii. Procurement will follow up with a specific answer
 - iv. Law can also think through how they could keep some documentation centralized, especially as it relates to signatories and board resolutions

v. Finance

1. Second to last step in paying vendors after approved contracts
2. FAMIS
 - a. A lot of payment process is still human driven which can lead to slow downs
3. Financial verification can slow down payment because invoices have to be compared to contracts or amendments
4. City Charter has set up payment process differently so controller is the last step in the voucher payment process – they have to sign off on settlement run before treasurer can cut checks. Controller does not review every voucher – they do a sampling- but finance reviews every single one
5. City pays weekly – payments that have been fully approved the Wednesday before the Thursday run. If something is approved Thursday or Friday, it can take two weeks for payments due to timeline
6. Payment delays:
 - a. Because this is an old system, they cannot modify – anything that is wrong means that the whole process has to start again
 - b. Controller does have to hold some things due to state law compliance
 - c. Other items in presentation
7. Improvements:
 - a. Training and resources
 - b. Vendor payment portal – once payment has been entered into FAMIS, you can see that payment is in process and get a sense of when it will be paid. Can also use to sign up for ACH.
 - c. Project OPAL – Finance, CAO, OIT – to replace outdated systems with workday. Estimated to go live in FY26.
8. Questions:
 - a. None

vi. Other questions

1. Three-to-six-month timeline is standard it sounds like with or without exemption. What do departments need – staffing, systems, etc. – to help to decrease timeframes and improve process and/or comply with new RFP requirements?
 - a. DHS: 256 contracts with 60/40 split between RFP and exemption. Would need significant staffing increase. Contract division is 23 staff and still fall short because of the timeframes. Reasons DHS can send out award letters is because Law has drafted contracts in way to use federal and state funds that DHS knows about in March/April. City match is usually 20-23% of contract, so most of funding is state and federal, so that is unique. Each department needs

to review its infrastructure in order to review this process quickly. Working to get a sense of staffing needs. DHS also tries to hold itself to specific benchmarks – do not have contracts conformed by July 1 but do keep data to try to make sure everything is done within Q1 and ask for first invoice in advance to try to speed up initiating payment process.

- b. PDPH: Expedited process is already 4-6 months. If had to do more RFPs, need significantly more staffing and to stay within that first quarter. How do they condense time to get closer to July 1? That requires more staff. If they have to do all RFPs, then they need additional staff to deal with that.
- c. DHCD: Only have 6 staff which is way less than other departments and they are already at max capacity. Do RFP process for some contracts, like NACs, and start to finish required taking staff from a different unit and having them work on it with the unit that will be overseeing the contracting process.
- d. Law: Since there is a department draft process for exempt process, but if all of these moved to Law, they would need to double staff and need more attorneys to provide advice and support for drafting RFPs and evaluating responses, etc. Law only has 9 staff now, which is less than DHS.
- e. Finance: Not much would change if there were more RFPs because its still the same number of contracts, but from a budgetary process, that would be pressure on general fund to figure out to meet budget justifications.

b. Discussion points

1. Recommendation: If the process and practice DHS presented is considered a strong example of "how to do it right", would City Council be amenable to removing the restriction to automatic renewal if adapted by other government departments, and if this is even possible-assuming similar structure would allow.
2. Clarification from Councilmember Gilmore Richardson: If you have a specific problem with your contract, please direct those questions directly to the Administration. If you have a recommendation regarding the process, please send us those recommendations as part of our process.
 - a. Specific concerns can be addresses to myself
Camille.duchaussee@phila.gov or Lashawnda.tompkins@phila.gov
and copied to Rachel.meadows@phila.gov.
3. Recommendation: If some documents that are relevant to provider documentation could be carried over, it may help speed things up.
 - a. Law thinks this is a great idea as it relates to board resolutions and signatory documents but would need to think through how to do it.
4. Comment: Agreed that identifying the best existing process does not yet address losses and risk taken on by the nonprofit providing services without a

conformed contract and/or without getting paid. It is our hope this gap can be closed

- a. Message has been heard loud and clear that it is an unreasonable tax on our providers to continue providing service when contracts are not conformed, and they are looking at ways for new pathways for payment right now
5. Comment: I want to make clear that disruption from removing the exemption comes more from the RFP process than from conformance. Once I have an award letter, I feel confident that I will be reimbursed. But I can't borrow money and incur costs without an award letter because of the risk it will be awarded to another provider, and I will not be reimbursed. This is an area I want to dig into as we move forward.
- a. Law has stated no one should be doing work without conformed contract. This is where there is a lot of consternation. Assumption is made that work will continue, but Law is also saying that you are not supposed to do that work without a conformed contract. How can we get some clarity on this part of the process? We can work through this as part of the task force recommendations.
 - i. Recognize that the City's position is not in practice what is happening, and Law is really committed to this process to try to address this issue. Notice to proceed is one solution, but the tension there still exists because payment cannot be made until contract is conformed and that is still a challenge.
6. Comment: Without a conformed contract in hand, banks will not extend a line of credit to providers and those lines of credit are our lifeline.

Specific Questions

1. For folks that have immediate questions about their ongoing contracts, please call Acting Procurement Commissioner LaShawnda Tompkins at 215-686-4670 or email her at Lashawnda.Tompkins@phila.gov
 - a. Please include contract number, department, any department contacts, specific issues, etc., which will help expedite the solution to your problem.
 - b. You can also contact Chief Administrative Office Camille Duchaussee at Camille.Duchaussee@Phila.gov
 - c. Copy Rachel Meadows at Rachel.Meadows@phila.gov

Follow Ups from Task Force Members:

1. From Andy: New York task force information and list of how comparable cities contract
2. From Administration: Flow chart/SOP explaining City RFP processes and list of contracts impacted by RFP change and any that have options for renewals/which will need to be bid out for next fiscal year at beginning of the year