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At a time when funding and revenue issues affect the fiscal sustainability of governments, avoiding cost overruns is particularly important. Improving drafting and management practices for vendor contracts is a way for state and local governments to improve services to the public and ensure that they can continue providing them.

This two-part article examines and summarizes a number of best practices that can help governments better manage contracts and, in turn, help provide for their fiscal sustainability.¹ (Part I was published in the October 2012 issue of Government Finance Review, including information on research methods.)

PROCUREMENT CONSIDERATIONS

Project Management Tools in Contract Management. Scrum project management is a variation on the performance management guidelines established by the National Performance Management Advisory Commission.² In Scrum (which is based on the rugby formation where players work as a team to get possession of the ball), team members work collaboratively on a common goal. This is in contrast to the traditional project management approach, which is analogous to a relay race, with players passing a baton in sequential phases of tasks.³ Proper project management results in stakeholders getting what they need and expect, on time, and for the planned cost, while poor project management leads to unmet expectations, long delays, and cost overruns. “Scrum allows decision makers to end the project when it makes sense to do so, while still realizing the bulk of the value.”⁴ In traditional project management, the plan drives costs and schedule estimates. In Scrum, the project vision and desired value drive estimates of scope.

Provisions for IT Procurement. In 1996, the National Association of State Information Resource Executives and the National Association of State Purchasing Officials issued a report, Buying Smart: State Procurement Reform Saves Millions, outlining recommendations for reforming the government procurement process for information technology (IT). The report noted that existing IT procurement systems are very costly, wasting taxpayer dollars and hampering economic vitality and diminishing the delivery of services to individuals and businesses. To change the situation, Buying Smart offered five ways for states to cash in on procurement reform:

1. Simplify the procurement of commodity items and services.
2. Build an infrastructure for electronic commerce.
3. Procure information technology based on best value.
4. Develop beneficial partnerships with vendors.
5. Solve problems with solicitations.

The complexity and cost of IT procurement often makes it tempting for public-sector managers to only vaguely define a need and then let the vendors design and build the system using a time-and-materials contract. That approach drives up costs for the government and the taxpayers, and often ends in failure. Government managers would do better to identify the exact needs the project is intended to fill for the public — the problem that needs to be solved — and allow the vendor to use its expertise to propose a solution to the problem, which will be addressed based on a fixed-price contract. For the best results, use a performance-based management approach to overseeing the vendor’s work.5

THE IMPORTANCE OF MANAGEMENT

The overriding theme identified by this research is that state and local government managers must be both empowered to manage and held responsible and accountable for doing so. The entire public sector faces profound management challenges, as noted by the National Performance Management Advisory Commission. The commission developed the Performance Management Framework for State and Local Government because: “At no time in modern history have state, local, and provincial governments been under greater pressure to provide results that matter to the public, often within severe resource constraints. At the same time, government officials and managers are challenged to overcome the public’s lack of trust in government at all levels.”6

One of the principal management challenges all governments face is how to properly select and oversee private-sector providers of commodities and services to ensure that the public’s needs are being met. However, as the National Association of State Procurement Officials noted: “Contract management is often a neglected part of the procurement process. Once a contract is in place, a busy procurement officer may believe that ‘no news is good news,’ surmising that a lack of complaints about contract performance from client agencies is a sign that all is well. Unfortunately silence rarely means bliss; effective contract management requires vigilance.”7

CONCLUSIONS

As GFOA’s Fiscal First Aid tool (available on the GFOA’s website at www.gfoa.org) so aptly says: “Make managers manage.” This is a succinct yet profound recommendation. Not holding managers responsible and accountable creates not only additional costs for the personal services component of government operations, but also drives up the cost for contracted services.

Sub-optimal contracting procedures increase the cost of services in several ways. Failing to properly define the organization’s true needs and explicitly state how those needs will serve the public leads to waste, in time and materials. Also, if trained procurement professionals are not empowered to ensure that program managers solicit and contract only for goods and services that are clearly defined in advance, purchasing will “evolve over time” through change orders and other non-fixed price contracts. In addition, both the procurement professionals and agency project managers need to put the risk of failure on the contractor, rather than on the government. This is done through careful solicitation and contract drafting, and holding vendors responsible and accountable for providing products and services in a timely and complete manner, within the original terms and conditions (and budget) established by the contract. Agency project managers and contractors alike must be held responsible and accountable for contract failures.1

Notes

1. Based on the analysis of documents developed by pertinent governmental agencies and professional organizations and task forces: the U.S. Government Accountability Office, National Performance Management Advisory Commission, the Government Finance Officers Association, the American Bar Association, the National Institute of Governmental Purchasing, and the National Association of State Procurement Officials — a number of patterns, categories, or themes were identified as constituting best practices or standards for state and local governments to use in developing and managing vendor contracts in a way that ensures fiscal sustainability.

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4. Ibid.


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