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FIRST 5 LA

SUMMARY MEETING NOTES
Ad Hoc Executive Committee Meeting
November 3, 2011

COMMISSIONERS PRESENT:

Commissioners:
Jonathan Fielding [Vice Chair]
Neal Kaufman
Evangelina (Angie) Stockwell

COMMISSIONERS ABSENT:
Antronette Yancey [Excused]

STAFF PRESENT:
Evelyn V. Martinez, Chief Executive Officer
Carol Baker, Policy Director
Yolanda Bosch, Chief Administrative Officer
Armando Jimenez, Director of Research & Evaluation
Raoul Ortega, Finance Manager
Maria Romero, Executive Assistant

LEGAL COUNSEL:
None

1. Call to Order

   The meeting was called to order at 2:35 pm by Vice Chair Fielding.

2. Review of Meeting Notes – October 6, 2011

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3. Clarification on Contracting Process

   CAO Bosch reported that in response to the Phase Two audit conducted by Harvey M. Rose Associates, Mayor Antonovich sent a letter to CEO Martinez, dated October 20, 2011. The letter directs the CEO to implement, effective immediately, three recommendations and to report back in writing to the Commission on the status of the implementation.

   Staff prepared a written report in response to the Mayor's request. While preparing the response to Recommendation 4.2, staff determined that clarification was needed as to at what point in the contracting process the Commission wants to approve the contract.

   Recommendation 4.2 states: *Direct management to include a consent item for approval on the monthly Board of Commissioners agenda listing all grantee and contractor agreements and amounts to be approved, whether Board of Commissioner approval is required or not, so that information about all agreements is disclosed and any agreement can be further scrutinized at Board meetings if so requested by any member of the Board of Commissioners. Bidding process dates and other milestones should also be reported.*

   Staff reviewed the current steps required to follow in order to successfully procure a contract:

1. Board Approves allocation
2. Department plans project/initiative
3. Funding Opportunity is posted to the website (or exception/strategic partnership is developed)
4. For RFP/RFQ, staff facilitates various levels of review which includes:

    a. Level 1: Internal Review (conducted by staff)
    b. Level 2: External Review
    c. Level 3: Financial review
    d. Site Visits
    e. Reference Checks
    f. Final Interviews

5. Scores are tabulated and a summary report is developed by staff.
6. Bidding Documentation (step 5) and Award/Declination letters are drafted and provided to CEO for review and approval.
7. If CEO approves, staff communicates the award/declination to the applicant(s).
8. Staff negotiates the Scope of Work and Budget and collects all required contract documentation.
9. Bidding information and contract documentation is forwarded to the Contract Compliance department for processing.
10. Negotiations take place with contractors or grantees, a contract is processed and signatures are obtained, resulting in an executed agreement.

Staff was seeking clarification at what point in the process would the Board want to approve contracts as there are two points in the current process where staff could bring the contract to the Board for approval. The first instance is before the winning bidder or grantee is notified (Step 6). The second instance is after the contract is processed (Step 10).

Commissioner Kaufman suggested Board approval should be request after Step 10 and that all negotiations should be finalized in good faith prior to contracts being submitted for approval to the Board. If approval is granted, then the contract can then be executed.

Commissioner Stockwell asked what types of contracts required Board approval. CAO Bosch responded that CEO Martinez had a delegated authority to approve contracts up to $25,000 and all contracts and grant agreements exceeding $25,000 were always brought forward to the Board of approval.

CEO Martinez clarified that the last time Supervisor Antonovich was Commission Chair, her delegated authority had been increased to $100,000 to be consistent with County department heads but she had never exercised that delegated authority. She reminded the committee members that every action submitted to the Board for approval had a statement authorizing staff to negotiate and execute the contract. CEO Martinez stressed that no contract has ever been negotiated without the Board being aware of it.

Commissioner Stockwell asked what type of contracts could be approved by the Executive Committee. Vice Chair Fielding responded that the Executive Committee was an ad hoc committee and had no authority to make binding decisions on behalf of the Board.

CEO Martinez also responded by stating that issues of compliance were brought to the Executive Committee for guidance rather than presenting such issues to the full Board in a public meeting to avoid embarrassment and political fall-out. She also said that since the Executive Committee was an ad hoc committee, any issues brought to this committee would now also need to be brought forward to the full Board.

Commissioner Kaufman asked if the technology existed at First 5 LA for him to log onto a secure site to review the details of the contract or grant agreement. CEO Martinez responded that this did not exist and the information requested about a specific contract would be considered a public request.

Commissioner Kaufman commented that the public has the right to view any information that is on the Board agenda and that it did not necessarily needed to be in hard copy format. CEO Martinez responded that meeting packets were always made available to the public on the day of the meeting.

Commissioner Kaufman also suggested that no cost extensions could be approved by affirmation of the Board; however, if there were changes to the scope of work, then the new contracting procedures should be followed.

CONSENSUS: The Ad Hoc Executive Committee agreed that Board approval should be obtained prior to execution (signature) on all contracts and grant agreements. Contracts and grant agreements must be completed and negotiated as fully as possible prior to Board approval.

Based on the discussion and consensus reached by the Executive Committee, CEO Martinez stated that those contracts in abeyance, like Families In Schools, should be part of the new process in order to move forward. She directed CAO Bosch to move forward with implementing the new process for the November Commission meeting.

CAO Bosch stated that contracts through December, 2011 would be brought to the November Commission meeting for approval as the Commission does not meet in December.

4. GASB 54 Policy Modifications

Finance Manager Ortega reported that during the course of the fiscal year 2010-11 audit, the independent auditors noted that the Commission had adopted GASB Statement No. 54, *Fund Balance Reporting and Government Fund Type Definitions*. The statement required that fund balance be classified according to its level of constraint: non-spendable, restricted, committed, assigned and unassigned. The auditors noted that the formal actions used by the Commission resulted in committed fund balance classifications based on: 1) formal actions noted in the minutes of the meetings, 2) approval of contracts, and 3) funding allocations based on Commission action. Several of the actions took place in prior years and required management to roll forward balances to June 30, 2011. Certain amounts were reclassified as "assigned" because the documentation supported a lower level of constraint.

The auditors recommended that the Commission strengthen its existing policies and procedures related to fund balance classifications. Such procedures should include consideration of the following:

- Clearly delineating a formal action used to commit resources (i.e. resolution);
- Clearly identifying whether the action results in a constraint of existing resources versus an allocation/appropriation of future revenues;
- Establishing a periodic reporting mechanism for the status of the specific committed and assigned amounts;
- Approving (or reaffirming) the committed amounts on an annual basis before the fiscal year-end to improve the audit trail of the specified purposes and amounts; and,
- Evaluating the amounts that have been committed when the financial position results in deficit unassigned fund balance.

These recommendations were brought forward to the Board of Commissioners at the October 13, 2011 meeting as part of the approval of the Comprehensive Annual Financial Report (CAFR). The Commission Chair proposed that these recommendations be considered by the Ad Hoc Executive Committee, which would then return to the full Board of Commissioners at the November 10, 2011 meeting with a recommendation for implementation. In order to make recommendations on changes to the existing GASB 54 Policy, staff is suggesting the following questions and points be considered:

- What type of formal action would be required to restrict funds: 1) a resolution or 2) a motion recorded in the meeting minutes. Either type of formal action should identity where the constraint of resources will be coming from, existing resources or future revenues.
- What type of formal action would be required to commit funds: 1) a resolution or 2) a motion recorded in the meeting minutes. Either type of formal action should identity where the constraint of resources will be coming from, existing resources or future revenues.
- Whether the Commission should designate a body/committee or an official who can designate fund balance as "assigned" for a specific purpose, as allowed by the adopted policy. If the Commission designates a body/committee or an official to be able to "assign" fund balance for a specific purpose, what type of action or documentation would be required supporting the actions.
- Whether the Commission should review the status of specific committed and assigned amounts on a quarterly basis.
- Whether there should be a reaffirmation of the committed amounts before the fiscal year-end to ensure it is the Commissions' desire to have the fund balance resources reported in the CAFR as committed. The reaffirmation action would be presented as a summary of all actions throughout the fiscal year and would improve the audit trail of the specified purposes and amounts.
- If the unassigned fund balance carries a deficit balance, should the Commission be proactive in eliminating the deficit position. If a deficit fund balance in unassigned remains on-going, the question of the agency's fiscal responsibility may come into question during the annual independent audit process.

Commissioner Stockwell commented that classification of funding should be as simple as possible.

CONSENSUS: The Ad Hoc Executive Committee directed staff to provide an update on the proposed GASB 54 Policy modifications to the Board at its November 10, 2011 meeting; further discussion would take place with follow-up action by staff, as appropriate.

5. La Petite Academy

CAO Bosch reported that La Petite Academy opened its doors May 9, 2005. On May 4, 2009, the Operations Committee approved staff's recommendation that La Petite Academy no longer serve as a contractor but instead become a tenant of First 5 LA. On October 1, 2009, First 5 LA and La Petite Academy entered into a Facility Use Agreement whereby LA Petite paid $1 annually in addition to paying for janitorial and maintenance costs and for any damages caused by them.

La Petite Academy has served as either a contractor or tenant of First 5 LA for over six years. Throughout that time, they have not paid any rent for the use of the 10,986.7 square feet they occupy. Until October 2009, First 5 LA was paying a management fee to La Petite Academy in the amount of $50,000 in addition to paying for all maintenance, repairs and utilities for the space they occupied.

The licensed capacity of the center is 40 preschool children ages 2 to 5 years and 27 infant/toddler children ages six weeks to two years for a total of 67. Currently, the weekly rate for infants and toddlers is $259 ($1,036 monthly) and $211 weekly ($844 monthly) for preschoolers. The center averages monthly revenue of approximately $55,500, factoring in a 10% vacancy rate and not including expenses. Historically, La Petite has maintained a 98% enrollment rate.

CAO Bosch also reported that at the September 29, 2011 Ad Hoc Executive Committee, the committee requested that staff return with answers to the following two questions:

1. Is 25 percent of total revenue a reasonable amount to charge the center?
2. If the center chooses to leave or we choose to ask them to leave, is there an entity that would be interested in using the space to create a model facility that would be operated consistent with First 5 LA's mission?

To determine whether 25 percent of the total revenue was a reasonable amount to charge the center for rent, staff identified all the child development centers within a two mile radius of First 5 LA who had a similar structure (a tenant in a building) and a similar license capacity. There were only two meeting this criterion: the Gateway Child Development Center at MTA and the Joy Picus Child Development Center at City Hall.

Neither of the two childcare centers pay rent. Each center does give the employees of their landlords' first priority for space and Joy Picus charges a discounted rate to City employees. La Petite Academy does not provide any priority to First 5 LA staff nor do they offer our staff a discounted rate.

In response to whether there would be interest by another entity to occupy the space, staff has had preliminary conversations with professionals in the field of early childhood education. They have expressed interest in the idea and would like to continue the conversation.

Staff is recommending that the Ad Hoc Executive Committee recommend to the full Commission the approval of an increase in the lease amount for La Petite Academy in the amount of $21,422.70 per month beginning on April 1, 2012. Further, if La Petite Academy chooses to terminate the lease, staff will provide a 90-day notice, and continue discussions that will lead to staff bringing recommendations for the use of the space back to the Ad Hoc Executive Committee.

Vice Chair Fielding commented that there were two issues that needed to be addressed before a recommendation could be made: (1) consider convening a group to develop a model program [i.e., dual language learner] for the type of childcare center that should be in the building; (2) determine the length of time of the lease extension.

Commissioner Kaufman commented that creating the model could be done in three months but implementation could take up to a year.

Vice Chair Fielding suggested that LAUP be contacted as a resource for early childhood education.

Commissioner Kaufman asked staff to find out what was a reasonable rent rate for the childcare center and then ask the center to pay rent ramping up through a sliding scale so that at the end of nine months or so, the reasonable rent rate is actually being paid.

CONSENSUS: The Ad Hoc Executive Committee directed staff to address the issues raised during discussion and to come back in January, 2012 with a recommendation to the Board which would include a proposal for the new model.

ADJOURNMENT:

The meeting was adjourned at 3:50 pm.

Minutes notes recorded by Maria Romero.