



**Office of Contracting and Procurement Roundtable
Committee on Government Operations**

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Introduction

Good Afternoon Councilmember Bowser and other members of the DC Council. Thank you for the opportunity to submit testimony. Urban Alliance is a DC nonprofit established in 1996 that empowers youth to aspire, work, and succeed through paid internships, training, case management and mentoring. Last year, Urban Alliance served over 1000 youth, from 18 District high schools, in multiple programs. 100% of our high school interns graduated on-time and over 90% went on to pursue post-secondary education. In addition, Urban Alliance is a member of DCAYA, a city-wide coalition of over 100 youth organizations that works to increase the number of supports and services for youth in the District.

Our Experience

I would like to begin by acknowledging that Urban Alliance is currently protesting a contracting award and is awaiting the ruling of the Contract Appeals Board. I could spend far more time than I am allotted simply discussing that protest and the events that led to its filing. However, I instead want to use this flawed procurement as an example of what I believe to be systemic issues within OCP and the contracting process. The OCP mission statement talks of "ensuring that all purchasing actions are conducted fairly and impartially." Unfortunately, OCP is failing at that mission. I will focus my testimony on four areas where OCP is failing in its mission: responsiveness, transparency, consistency, and acting in the best interests of District residents. I will conclude my testimony with a few thoughts on the contract appeals process.

Responsiveness

One of the most frustrating aspects of dealing with OCP is the lack of responsiveness of OCP staff. Each procurement OCP oversees has staff assigned to answer questions from vendors and the public. However, the assigned staff often does not respond. I have email chains, without exaggeration, that consist of 10 emails, one a day, from myself or my colleagues to

OCP. None of those emails were ever responded to. Calling staff at OCP, one almost comes to expect hearing the words “this voicemail box is full.” How is a vendor supposed to do business with the government – and why would high quality vendors want to – if basic questions can’t even be answered?

I have learned that the only way to get questions answered is to officially submit them in writing after a pre-bid hearing. At that time, OCP promises written responses to questions. By law, OCP must respond – and they do. However, the responses frequently come after they are promised and only hours before a solicitation is due. This, of course, results in the solicitation due date being pushed back. Many solicitations are complex and we don’t wait until the last minute to work on them. Often, though, we are forced to redo our work after OCP responds and we frequently have far less time than we would like to make these revisions.

Transparency

In fall of 2010, when OCP canceled the contracts for Year Round Youth Employment, vendors were given no fewer than three differing explanations of why the contracts were canceled. First, they were canceled because of a late submission. Next, paperwork had been lost. Finally, a key contracting document had never been created by OCP staff. Today, more than one year later, I still have no idea why those contracts were canceled. The inability of OCP to provide a clear and coherent answer to this simple question raises many questions. Why were these contracts canceled? Why was OCP unable to give a reason immediately? Why did the reason keep changing?

In situations such as this, transparency is key. “Fair and impartial” are great goals, but they can only be achieved through honest communication. Everyone makes mistakes. The key thing is to admit it, find what went wrong, and set out to insure that it doesn’t happen again. When Director Stanton was asked about these contracts, and the subsequent process which was equally flawed, he told the *Washington Post* that this solicitation was done “by the book.” This exemplifies the lack of transparency and accountability in this agency. No contracting “book” involves canceling solicitations due to OCP mistakes, reissuing a second solicitation that was so flawed it needed to be canceled before responses could come in, and then following that with a third solicitation that allowed late submissions not once, but three times! A fair and impartial agency, that valued transparency, would have a director that admitted to the media “we made mistakes.” The public deserves to hear that and to hear how it’s going to be better. The public does not deserve obfuscation that only serves to protect the agency, not District residents.



Consistency

One of the things that vendors hear, quite often, from OCP is that they are “forced” to make certain decisions or rulings by District law. However, OCP selectively chooses when they are “forced” to act. For example, in January 2011, when the youth employment contracts were canceled, OCP claimed they were forced to cancel because of the flawed procurement process. In September, when the new contracts were protested because of the flawed procurement, OCP claimed that canceling the contracts would cause grave harm to the District. Why were the contracts more important in the fall than in January? Why did the same law that required contracts to be canceled in January require contracts to *not* be canceled in September? If those questions don’t prove the point: why was a late solicitation such a huge issue in the first procurement, but the deadline could be extended three times in the third?

Acting in the Best Interests of District Residents

Overall, where OCP fails with the greatest impact, is in its failure to act in the best interests of District residents. According to OCP’s website, the agency is the main contracting and procurement arm for the District’s \$9.8 billion budget. As such, residents and taxpayers of the District put a great deal of trust in the agency. Yet, over the past year, the people hurt most by OCP’s failure were not the vendors bidding for the contracts. Instead, District youth were harmed. Important job-skills trainings and employment opportunities were missed – at a time when youth unemployment is at historic highs. What is most frustrating about this is that OCP is really to blame. In January they refused to defend good contracting decisions and in September chose to defend their mistakes -- even when it was obvious that the mistakes were significant and unacceptable.

OCP needs to have leadership in place that acts in the best interest of District residents, not in the best interests of government employees or agencies that made mistakes. Until they do, this agency needs far greater oversight from the Council. The agency needs someone checking on them to make sure they are responding to emails, answering phone calls, meeting deadlines, operating with transparency, and putting the needs of the city and its residents first.

Contract Appeals Process

There are two issues I would like to raise regarding the contract appeals process. First, the process is set up in a manner as to discourage appeals, especially from non-profits. Were it not for the extremely generous pro-bono services provided to us by ReedSmith, we could not have challenged OCP's incredibly flawed process and decision. Due to regulations, protestors are required to engage legal assistance or protest at such a significant disadvantage as to make the process worthless. The cost of obtaining legal assistance prohibits most non-profits from fighting incorrect decisions. Furthermore, the length of the process far exceeds the guidelines in the law as passed by the Council. A process that is supposed to result in quick decisions has dragged on, in our case, for six months. The length of this process ensures that smaller organizations do not have the resources to see it through.

The second issue specifically relates to the Procurement Practices Reform Act of 2010. The CAB, due to the new Act, has questioned its authority to review a District Determination and Findings overruling an automatic stay. In other words, the Act may give the District the right to overrule an automatic stay and vendors have absolutely no recourse. *Both ReedSmith and the District* filed briefs arguing against this viewpoint, but the CAB has yet to rule. I would ask this Committee to immediately take action to clarify this point and give vendors the ability to at least appeal a Determination of Findings, allowing the CAB to have final say.

Conclusion

We at Urban Alliance and DCAYA appreciate the opportunity to provide this testimony. We believe in the District and are committed to continuing to provide services to its youth. I welcome the opportunity to answer questions and would be happy to provide further feedback.

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