

**GOVERNOR'S CABINET ON NONPROFIT HEALTH AND HUMAN SERVICES**

**CONTRACT PROCUREMENT & ADMINISTRATION WORK GROUP  
FINAL REPORT  
APPROVED 10/30/13**

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**CONTRACT PROCUREMENT & ADMINISTRATION WORK GROUP – FINAL REPORT - APPROVED 10/30/13 - page 2**

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**GOVERNOR MALLOY’S CHARGE TO THE WORK GROUP ON CONTRACT PROCUREMENT AND ADMINISTRATION – 12/10/12**

Goal: To ensure efficiency and cost effectiveness in the state’s procurement process while supporting the nonprofit provider infrastructure

1. Look at best practices within the state and across the country
2. Recommend revisions to the OPM Cost Standards for certain allowable depreciable expenses
3. Recommend revisions to the OPM Cost Standards and to POS contracts to allow nonprofit providers to establish capital reserve accounts
4. Consider a surplus retention policy across POS contracts, analyzing the pros and cons of establishing this policy including the cost to the state and the process for ensuring the provision of contracted services
5. Develop recommendations to enhance bonding alternatives for nonprofit health and human services providers
  - a. Assess utilization and limitations of existing bond pools (DDS, DMHAS, DSS, DCF)
  - b. Assess utilization and limitations of OPM Nonprofit Incentive Grant bond pool
  - c. Recommend additional bonding options to support the nonprofit provider infrastructure in such areas as Electronic Health Records, IT systems and infrastructure support
6. Monitor status of procurement and action steps recommendations including:
  - a. Posting “Principles to Guide the State/Private Nonprofit Provider Partnership”
  - b. Training on the principles
  - c. Revising procurement standards
  - d. Streamlining data reporting requirements
  - e. Aggregating audit and other data
  - f. Assessing financial health of nonprofit providers
  - g. Developing training protocols relating to contract and fee for service reimbursement

**The Work Group made recommendations in three areas:**

- Retention of Unexpended Funds
- RPF and Procurement Process
- Cost Standards

**1. Retention of Unexpended Funds**

**It is recommended that:**

- a. State agencies and providers will continue to collaboratively develop outcome, performance and performance monitoring systems that will enable a greater level of budgetary flexibility including retaining a portion of unexpended funds.
- b. In the interim:
  - i. State agencies may work with providers to allow state funds to be spent first, provided there are no federal or other matching requirements.
  - ii. Providers will continue to submit fiscal and programmatic reports in accordance with current contractual requirements. Providers and state agencies will continue to discuss these reports and other matters and adjustments will be made as needed.
  - iii. Providers will submit the 8 month report as currently, in regard to which:
    - a. State agencies, in consultation with the provider, may direct spending changes based on fiscal and other reports.
    - b. State agencies and providers may continue to seek, through the budget revision process, to repurpose projected unexpended funds for one time purposes important to the program and provider.
- c. Year-end reconciliation
  - i. Cost reconciliation will continue to occur at the same level that cost reconciliation currently occurs (i.e. program, SID, etc) for each contract.

**CONTRACT PROCUREMENT & ADMINISTRATION WORK GROUP – FINAL  
REPORT - APPROVED 10/30/13 - page 4**

- ii. If there are unexpended funds and if State agency determines that the provider has complied with contractual and other service delivery requirements, then:
    - The provider may retain 50% of the unexpended funds
    - The retention amount shall be capped at 10% of the funds received by the provider (at the program, SID or other level to be reconciled).
- Note: Unexpended amounts resulting from a failure to make certain expenditures or fill positions as directed by a state agency may not be included in the calculation of the provider retention amount.*
- iii. Federal funds will follow federal rules
  - iv. Unexpended funds retention would not apply in the first year of a new program.
- d. In cases of budget deficits, unexpended funds retention may be suspended for a particular fiscal year by the Secretary of OPM or as part of an agency deficit mitigation plan.

## **2. RFP and Procurement Process**

The recommendations below are a follow up to the recommendations made by the Cabinet in 2012 for changes in the state Procurement Standards for POS contracts.

*See detailed recommendations in excel document approved by Cabinet 8/21/13 (RFP and Procurement Process).*

### **It is recommended that:**

The state Procurement Standards for POS contracts be revised to support the following standards.

- a. Section I.F - Applicability: The procurement standards are applicable to the Executive Branch agencies. We recommend that the procurement standards be directed to Judicial and encourage their use.
- b. Section I.H.3 - Procurement Training: We recommend that all agencies utilize standard training for all staff with procurement responsibilities. Suggest investigating web-based training to reduce costs and improve efficiencies. Agencies may provide additional materials to address agency-specific policies and procedures.
- c. Section II.B.1 - Sole Source Contracts: Recommended an increase to the dollar limit (<\$20,000) and length of contract (<one year) allowed for sole source contracting to save time and resources for both the state and providers. This would require statutory change.
- d. Section II.B.3 - Waivers from Re-Procurement: The 2012 Cabinet recommended revisiting the factors identified as considerations for a waiver to include things such as evidence-based models which require significant investment at the provider level. This workgroup did not recommend any changes.
- e. Section II.C.2 -Procurement Schedule: In lieu of requiring a state agency to re-procure the entire system in cases where the agency has concerns regarding the performance of a particular provider(s) within a service type category, this section has been revised to allow the state agency to limit the competitive procurement to a particular provider contract.
- f. Section IV. A. - Evaluating the Need: This section has been revised to more concisely and clearly describe when a state agency should engage a contractor. Primarily related to Personal Service Agreements (PSAs) the

**CONTRACT PROCUREMENT & ADMINISTRATION WORK GROUP – FINAL  
REPORT - APPROVED 10/30/13 - page 6**

revised language requires agencies to consider the ability of another state agency to provide the service, or the ability to purchase the service on a collaborative basis with other state agencies; requires when feasible, the conduct of a cost-benefit analysis and/or the development of a business case to establish the merits and desirability of contracting out. The revised language sets forth additional considerations for state agencies when contemplating the engagement of a contractor for the needed service.

- g. Section IV. F - Writing the RFP: Revised language encourages agencies to adopt a strategic planning focus, rather than a purely operational one, when developing a procurement plan; encourages the use of competitive procurements to identify and adopt new or innovative service models; and in support of those efforts allows an agency, as appropriate, to seek input from stakeholders, including service recipients and clients, service providers, and other experts, prior to the promulgation of the RFP.
- h. Section IV. F. 4 - Evaluation Criteria: The recommendations of the 2012 Cabinet included removal of the language that recommended concealing weight criteria for applicants. The workgroup revised the language to require that weights for each section of the RFP should be disclosed unless there are specific and compelling reasons not to disclose weights for a particular program.
- i. Section IV.K.3 - Contractor Selection: This section references sending the three top ranking proposals to the agency head. Revised language to specify the direct reporting relationship between the Screening Committee and the agency head; to specify that no other agency personnel shall have any part in evaluating or rating proposals or in determining the names of the three top ranking proposers; but allowed the agency head to consult with the Screening Committee or other agency personnel in making a decision about which of the three names to select.
- j. Section IV.K.3 - Contractor Selection and Timeline: The language has been revised to identify the selection and negotiation process and to require that the agency make a good faith effort to complete the negotiation process within forty-five (45) days of notification of the award and have the resultant contract(s) executed not later than 30 days prior to the contract start date.
- k. Section V.B - Debriefing and Appeal Process: The language has been revised to allow the agency to disclose to a provider who requests a debriefing the number of proposals received; the ranking of their particular proposal; and the scores of their proposal and the successful proposal(s). It also requires the agency to schedule and hold the debriefing meeting within fifteen (15) days of the request.

**CONTRACT PROCUREMENT & ADMINISTRATION WORK GROUP – FINAL  
REPORT - APPROVED 10/30/13 - page 7**

- I. Section V.D.1 - Monitoring Contractors: The revised language requires that the agency staff assigned to monitor a specific contractor be required to conduct collaborative discussions geared toward service delivery improvement with the contractor.
  
- m. Submission of Proposals - Revised language encourages state agencies to maximize the use of electronic communications as part of the RFP process and to take into consideration both costs to the state and bidders when determining the number of hard copies necessary for the review process.
  
- n. Technical recommendations - (1) specific reference to encourage the use of the OPM standard RFP proposal format for POS contracts; (2) removal of Screening Committee; (3) requirement that the rating sheets be approved by the agency head (or designee) before the RFP is released; (4) the evaluation plan must include the rating sheets (with the criteria and weights) that must be used when evaluating the proposals.(IV.F.4); (5)the agency head (or designee) must approve the evaluation plan, including the weighted criteria, before the RFP is released. (IV.G)

### **3. Cost Standards**

*See detailed recommendations in Word document: Cost Standards – Work Group Recommendations for 10-30-13 – edits marked*

**It is recommended that:**

- a. The Cost Standards for POS contracts be amended as follows:
  - i. Allow costs related to advertising and public relations focused on communicating about available services and access to care.
  - ii. Simplify the description of unallowable advertising and public relations costs with new language that includes:
    - a. Costs of meetings or other events not related to the state award.
    - b. Costs of memorabilia, models, gifts or hospitality suites.
    - c. Costs designed solely to promote the organization or solely for fundraising purposes.
  - iii. Revise the definition of fundraising to remove the word “grants.” The new definition should read, “Fundraising is defined as the organization’s efforts to raise capital or obtain contributions (e.g. cash, non-cash, services, time, gifts) through financial campaigns, endowment drives or other forms of solicitation.”
- b. The Cabinet address the issue of fair rental for agency owned property, including costs of ongoing property management and the need for capital improvement reserves and the language to clarify that taxes incurred under the Affordable Care Act are not reimbursable expenses under the Cost Standards.