

**M E M O R A N D U M**

February 10, 2009

TO: Health and Human Services Committee  
Management and Fiscal Policy Committee

FROM: Sue Richards, Senior Legislative Analyst  
Kristen Latham, Legislative Analyst  
Office of Legislative Oversight

SUBJECT: ***Status Report - DHHS' Contract Execution and Monitoring Process***

At this worksession, the HHS and MFP Committees will receive an update from County Government staff on items the HHS Committee identified in October 2008 to improve DHHS' contract execution and monitoring. The County Government representatives expected at the worksession are listed below, followed by a summary of the items to be discussed.

- Uma Ahluwalia, Director, Department of Health and Human Services
- Corinne Stevens, Chief Operating Officer, Department of Health and Human Services
- Karen Federman-Henry, Chief, Division of Finance and Procurement, Office of the County Attorney
- David Dise, Director, General Services Administration
- Pam Jones, Chief, Office of Procurement, General Services Administration

Three of the four OLO recommendations to improve the contract execution process were identified by the HHS Committee for follow-up. The Committee asked for updates on the following items.

**Item 1. Status of package of changes to the procurement regulations to improve the procurement process.**

Last October, Executive staff reported they were preparing a package of changes to the procurement regulations to improve the procurement process. The HHS Committee stated that after it received these changes, it would consider ideas to increase the efficiency of the procurement process such as increasing the dollar threshold for purchases that require a written contract, expanding the list of purchases that are exempt from procurement regulations, and changing the implementation mechanism for non-competitive community grant awards.

**Item 2. Status of DHHS' efforts to update, formalize and/or standardize its contract monitoring guidelines.**

Last October, DHHS reported that it had begun a review of its contract monitoring processes and hoped to implement standardized monitoring practices in the coming months.

**Item 3. Status of DHHS and Office of Procurement efforts to create a procurement training course tailored specifically to DHHS' contract issues.**

Last October, DHHS reported that it had begun to assess the training of staff and vendors and instituted a requirement that all contract monitors participate in the County's procurement training course. The Director of General Services reported that DHHS and the Office of Procurement were working to create a procurement training course specifically tailored to DHHS' contract issues.

Attachment: Executive Summary of OLO Report 2009-1

f:\olo\sue\hhs procurement\wksnpt for followup mfp-hhs committee meeting february 12, 2009.doc

---

---

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES'

CONTRACT EXECUTION AND MONITORING PROCESS

---

---

OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2009-1

SEPTEMBER 23, 2008

This OLO project describes the Department of Health and Human Services' (DHHS) procedures and practices for executing and monitoring contracts and presents data for FY08 contracts executed by DHHS' Children, Youth and Family Services (CYF) service area. The Council requested this study to enhance its understanding of how DHHS contracts are executed and monitored, and to identify changes to improve processing times and oversight practices.

**THE LEGAL FRAMEWORK FOR PROCESSING COUNTY CONTRACTS**

The County Charter requires the Council to establish in law a centralized procurement system. The intent of the County's procurement laws and regulations is to maximize competition, generate the receipt of responsive and responsible bids, and lead to the award of cost effective contracts.

Chapter 11B of the Montgomery County Code establishes the County Government's system for purchasing goods and services and Executive Regulations define the procedures that County staff must follow to procure virtually all goods and services.

The County's procurement law and regulations establish an array of methods to enter into competitive contracts - competitive sealed proposals, bridge contracts, and open solicitations - and two non-competitive methods - non-competitive contract awards and emergency procurements. With four exceptions, all purchases subject to procurement laws and regulations must have a written contract document that complies with the law's provisions.<sup>1</sup> Some of these provisions are designed to insure the integrity of the purchasing process; others to further public policies. For example, County law mandates:

- Review of a vendor's insurance certificate by the Division of Risk Management to make sure the vendor's insurance complies with the requirements established in the contract;
- Approval of the contract by the Office of the County Attorney to ensure the contract defines the services being purchased, establishes how the County will know the services have been received, and identifies the basis for compensation;
- Enforcement of living wage requirements to ensure that all vendors pay each "covered employee" at least \$12.40 per hour;
- Review of the local small business designation by the Using Department for compliance with the County's Local Small Business Reserve Program;
- Examination of a vendor's Minority, Female and Disability Program status by the Office of Procurement for Compliance with the County's MFD program; and
- Cost and price analysis by the Office of Procurement for competitive contracts over \$100,000, non-competitive contracts over \$50,000, or contract modifications of \$50,000 or more.

For a complete copy of OLO Report 2009-1, go to: [www.montgomerycountymd.gov/olo](http://www.montgomerycountymd.gov/olo)

---

<sup>1</sup> Exceptions that do not require a written contract are: direct purchases (purchases for \$5,000 or less); reimbursable purchases by Using Departments; credit and debit card purchases; and emergency procurements.

## AN OVERVIEW OF THE PROCUREMENT SYSTEM'S ROLES AND RESPONSIBILITIES

The County Government operates a centralized procurement system that is supervised by the Chief Administrative Officer. The Director of the Department of General Services, designated in law as the County's "central procurement officer," is responsible for purchasing or supervising the purchase of all County goods, services, and construction. County Government departments, offices, and agencies – collectively referred to in the procurement regulations as "Using Departments" – are responsible for complying with the procurement laws and regulations when making purchases.

### DHHS' RESOURCES, POLICIES AND PRACTICES FOR CONTRACT ADMINISTRATION

DHHS spends approximately 40% of all County Government procurement dollars. Seven DHHS organizational units share responsibility for the management of individual procurements as well as the development, execution, and administration of the resulting contracts.

- Five DHHS Service Areas have lead responsibility to decide purchasing methods, prepare solicitations to vendors, and draft contract documents. Once a contract award is made, service area staff initiate vendor negotiations to determine the explicit set of services, terms, and conditions. Because the process to finalize a contract is an interdepartmental effort, service area staff also work with the DHHS Contract Management Team, the Office of Procurement, the Office of the County Attorney, and the Department of Finance's Division of Risk Management.
- DHHS' Contract Management Team (13 WYs) and Fiscal Team (6WYs) support the operations of all five DHHS service areas. The Contract Management Team (CMT) provides technical contracting assistance to DHHS service area staff, manages the flow of documents for all DHHS contract actions, and serves as liaison to County Government offices outside of DHHS with contract processing responsibilities. The Fiscal Team provides budgetary and fiscal oversight for all DHHS contracts and vendor payments.
- Service Area staff also have lead responsibility for monitoring contracts, for inspecting and accepting goods and services prior to making payment, and for authorizing payments.

**DATABASE AND TECHNOLOGY MANAGEMENT SUPPORT.** The document management system that supports DHHS' contract administration activities is primarily a paper-based system. Examples of paper-based forms include contract action worksheets that DHHS uses to track all contract actions and the contract monitoring plan forms.

DHHS uses multiple database systems to track its contracts and contract actions. CMT currently uses a Microsoft Access database to track all DHHS contracts and contract actions, and CYF maintains a separate database to track its contract information. The CMT and CYF databases do not contain identical information about the contracts managed by CYF – some contracts are listed in one database but not the other and vice versa.

In 2006, DHHS established an online set of scanned contract files and key documents. DHHS acknowledges it faces an ongoing need to automate and/or upgrade the systems it uses to manage its business functions, including contract execution and monitoring.

**DHHS' CONTRACT MONITORING PRACTICES.** DHHS has established guidelines for contract monitoring practices. The Guidelines outline methods for monitoring contracts, discuss the use of performance measures for contract monitoring, and provide standard contract monitoring forms. In Children, Youth and Family Services, the use of and compliance with DHHS' program monitoring guidelines varies among contract monitors. Some of the factors that account for this variation include:

- The workload of a contract monitor;
- The history and reputation of a vendor;
- The type and complexity of a contract;
- The dollar value of a contract; and
- The community visibility of a service.

**RECENT DHHS INITIATIVES TO ADDRESS CONTRACTING ISSUES.** DHHS has taken proactive steps to improve the internal controls of its contract execution and monitoring processes. This year, given the volume of year-end contract transactions, the DHHS Director and Office of Procurement staff met to establish priorities and implement strategies to manage the end-of-year process more efficiently. DHHS also completed a Barrier Analysis that examined workload, training, technology, and procurement regulations. And, DHHS' Children, Youth and Families Service Area convened a workgroup of senior leadership and contract monitors to brainstorm process improvements.

**RESOURCES AND DATA FOR CHILDREN, YOUTH AND FAMILIES' FY08 CONTRACTS.** In FY08, 19 CYF staff across five program areas managed 110 contracts with a total value of \$17.3 million. CYF's program areas use a variety of different source selection methods. As shown below, contracts developed through a Request for Proposal (RFP) process make up most of the Early Childhood Services' portfolio, whereas community grants make up most of Child and Adolescent Services' portfolio.

Program areas' staffing structures to carry out contract administration duties differ as well. For example, in Child Welfare Services and Income Support Services, staff serve as contract monitors and fiscal managers, whereas in Early Childhood Services, all fiscal duties are assigned to one fiscal manager and the monitoring duties are assigned to numerous contract monitors.<sup>2</sup> Across all program areas, only a few staff serve as dedicated fiscal managers or contract monitors. Instead, contract monitoring duties are assigned to staff with primary duties in program management and administrative program support.

Program Area	# Staff	Competitive Contracts			Non-Competitive Contracts			# Total Contracts
		# RFP	# Informal	# Open	# Community Grants	# Named in Grant	# Public Entity	
Child Welfare Services	2	4	1	10	4	1	0	20
Early Childhood Services	8	35	0	0	6	0	0	41
Income Support Services	2	3	0	0	0	0	0	3
Juvenile Justice Services	5*	5	0	0	2	2	0	9
Child and Adolescent Services	4*	9	0	0	27	0	1	37
<b>Total</b>	<b>19*</b>	<b>56</b>	<b>1</b>	<b>10</b>	<b>19</b>	<b>3</b>	<b>1</b>	<b>110</b>

\*Two staff administer contracts in both Juvenile Justice Services and Child and Adolescent Services. The table displays these positions in each program areas but displays the total staff as 19.

<sup>2</sup> Contract monitors are responsible for: defining service needs, developing the scope of services, assisting in the drafting of contracts, and monitoring contract performance. Fiscal managers are responsible for reviewing invoices and processing vendor payments, and initiating contract actions at the request of the contract monitor.

**PROCESSING TIMES FOR EXECUTING CONTRACTS AND VENDOR PAYMENTS, FY08.** OLO examined data for 29 CYF contracts awarded in FY08 to find out how long it took to produce a written contract document after completion of the source selection process. OLO grouped the contracts by source selection method and calculated the average processing times for each group. The results show that, on average, open solicitation contracts were processed more quickly than Request for Proposal or Community Grant contracts. Specifically, on average it took:

- 84 work days to produce an executed contract following an Open Solicitation;
- 93 work days to produce an executed contract following a Request for Proposal solicitation; and
- 114 work days to produce an executed contract following a Community Grant contract award.

See OLO Report 2009-1, page 41, for a description of OLO's methodology and more detailed results.

**COUNTY STAFF FEEDBACK ON CONTRACT EXECUTION.** OLO solicited observations from County staff about factors that influence the length of time to execute a contract. The factors County staff identified included:

- Increasing size and complexity of DHHS' contract workload;
- Lack of training for contract monitors;
- Lack of automation for contract execution and other business processes; and
- Lack of staffing across departments with a role in contract execution.

OLO also asked County staff also to identify factors that could explain why it takes longer to execute a contract following a community grant award. County staff identified the following factors:

- The development of community grant contracts occurs at the same time that Department staff are busy with end-of-year contract processing;
- In comparison to contracts awarded as a result of a competitive process, there is often less documentation available prior to the award of a non-competitive community grant; and
- The vendors who receive community grants are more likely to be unfamiliar with the County's procurement requirements and it may take them longer to generate the required documentation.

## **RECOMMENDATIONS**

DHHS recognizes additional opportunities exist to improve the contracting process. OLO recommends the Council review and discuss the following recommendations with DHHS and other County departments that have contract execution and contract monitoring responsibilities.

- #1. Consider changes to County law governing contracts to increase efficiency in the procurement process. Some ideas that merit review are: increasing the dollar threshold for purchases that require a written contract, expanding the list of purchases that are exempt from procurement regulations, and changing the implementation mechanism for non-competitive community grant awards.
- #2. Update and formalize DHHS' contract monitoring guidelines.
- #3. Assess the adequacy of DHHS training for contract monitors and consider implementation of a Children, Youth and Family Services' Workgroup recommendation to train vendors.
- #4. Develop an interim technology and data management plan for DHHS' procurement process pending full implementation of the County's Enterprise Resource Planning (ERP) initiative.