



**2Q 2016 STATUS REPORT OF THE  
CHICAGO PROCUREMENT REFORM  
TASK FORCE**

**July 15, 2016**

# **2Q 2016 STATUS REPORT OF THE CHICAGO PROCUREMENT REFORM TASK FORCE**

**July 15, 2016**

The Procurement Reform Task Force (PRTF) was announced in May 2015 and tasked with developing recommendations to make procurement and contract management at the City and its sister agencies more uniform, efficient and cost effective, while increasing accountability. Co-chaired by the CPO and Inspector General Joe Ferguson, its goal was to distinguish successful practices, identify areas for improvement and promote a greater level of uniformity across City government and each participating sister agency. A report, issued on November 17, 2015, detailed findings and recommendations for reforming the procurement policies and practices. The recommendations were intended to further current efforts to ensure that the policies and practices of the City and sister agencies support competition, efficiency, transparency, integrity, and uniformity in procurement.

On January 13, 2016, an ordinance was passed for an intergovernmental agreement for all Participating Members (CCC, CHA, Parks, CPS, CTA and PBC) to work cooperatively to implement recommendations identified in the November 2015 report. The IGA stipulated that the PRTF will deliver quarterly status report to the Mayor, an annual progress report to City Council and participate in a public hearing of City Council to discuss the Annual Report. In addition, the City's Inspector General will make an annual independent evaluation of progress.

Since the submittal of the 1Q 2016 Status Report of the Chicago PRTF, the Participating Member agencies continue to work diligently with their legal counsel and/or boards to ensure the completion and implementation of Immediate Recommendations #1 through #15 (A chart showing the status of the Immediate Recommendations is attached as Exhibit A).

This 2Q 2016 Status Report of the Chicago PRTF focuses on the advancement of Mid-Term Recommendations #16 through #27. The recommendations reflect a cross-section of procurement issues that impact both the vendor community as well as efficiencies within each government agency. Each Mid-Term Recommendation was assigned a lead agency to manage the data collection, analysis, and draft agency consensus/implementation plan. This bulk of this report represents each Participating Member's approach to addressing the issues related to their assigned Mid-Term recommendation. The 3Q 2016 Status Report, due on October 17, 2016, will include comprehensive updates for both Immediate & Mid-Term Recommendations #1 through #27.

The Department of Procurement Services, the Department of Innovation and Technology (DoIT), and the procurement and information technology divisions of six of the City's sister agencies – Chicago Housing Authority, Chicago Park District, Chicago Public Schools, Chicago Transit Authority, City Colleges of Chicago, and Public Building Commission – have contributed to the development of this report.

## Procurement Reform Task Force- 2Q 2016 Quarterly Report July 15, 2016

### Mid-Term Recommendations

#### **Recommendation #16: Establish uniform standards based on best practices for approval of noncompetitive awards, including small purchase, emergency, and sole source.**

The PRTF recommended the establishment of uniform practices across agencies, where permitted by law, for the approval process of noncompetitive awards, including small purchases, emergency contracts and sole source contracts. Currently some Participating Members have processes in place for the above approvals; however more uniformity across the Participating Members should be established in an effort to create more efficiency. Noncompetitive awards are necessary in certain situations or due to the specialized nature of the products or services required. In order to create a streamlined process and maneuverability among agencies, approval processes should be aligned to the extent permitted by law.

This recommendation will lead to the establishment of a process which provides for approval of noncompetitive awards, as permitted by law, by Participating Members. The Committee will be analyzing the following questions to determine common practices and recommend policy changes:

- Participating Members' current thresholds for small purchases
- How each Participating Member defines an emergency
- Which Participating Members must go to their respective Boards for approval of noncompetitive awards
- What contract duration limits should the Participating Members have for noncompetitive awards
- What other controls or standards should Participating Members put in place for each type of noncompetitive award

It should be noted that significant progress has been made towards the establishment of minimum standards of sole source procurements as part of Immediate Recommendation #3 (See Exhibit A and Page 2 of the April 15, 2016 1Q2016 Quarterly Report).

#### **Recommendation #17: Develop a common electronic Economic Disclosure Statement system that: allows for the submission of uniform information for all Participating Members' vendors and subcontractors; integrates disclosures and certifications into Participating Members' procurement databases; automates conflict checks and due diligence; and can be updated in real time.**

This recommendation calls for the Information Technology Coordination Committee (ITCC) to develop a common electronic Economic Disclosure Statement system that: allows for the submission of uniform information for all Participating Members' vendors and subcontractors, integrates disclosures and certifications into Participating Members' procurement databases, automates conflict checks and due diligence and can be updated in real time. To date, the ITCC collected the current EDS form or the form that is used as an "EDS" form from each Participating Member. The forms were analyzed for overlapping process steps and data collected.

DoIT is taking the lead to evaluate solutions to support a common online EDS for all agencies. Next steps include further analysis of current EDS documents and systems, development of a proposal for a common online EDS solution, and implementation. The inventory is underway, DoIT has developed a budget for a single system infrastructure and sister agencies have budgeted for their application components.

**Recommendation #18: Establish a process for the use of joint pre-qualified vendor pools that recognizes the different statutory requirements applicable to Participating Members.**

The PRTF found that Participating Members dedicated significant resources cumulatively on procurement administration, a portion of which was spent on duplication of effort. One such area is each Participating Members' use of separate pre-qualified pools of vendors. This is a potential area for increased efficiency and also for increased convenience for vendors.

Currently the City has approximately 16 pre-qualified vendor pools totaling 203 contracts and is in the process of analyzing vendor pool landscape for each of the other Participating Members. The City is in the process of gathering the following data from each agency: processes and procedures for establishing pre-qualified vendor pools, statutory requirements that control the establishment and use of vendor pools and list of current pre-qualified vendor pools, including scopes and duration.

Next steps will include reviewing and comparing the current pre-qualified vendor pools used by each agency, determining which pre-qualified vendor pools are appropriate candidates to become joint pools and establishing a process that the agencies should be using in creating joint pre-qualified vendor pools

This is expected to increase the quality of vendors the agencies contract with, and increase efficiency by eliminating duplicative efforts.

**Recommendation #19: Develop best practices for routine audits of procurement functions and contract awards, and evaluate use of shared services to perform this function.**

The PRTF found that there is inconsistency among Participating Members regarding the performance of internal audits of procurement functions and contract compliance. To maintain the integrity of the procurement and compliance monitoring process, best practices for routine audits of these functions should be developed. This is also a potential area for increased efficiency through the use of shared services to perform such audits.

The City is collecting the following data from each Participating Member: detailed descriptions of any audits they or third parties perform on their procurement functions and contract awards.

Next steps include:

- Reviewing and comparing the current auditing practices, if any, of each agency
- Determining best practices for routine audits
- Determining how the agencies can use shared services, if at all, to perform such audits

The goal is to develop best practices for routine audits of procurement functions and contract awards, which should include guidance on how to perform audits cost-effectively. This is expected to increase integrity, uniformity, efficiency, and accountability in procurement and improve contractor compliance.

**Recommendation #20: Require each Participating Member to create a comprehensive procurement manual for its staff that is user-friendly and available to the public.**

The PRTF found that the comprehensiveness and specificity of the Participating Members' procurement policies varies significantly.

The key steps in this recommendation process include the review and comparisons of the current processes/procedures used by each Participating Member, a discussion of consistency in requirements and what is needed to adjust existing manuals and the posting of manuals online for public view.

Going forward each Participating Member will provide their current version procurement policy manual for review and discussion. Upon agreement, each Participating Member will be required to adjust their guides for consistency. CCC has begun work on analyzing the CTA's procurement manual, which is the most lengthy of all of the Participating Members, and assessing its applicability in relation to other agencies' published policies and procedures.

The goal of this recommendation is to develop a comprehensive procurement policy manual that covers all aspects of the procurement process and clearly lays out agency requirements, which will drive consistency of process and build public trust.

**Recommendation #21: Codify and provide training to Participating Members' employees on procurement rules and regulations, including appropriate authority, prohibited communications, and reporting obligations.**

The PRTF found that all Participating Members stated that communications regarding active procurements are to be limited and generally flow through the procurement office; however, these rules are not clearly codified and disseminated at every agency. In addition, it found that not all employees and contractors of Participating Members have a clear obligation to report violations of law in procurement and contracting to their respective Offices of Inspector General. A clear set of rules and regulations for employees to follow and refer to is important to maintain the integrity of the procurement process. Agencies should ensure that such information is communicated to their employees.

The goal is to establish common rules and provide training across agencies on these regulations so that employees know what is required of them. This is expected to increase the integrity of and accountability in the procurement process. This process has already begun with the Participating Members sharing information about internal staff training sessions. The City recently hosted two trial attorneys from the U.S. Department of Justice on June 28, 2016, who gave a presentation outlining their experiences regarding criminal antitrust matters, including bid rigging, price fixing, market allocation, and related federal crimes. As part of the presentation, they spent time instructing attendees on how to spot and also prevent contractors from engaging in fraud. All Participating Members sent staff to this training.

**Recommendation #22: Develop universal programming for vendor outreach and training.**

The PRTF found that the majority of Participating Members do not provide any workshops or training to potential vendors. Vendor outreach and training is an integral part of increasing the number and quality of vendors and their bids. This is also a potential area for increased efficiency and uniformity through the use of shared services to provide such programming. The City has an extensive workshop and outreach program and has already begun spearheading joint outreach efforts, such as the annual Vendor Fair, which includes all of the sister agencies, the State, and the County.

As an initial step in implementing this Recommendation, the City has created a Universal Outreach Calendar, which is available online from the PRTF website. This calendar includes City outreach events and workshops, and now includes a listing of outreach events hosted by the Participating Members. In addition, the City is promoting Participating Member outreach events via the DPS Alert Email Newsletter, that reaches 10,000 subscribers, email distribution on the Certification & Compliance (C2) system, and social media.

The following items are also in process to help achieve outreach and training collaboration:

- Leverage existing technology by inviting Participating Members to utilize DPS Bid & Bond Room livestreaming capability to broadcast their workshop offerings
- Including Participating Member subject matters in the City's 2017 workshop schedule

The goal is to provide universal programming for vendor outreach and training to increase vendors' knowledge of the procurement process at each agency and to reduce duplicative outreach efforts. This is expected to increase the number and quality of vendors and bids, which will in turn reduce costs for the agencies. As we merge listings of these vendor resources and programs, the Committee will examine where there is overlap and gaps, and how the Participating Members can find synergies and streamline these programs to offer the best and most efficient vendor outreach and training.

**Recommendation #23: Develop uniform, minimum contract close-out procedures for use by all Participating Members.**

The Participating Members' contract close-out processes vary, ranging from some with no established process to others that have significant requirements. The PBC has taken the lead to assemble, review, and formalize a close out process at the end of a contract term. The Participating Members will review current policies and procedures for contract close out, and evaluate key criteria to determine workable and meaningful uniform, minimum contract close-out procedures.

The ongoing effort to work on providing contractors with standardized contract verbiage will allow the CPO Committee to work in concert with this initiative to effect procedures that will be concise and cohesive, and boilerplate contract language/questions that will be used by all Participating Members.

**Recommendation #24: Develop minimum standards for project managers and other on-site review personnel to ensure vendor compliance.**

All Participating Members conduct various types of site visits for their respective projects. Additionally, Members used a variety of tools to conduct site visits (i.e. compliance software, payroll software, or Microsoft fillable forms). Following discussions regarding these varying methods, the CPO Committee recommends that participating Members include uniform language and questions when conducting on-site interviews to ensure enforcement is fair, uniform, and effective.

The key deliverable for this recommendation is a template that can be used by all agencies. To ensure success of this initiative, customized training will be developed for all internal/external staff that conducts any on-site reviews.

**Recommendation #25: Establish a process for information-sharing among Participating Members regarding poor performance, noncompliance, or wrongdoing of a vendor.**

The PRTF found that outside of placement on a debarment list, Participating Members have no formal mechanism to share documented information regarding a vendor's poor performance, noncompliance, or wrongdoing.

The Chicago Park District has taken the lead to establish a communication process that will actively share vendor information to Participating Members. The information to be provided will include poor vendor performance, noncompliance, debarment, and similar issues or findings. Different types of communication for vendor information-sharing will be explored and implemented. This could include group social media, email alerts, and other forms of effective electronic communication.

**Recommendation #26: Seek to establish reciprocal debarment among Participating Members through the use of a debarment review board or another mechanism as permitted by law.**

The PRTF found the Participating Members generally maintain their own debarment lists and do not have automatic reciprocity; however, Participating Members do consult each other's lists during a verification process as well as check debarment lists of other government entities.

The Chicago Housing Authority has taken the lead to establish reciprocal debarment through the use of a debarment review board or another mechanism as permitted by law. CHA has reviewed the debarment policies of the Participating Members, and found that some include automatic debarment reciprocity language but are not specific

as to the causes of debarment. The review looked at whether or not this or similar language would limit the individual or firm's right to due process that would normally be afforded them.

CHA also researched other government agency debarment review boards, including the Mississippi Personal Service Contract Review Board, Cuyahoga County Appeal Board and the LA County Contractor Hearing Board and gathered information on the functions of these debarment review boards.

As a next step, CHA will complete its review of debarment policies of the City and sister agencies for reciprocity language and its research on the debarment review boards of other state and local government agencies.

As a next step, CHA is presenting their findings to the CPO Committee for discussion and consensus.

**Recommendation #27: Establish uniform practices, where permitted by law, to expand preferences for local vendors and support a workforce development or similar contract award preference.**

The PRTF found that only the City and PBC apply preference for local vendors and labor in their procurements, and no Participating Member provides credit for employing graduates of workforce development programs.

CPS will take the lead in researching the establishment of a process which provides preference and/or incentives for local businesses and labor, as permitted by law, by Participating Members. The steps in the process include:

- Reviewing and comparing the current processes/procedures used by the City and PBC who currently have preferences/incentives for local businesses and labor in their procurement process.
- Identifying statutory barriers to expansion of bid preferences/incentives
- Establishing best practice process for providing preference/incentives
- Each individual Participating Member will review with their individual Law Departments to determine if they are precluded from providing preferences or incentives
- Adoption of process, where allowable by law, by Participating Members

## Exhibit A

### Procurement Reform Task Force - Recommendations

#### Immediate Recommendations

| # | Recommendation   | Lead Agency | Status   |
|---|--|-------------|--|
| 1 | Create a Committee of the Participating Members' CPOs to rule on certain administrative decisions, address obstacles to coordination, and ensure best practices across the City and its sister agencies.   | City        | Complete   |
| 2 | Charge the CPO Committee with addressing the Task Force recommendations, tracking their implementation, and issuing quarterly progress reports.  | City        | Ongoing  |
| 3 | Establish minimum standards by which all Participating Members will publish their anticipated sole source awards, receive public and vendor feedback, and make decisions about whether a solicitation is necessary.  | CTA         | COC, CPS = implemented<br>CTA = end of July<br>CCC = end of August<br>PBC, CPD = within 6 months<br>CHA = pending legal review   |
| 4 | Hire or secure pro bono services from a law firm to: (a) Identify contract provisions that could be subject to standardization across Participating Members' templates, and draft uniform contract templates incorporating the required terms of the Participating Members, including contract duration and number of renewals and (b) Where appropriate, standardize solicitation documents issued by Participating Members and the documents required in response. | City        | The pro bono partner, Clark Hill, continues to move forward on developing standardized commodities, professional services, and construction Master and Additional Provisions templates. Significant progress has been made on the commodities and professional services Master templates and commodities and professional services Additional Provisions templates. Clark Hill's current focus is on the construction Master template and putting together construction Additional Provisions for all Participating Members. |
| 5 | Charge the Chicago Government IT Coordination Committee, which consists of the CIOs of the Participating Members, with identifying the procurement-related systems that can be shared and developed jointly and developing a schedule for implementation.  | ITCC        | Ongoing, responsible party = DoIT  |
| 6 | Post all contracts, vendors, and subcontractors on agency websites in a user-friendly and searchable format.   | CCC         | All participating members are now posting contracts in some form. The user-friendly and searchable component will come online with the implementation of Recommendation #7.  |
| 7 | Create an easily accessible website for vendors and the public that provides a single location for: all of the Participating Members' current procurement opportunity listings and other procurement-related information such as the buying plan, notices of award, and prequalified pools; a list of all debarred vendors; and all current contract and vendor databases.   | ITCC        | A new url ( <a href="http://www.chicagoprocurement.info">www.chicagoprocurement.info</a> ) has been procured and currently directs to PRTF landing page on City site ( <a href="http://www.cityofchicago.org/prtf">www.cityofchicago.org/prtf</a> ). ITCC continues to work on new consolidated website.   |
| 8 | Establish minimum disclosure requirements for subcontractors and require posting subcontractor information online.   | CHA         | COC, CCC = implemented<br>CTA, PBC, CPS = implementation within 3Q 2016<br>CPD, CHA = pending legal review   |

|    |   |      |   |
|----|---|------|---|
| 9  | Establish minimum standards for conducting due diligence of vendors before entering into a contract.  | City | All agencies have agreed to perform minimum uniform due diligence of vendors before entering into a contract.<br><br>In addition, the City is following up with DoIT regarding access for Sister Agencies to the debt check databases (IRIS and ARMS) so that all Participating Members can determine whether a vendor owes debt to the City and notify that vendor of the nature of the debt and that it should be paid.   |
| 10 | Establish uniform rules governing resolicitation of contracts due to significant changes in scope or value.   | CTA  | CTA, CCC = implemented<br>COC, PBC = implementation within 3Q 2016<br>CPS = Implementation awaiting Board Approval<br>CPD, CHA = pending legal review   |
| 11 | Evaluate the consistency of MBE/WBE/DBE certifications accepted by Participating Members.   | PBC  | CCC, CPS, CHA, CPD to provide analysis report of certification type accepted beyond City/County to assess impact of reducing # of certifications accepted for credit. For consistency, the parameters for this report have been defined: 1 year time frame based on contract award, certification types/agencies utilized.<br><br>COC, PBC = N/A because only accept City/County certifications<br><br>CTA = N/A because only accept DBE, not local MBE/WBE certification |
| 12 | Implement the uniform criteria and processes for evaluating Good Faith Efforts regarding requests for waivers for MBE/WBE/DBE goals that are currently being developed and will be recommended by the Government Procurement Compliance Forum | PBC  | Good Faith Efforts templates have been distributed.<br>COC, CCC, CHA = implemented<br>CTA, CPD, CPS = in process<br>PBC = Implementation within 3Q 2016   |
| 13 | Require a written, publicly posted protest process for each Participating Member.   | CCC  | COC, CTA, CPD, CHA = posted online<br>CCC, CPS = anticipated by August 2016<br>PBC = anticipated by October 2016  |
| 14 | Examine whether Participating Members should support a change in state law to eliminate the newspaper notice requirement for contract solicitations.  | CPD  | All Participating Members agree to continue to advertise in local newspapers.   |
| 15 | Establish process for info-sharing and collaboration among Participating Members on personnel matters such as professional development efforts and recruitment.   | CPS  | This recommendation is being reviewed by the new CPO at CPS, who is a developing a framework for implementation.  |

## Mid-Term Recommendations

| No | Recommendation  | Lead Agency |
|----|---|-------------|
| 16 | Establish uniform standards based on best practices for approval of noncompetitive awards, including small purchase, emergency, and sole source.  | CTA         |
| 17 | Develop a common electronic Economic Disclosure Statement system that: allows for the submission of uniform information for all Participating Members' vendors and subcontractors; integrates disclosures and certifications into Participating Members' procurement databases; automates conflict checks and due diligence; and can be updated in real time. | ITCC        |
| 18 | Establish a process for the use of joint pre-qualified vendor pools that recognizes the different statutory requirements applicable to Participating Members.   | City        |
| 19 | Develop best practices for routine audits of procurement functions and contract awards, and evaluate use of shared services to perform this function.   | City        |
| 20 | Require each Participating Member to create a comprehensive procurement manual for its staff that is user-friendly and available to the public.   | CCC         |
| 21 | Codify and provide training to Participating Members' employees on procurement rules and regulations, including appropriate authority, prohibited communications, and reporting obligations.  | City        |
| 22 | Develop universal programming for vendor outreach and training.   | City        |
| 23 | Develop uniform, minimum contract close-out procedures for use by all Participating Members.  | PBC         |
| 24 | Develop minimum standards for project managers and other on-site review personnel to ensure vendor compliance.  | PBC         |
| 25 | Establish a process for information-sharing among Participating Members regarding poor performance, noncompliance, or wrongdoing of a vendor.   | CPD         |
| 26 | Seek to establish reciprocal debarment among Participating Members through the use of a debarment review board or another mechanism as permitted by law.  | CHA         |
| 27 | Establish uniform practices, where permitted by law, to expand preferences for local vendors and support a workforce development or similar contract award preference.  | CPS         |

## Long-Term Recommendations (2017 and beyond)

| #  | Recommendation   |
|----|--|
| 28 | Implement a universal procurement system that serves as a single point of entry for posting and responding to all Participating Members' procurement opportunities, and as a central repository for all contract and vendor information. |
| 29 | Identify compliance functions that can be shared among Participating Members, including MBE/WBE compliance activities, and establish a joint compliance field team.  |
| 30 | Secure a <i>pro bono</i> study regarding the financial impact of the City's risk shifting contractual provisions.  |
| 31 | Evaluate the benefits of center-led or consolidated procurement among the Participating Members.   |