



2009-2010 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

ARE COUNTY CBO CONTRACTS ADMINISTERED PROPERLY?

Summary

The 2009 - 2010 Santa Clara County Civil Grand Jury (Grand Jury) investigated Santa Clara County's (County) contract management and oversight procedures for community based organizations (CBOs). The purpose was to verify that they are consistent with good practice, especially in these economically difficult times. Total CBO funding for fiscal year 2009 is almost \$150 million, with over \$45 million coming from the County's general fund. The remainder consists of pass-through money from federal and state governments, corporations, foundations, and individual contributions.

The Grand Jury found that County agencies reviewed appear to be doing a satisfactory job in administering CBO contracts. However, many contracts are renewed without competitive bidding. This is inconsistent with good business practices and could potentially lead to deterioration in service.

Background

CBOs are not-for-profit agencies that provide critical services to the local community. Benefits provided range from mental health aid, drug and alcohol treatment, probation help, and social services assistance. CBO programs are essential for any community to function properly. Funding is an ongoing concern.

Methodology

The Grand Jury conducted interviews with representatives from the Santa Clara County Social Services Agency, Mental Health Administration, Alcohol and Drug Services, Budget and Analysis, and the Silicon Valley Council of Nonprofits (SVCN).

The Grand Jury reviewed the following documents:

- County of Santa Clara provider performance evaluations with Contract Outpatient Agencies and Clinics (October 19, 2009)
- Sample master contract between the County of Santa Clara and a service provider with terms and conditions (2009).

- County of Santa Clara General Fund RFP (Request for Proposal) Pre-Bid Vendors Conference Q & A (November 8, 2007)
- SVCN Position Paper on RFP and Contracting (no date)
- County of Santa Clara Board of Supervisors Policies on Contracting and Bidding (Adopted September, 1994 – revised November 3, 2009)
- County of Santa Clara CBO Funding Matrix, FY 2007- 2009

Discussion

CBO contracts have to be approved by the County Board of Supervisors (Board), unless the Board delegates authority to another agency or department. Contracts and services with dollar amounts exceeding \$10,000 must first be approved by the Office of Budget and Analysis. Board policies reflect a commitment to an open and competitive process with individuals and organizations that may do business with the County. Agreements include specific standards and criteria for evaluating performance. If a provider is deemed unsatisfactory through a satisfaction survey, it is monitored until deficiencies are corrected.

Policies are in place to put CBO contracts out for bid on a regular, consistent basis. Board policy allows justification for sole source contractors, deemed necessary for continuation of services. The department/agency has the ability to submit justification to and obtain approval from the Board for an exception to rebidding. In these instances, performance results and contract history are used during negotiations in lieu of rebidding. The County also weighs the cost of conducting a competitive bidding process against the size and dollar amount involved.

The Grand Jury learned that there are dozens of mental health services that have not been put out for bid in 30 years. Mental health contracts make up almost half of the total County CBO expenditures. Recently, the County has instructed departments to bid out some of these contracts. The plan is to go slowly, with each department initially selecting two for review. As one source remarked, “by not doing rebidding, we don’t know who’s out there.”

If agencies with expiring contracts know they will be obligated to participate in a competitive bidding process, they will have stronger incentive to assess the way they are operating. This could lead to more efficiency and refinements in their operations, even if the contract is ultimately awarded to them again. Reassessing a business will lead to a higher level of service and standards. No matter how long an agency holds a contract, or how well it performs, there are always ways to improve. Clarity and fairness in the RFP and contracting process are essential to good governance.

Request For Proposal (RFP)

The contracting process is started with an RFP. An RFP is a formal solicitation procedure used by authorized County departments to obtain competitive proposals from potential service providers.

County RFPs are targeted to mandated services. An RFP format must contain at minimum the following elements:

- Requirement statement – services to be delivered, performance standards, length of contract.
- Responsibility criteria – financial stability, insurance, bonding, references.
- Responses – information on due dates, conferences, who receives proposal.
- Evaluation criteria – how much weight given to specifics set forth in requirement statement.
- Terms and conditions – policies on subcontracting, certification requirements, performance evaluations.

After release to the public, the written RFPs go through a process known as a “Bidders’ Conference.” A Bidders Conference is an open standardized review by staff experts and outside consultants that allows potential contractors to learn the specifics of that particular RFP. The proposal’s intention, reporting procedures, and monitoring assurances are spelled out. Requirements such as performance reviews, audits and site visits are included in the RFP. All questions about any element should be answered in a prompt, impartial way, and available to all who attend. This is especially important for new providers who may not be aware of all expectations.

Once an RFP is issued, applicants have a specific time period to respond. Applications up to 24 hours late can be considered, if it is determined that it would be in the best interest of the County. After a completed proposal from a potential contractor is received, the evaluating process is to be fair, objective and transparent.

Contracts

A contract is a written document that outlines the specifics agreed upon by the County and service provider. Contracts can be written for up to five years in length, and may contain provisions for:

- Open inspection of activities and expenditures, including financial records, supporting documents, client statistical records and personnel records.
- Assistance to County in reporting requirements to the state.

- Provision to County of evidence of capability to perform.
- Interviews to determine program compliance.
- Cooperation with any County study and/or surveys.
- Provision to County of all data, records and reports necessary to monitor and evaluate performance.
- Withholding of monies for non-compliance; contractor must respond within a specific time period.
- Termination by County at any time for non-compliance, performance failures, bankruptcy or incorrect reporting.

Conclusion

The County has established protocols to ensure compliance with CBO contract terms. Satisfaction surveys indicate programs are meeting expectations.

Some contracts have been under a no-bid status for decades. An agency can be so entrenched or so specialized that rebidding contracts has simply not been considered, as long as the agency has complied with the contract's terms. The County appears to have recognized the flaw in this custom and is taking first steps to rectify the situation.

Findings and Recommendations

Finding 1

The County's oversight of CBO contracting for new programs and performance audits has been determined to be consistent with good practice.

Recommendation 1

None.

Finding 2

Once a contract is awarded, renewing it without going through the process of competitive bidding is widespread.

Recommendation 2a

The County should establish a defined, documented plan to put all no-bid contracts through the rebidding process. This initial rebidding should be accomplished within the next five years, with a set number of contracts evaluated each year. This change should be communicated to the CBOs in a timely manner.

Recommendation 2b

After this initial rebidding is accomplished, RFPs should be required every other contract period, or at a minimum, every five years for contract renewal or continuation of service.

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 15th day of April, 2010.

Angie M. Cardoza
Foreperson

Judy B. Shaw
Foreperson pro tem