

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Executive Office of Mayor Muriel Bowser



Office of the City Administrator

MEMORANDUM

TO: Mayor Muriel Bowser

THROUGH: Rashad M. Young, City Administrator

A handwritten signature in blue ink, appearing to read 'RMY', is written over the name 'Rashad M. Young'.

FROM: George A. Schutter, Chief Procurement Officer, Office of Contracting and Procurement

DATE: December 23, 2015

SUBJECT: Procurement Accountability Review Board After-Action Report (Rpt. No. 3)

The purpose of this memorandum is to provide an After-Action Report following the November 23, 2015 meeting of the Procurement Accountability Review Board (PARB).

On November 4, 2015, a recommendation was made that the PARB convene an off-cycle meeting to review a retroactive contract action and approve its submission to the Council for its consideration. The Board, pursuant to paragraph V(B) of Mayor's Order 2015-165, scheduled an off-cycle meeting for November 23. Subsequently, the PARB determined that an additional two contracts warranted its examination to understand root causes and how the quality, efficiency, and integrity of the contracting and procurement process in the District can be further improved. Each contract is discussed in detail below.

I. METROPOLITAN POLICE DEPARTMENT (MPD) "STOP-GAP" PROCUREMENT

The first matter before the Board was a "stop-gap" procurement executed by the Metropolitan Police Department (MPD) for the provisional occupational healthcare and ancillary healthcare services at the Police and Fire Clinic. For over 15 years, one vendor—PFC Associates, LLC—has bid on, and received contracts to operate, the District's Police and Fire Clinic. As only one vendor was participating in Police and Fire Clinic procurements, the Office of Contracting and Procurement (OCP) conducted market research through a Sources Sought Announcement, to which only one other vendor submitted a response. A Request for Proposals (RFP) to establish a new long-term contract was issued on April 27, 2015, as the multi-year contract between MPD and PFC Associates was due to expire on June 30, 2015.



Two vendors submitted bids in response to the District's RFP. To provide additional time to complete the competitive solicitation and to ensure that no lapse in critical services occurred, PFC Associates was awarded a sole source contract to provide services for the Police and Fire Clinic between July 1, 2015 and October 31, 2015. During the evaluation phase of the procurement, however, it was determined that the RFP required revision because it failed to include all minimum requirements and omitted critical measures of contractor performance.

As a result, the sole source contract with PFC Associates was subsequently extended twice. Modification No. 1 extended the contract from November 1, 2015, through November 30, 2015, in the amount of \$893,321.38. The contracting officer issued a second modification to extend the sole source contract from December 1, 2015 through June 30, 2016, in the additional amount of \$8,232,555.00. As Modification No. 2 elevated the contract value to over \$1 million, it was a tipping action that required Council approval.

MPD noted that these extensions were needed due to the technical nature of the solicitation. To ensure the revised solicitation fully articulates the District's needs and includes meaningful contractor performance metrics, MPD has retained a technical expert to assist in revising the statement of work. Moreover, MPD and the PARB were in agreement that such mission-critical procurements require the involvement of senior- and director-level personnel earlier in the procurement process to avoid similar issues going forward. Toward that end, MPD will be developing a mechanism to elevate procurement issues to MPD's senior leadership as appropriate. OCP is working with MPD and Fire and Emergency Medical Services (FEMS) to revise the scope of work and milestone plan for the new competitive procurement process.

II. DEPARTMENT OF GENERAL SERVICES (DGS) TIPPING ACTION PROCUREMENT

The second issue before the PARB was a procurement executed by the Department of General Services (DGS) with DC Partners for the Revitalization of Education Projects (DCPEP). For the past 7 years, DCPEP has been providing planning, management, and implementation services for the District of Columbia Public Schools' school modernization projects. The DCPEP contract is in its last option year, which DGS planned to exercise as it brings critical program management operations back into the agency.

However, DGS renegotiated the terms of Option Year 2 to obtain better terms with DCPEP and provide greater value for District residents. It was due to these extensive negotiations with DCPEP that the Council contract package was not submitted in time to be on the Council's November 4, 2015 legislative agenda. Tipping actions may only be approved by the Council during the one legislative session per month, which further complicated negotiations. To maintain the delivery of the critical program management services, DGS exercised a portion of Option Year 2 that extended the contract through November 15, 2015. Exercising the remainder of the option period was a tipping action that the Council approved at its December 1, 2015 legislative session.

In concert with the Executive Procurement Seminar training that was facilitated by OCP for DGS personnel, DGS has hired a Director of Contracting and Procurement who is committed to elevating DGS' procurement management system by creating transparency, accountability, capability, and efficiency.



The PARB further recommended that the annual evaluation of the DCPEP program and future contracts should be conducted before the beginning of summer school construction season to allow adequate time for program adjustments and contract negotiations.

III. DEPARTMENT OF GENERAL SERVICES (DGS) RETROACTIVE CONTRACT ACTION

The last item the PARB considered was a retroactive contract action involving DGS' renovation and expansion of the Department of Corrections' (DOC) Inmate Processing Center. During the administration of the contract, the District executed Change Order #8, which included work done under a Basic Change Directive as well as work performed as a result of an unforeseen condition related to soil decontamination and land grading. Change Order #8 represents the last of the backlogged change orders for goods and services rendered in 2013 and 2014 for the renovation and expansion of the DOC's Inmate Processing Center.

The changes included within Change Order #8 were originally packaged and submitted to the Council for a 10-day passive approval under Change Order #6 in June 2015. While the Council approved Change Order #6, a determination was made by the Office of the Chief Financial Officer (OCFO) that \$1.6 million of the contract was retroactive and therefore required active Council approval. This determination was based upon: (1) the Change Order exceeding \$1 million, and (2) the contractor's completion of certain work and the District's acceptance of that work. As a result, DGS developed the contract changes into two new change orders—Change Order #7 and Change Order #8.

Subsequent to the PARB's consideration of Change Order #8's retroactive status, the OCFO reexamined the Council's 10-day passive approval of Change Order #6 and concluded that 10-day passive approval was appropriate. Accordingly, Change Order #8 was withdrawn from consideration at the Council's December 1, 2015 legislative session. No retroactive contract action resulted from any change order associated with the expansion of the DOC's Inmate Processing Center.

IV. ADDITIONAL RECOMMENDATIONS AND FOLLOW-UPS

The PARB made the following recommendations and follow-ups:

- (1) OCP will work with MPD and their consultant to refine technical requirements, utilizing performance requirements where appropriate, for the new solicitation for the Police and Fire Clinic to ensure the District receives the services required for this critical, multi-year requirement.
- (2) OCP will highlight the need for agency directors to be involved with the scope writing and requirements at the beginning of the process, especially for large and consequential projects.
- (3) The PARB requested an update from OCP on the attendees from the executive procurement trainings. OCP will provide the requested update to members of the Board and will schedule an additional executive procurement seminar in the early new year.



- (4) OCP and the Office of the City Administrator (OCA) will create a mechanism that ensures that the PARB will be made aware of “stop-gap” procurements and retroactive contract actions origin from independent agencies.
- (5) The PARB will increase its focus on corrective actions and what future support agencies require to make their procurements more efficient and transparent.
- (6) The January PARB will include an overview of the OCP Procurement Institute including an update on District contracting and procurement certification.

If you have any additional questions, or would like further briefing from staff on this matter, please do not hesitate to contact me.

cc: Kevin Donahue, Deputy City Administrator / Deputy Mayor for Public Safety, Justice & Operations
Nelsie Birch, Strategic Officer / Interim Director of Agency Operations, Office of the City Administrator

