AGN. NO.

MOTION BY SUPERVISOR DON KNABE December 7, 2004

Amendment to Item 20

In October, I requested that the Auditor-Controller look into possible improprieties in the latest round of contracting for the HIV Prevention Grant in the southern portion of my District.

My concerns turned out to be valid based on the findings in the Auditor-Controller's November 29, 2004 report. The report stated that there were calculation errors. Also, some elements of the evaluation appeared subjective and were not backed by written justification. In one case, there were two conflicting evaluations for one part of the score which neither management nor the program manager responsible for rating the agency could explain. Also, the critical scoring phase was internally run by OAPP with some subjective scoring done by individual OAPP employees rather than panels with independent evaluators. To compound the problem, certain evaluation documents were destroyed which created a gap in the ability to complete an audit trail.

This lack of checks and balances inevitably leads to concern about the fairness

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and objectivity of the process.

The Auditor-Controller made five improvement recommendations. The first two call for mathematically correcting and checking the calculation of the current scores. The other three would be implemented in the next round of contracting for these services.

I, THEREFORE MOVE, that the Board of Supervisors:

1. Accept the Auditor-Controller's November 29, 2004 recommendations for the Office of AIDS Programs and Policy (as attached);
2. Extend four existing HIV prevention agreements, all for six months from January 1, 2005 through June 30, 2005, with 1) Being Alive Long Beach (#H211852) for $68,932, 2) Joint Efforts (#H211933) for $166,706, 3) South Bay Family Health Center (#H212194) for $39,567 and 4) South Bay Family Health Center (#H207525) for $58,740, for a six-month County maximum obligation of $333,945. Delegate authority to the Director of Health Services to extend the contracts on a month to month basis after June 30, 2005, pending the Department's accelerated use of an improved Request for Proposal process; and,
3. Instruct the Director of Health Services, in consultation with the Auditor-Controller, to initiate a new Request for Proposal, to replace the above mentioned expiring contracts in the Fourth Supervisorial District with a) scoring criteria that has been rewritten for greater objectivity and b) scoring done with chain of accountability documentation by a panel-based scoring process that includes independent evaluators as recommended by the Auditor-Controller.

# # #

RE:e/gr

DEPARTMENT OF AUDITOR-CONTROLLER

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J. TYLER McCAULEY
AUDITOR-CONTROLLER

November 29, 2004

TO: Supervisor Don Knabe, Chairman
Supervisor Yvonne B. Burke
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM: J. Tyler McCauley
Auditor-Controller

SUBJECT: **HIV PREVENTION SERVICES RFP #2004-04**

On October 20, 2004, the Fourth District requested the Auditor-Controller to examine the process used by the Office of AIDS Programs and Policies (OAPP) to evaluate applications submitted in response to their HIV Prevention Services Request for Proposals (RFP). Specifically, the Fourth District wanted to know if the three tier process used to evaluate proposals was permissible, and if the scores awarded proposing agencies could be justified. We did not review the process of allocating funding to contractors.

Background

On June 1, 2004, OAPP issued RFP #2004-04 to solicit proposals from qualified agencies for HIV prevention and education. Services funded under this RFP are to be apportioned throughout the County's eight Service Planning Areas (SPAs). Funding levels for each risk group and SPA are based on a Geographic Estimate of Need Model developed by OAPP and endorsed by the County HIV Prevention Planning Committee. OAPP received 139 proposals from 59 agencies in response to this RFP, covering proposed service delivery to every identified risk group and SPA. According to the RFP, HIV prevention services contracts are to be in place by January 1, 2005.

Scope

The purpose of our review was to determine if the three-tier process OAPP employed to rate service proposals was consistent with County policy, and if the performance history scores assigned each applicant by OAPP staff were justified. We examined the RFP, reviewed the evaluation instruments used, and selected a sample of seven applicant agencies that had submitted nineteen proposals. We also analyzed supporting documents for the performance history evaluation scores of five agencies which submitted proposals for services in SPA eight. We later expanded our sample to

include OAPP performance history evaluations for all agencies currently servicing four or more behavioral risk groups. We also interviewed numerous OAPP staff involved in the RFP and evaluation processes.

Conclusion

Overall, it appears that the evaluation process used in this RFP is acceptable, was appropriately disclosed to applicants as required, and was generally followed by OAPP staff in rating each agency's proposal(s) to provide services in one or more SPAs. As noted below, we did identify several calculation errors (which have been corrected), and a number of procedures that we believe should be changed in future OAPP RFPs. Nevertheless, in our opinion, these matters do not rise to a level of concern that would necessitate re-scoring (except as noted) or re-bidding this RFP. Accordingly, we recommend that the scores listed on the scoring matrix, as corrected and as re-traced to scoring instruments by OAPP management, be accepted for the purpose of awarding funding under this contract.

We relied on OAPP management to provide us with documents and spreadsheets they used to calculate and aggregate agency scores. We became concerned by the frequency with which OAPP provided what they termed "inaccurate" and "outdated" documents, particularly with respect to the final scoring matrix used to rank each agency, which is eventually used to allocate contract funds. We strongly recommended and OAPP management agreed to re-trace RFP scores from the scoring instruments to the summary scoring matrix to ensure that the appropriate score was transferred. In addition, as part of this process, we recommended that OAPP management re-verify that applicable behavioral risk groups scores were appropriately calculated for each proposing agency, and that any corrected scores also be traced to the scoring matrix. OAPP management also agreed to perform this verification.

In addition, we recommend that more than one OAPP staff participate in any phase of future RFP evaluations to ensure there is no appearance that one person could materially affect an RFP score. At least one of these additional person(s) should not be an OAPP staff person. We also recommend that OAPP examine their procedures for document handling, and ensure evaluators provide written details to justify their scores. Regarding this last recommendation, we were able to find appropriate documentation to document most scores, however, information supporting those scores was not included on the scoring instrument. These and other recommendations are included on the attachment to this report.

Additional Issues

During the course of our investigation, we received allegations that a "mandatory" bidder's conference was not attended by each proposing agency, and that a three day extension of the RFP filing deadline was not justified or adequately communicated to RFP stakeholders. Our investigation found these allegations to be without merit. They are discussed in more detail in the body of this report.

Review of Findings

We met with OAPP management and discussed our preliminary findings on November 16, 2004. OAPP management stated it has modified the phase three evaluation to provide for rater comments, and a space for the preparer and reviewer signatures and their respective dates of completion. The Director of OAPP indicated that the updated performance evaluation will be used in all current and future OAPP solicitations.

OAPP management also confirmed they are near completing re-tracing all scores from the scoring instruments to the summary scoring matrix as we recommended.

Deficiencies in OAPP's evaluation process and our recommendations for corrective actions have been referred to the Department of Health Services (DHS) management. If fully implemented, these new procedures should ensure adequate documentation to better justify scores awarded in future RFP's.

We requested that DHS management oversee OAPP's implementation of our recommendations and keep us informed of their progress. Please call me if you have any questions, or your staff may call Marion Romeis at (626) 293-1400.

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c: David E. Janssen, Chief Administrative Officer
Dr. Thomas L. Garthwaite, Director, Department of Health Services
Fred Leaf, Chief Operating Officer, Department of Health Services
Charles L. Henry, Director, Office of AIDS Programs and Policy, DHS
Violet Varona-Lukens, Executive Officer
Audit Committee Members
Public Information Office

HIV Prevention Services RFP

Background

On June 1, 2004, OAPP issued Request for Proposals (RFP) #2004-04 for HIV prevention services in Los Angeles County. The revised proposal submission deadline for the RFP was July 9, 2004. The purpose of this RFP was to solicit proposals from qualified agencies with the expertise to provide education and services to various populations at high risk for contracting and/or transmitting the HIV virus within Los Angeles County. Services funded under this RFP are to be awarded by behavior risk group and apportioned throughout the County's eight Service Planning Areas (SPAs). Funding levels for each risk group and SPA are based on a Geographic Estimate of a Need Model developed by OAPP and endorsed by the County HIV Prevention Planning Committee.

OAPP received 139 proposals from 59 agencies in response to this RFP, covering proposed service delivery to every identified risk group and SPA. Each agency was allowed to submit multiple proposals seeking to conduct business in a variety of SPAs. According to the RFP, HIV prevention services contracts are to be in place by January 1, 2005.

Scope

The purpose of our review was to determine if the three-tier process OAPP employed to rate service proposals was consistent with County policy, and if the performance history scores assigned each applicant by OAPP staff were justified. We examined the RFP, reviewed the evaluation instruments used, and selected a sample of seven applicant agencies that had submitted nineteen proposals. We also analyzed supporting documents for the performance history evaluation scores of five agencies which submitted proposals for services in SPA eight. We later expanded our sample to include OAPP performance history evaluations for all agencies currently servicing four or more behavioral risk groups. We also interviewed numerous OAPP staff involved in the RFP and evaluation processes.

Findings

Proposal Evaluations

To be fair, objective, and consistent with County contracting practices, an RFP must fully inform applicants of the services required, the evaluation process, and the rating criteria to be applied. In addition, the evaluation process and rating criteria should conform to the RFP service requirements and be designed as objectively as possible to measure proposals' compliance with the rating criteria. The adequacy of review then centers on whether those processes and criteria were in fact followed, whether the evaluation scores can be justified or objectively supported and that the RFP format and evaluation process do not favor any contractor(s).

The evaluation process for this RFP consisted of three phases:

- Phase one was an evaluation of each proposal to determine whether it included the required documents/information, and whether each proposing agency met seven pass/fail criteria in the RFP. Failure to meet phase one requirements automatically disqualified the proposing agency from further consideration.

- Phase two consisted of an evaluation, completed by a committee of three to five people, to score the contents of each proposal based on how each application addressed specific programmatic and service criteria described in the RFP.

- Phase three was an evaluation of each agency's performance history, including objective measurement criteria such as timeliness of document submission, conformance with service delivery plans and requirements, and implementation of previous recommendations for improvement. Those agencies without an OAPP performance history were rated, where possible, on similar criteria using information supplied by their respective funding sources.

An agency's final score was based on the average of their phase two and three ratings. Since questions raised by your Board focused primarily on phases two and three and how those scores affected the proposed funding to agencies in the Fourth District, we concentrated our review in these areas.

Phase One

Two OAPP staff performed this review, and no proposing agencies were excluded.

Phase Two

We compared the phase two evaluation process specified in the RFP with the process OAPP staff actually applied to rate each agency. The two processes were found to be consistent. We reviewed phase two evaluation instruments used to rate nineteen proposals for prevention services in the Fourth District. Each proposal was rated by a three person panel, selected from a larger population of sixty evaluators. Panel members individually rated each proposal, in many cases included comments supporting their ratings, and then met together in conference to discuss their respective scores and arrive at a consensus rating. This consensus rating became the phase two score. The evaluations appeared thorough and we noted no problems with the methodology used.

In addition, we reviewed the roster of sixty panel members and the agencies they worked for. Many of the panel members work with agencies affiliated with HIV programs and community based organizations and a few worked for the Department of Health Services, Public Health. Therefore, phase two is commonly referred to as the "external" evaluation. To avoid conflicts of interest, all committee members were required to sign a "No Conflict of Interest Certification" form. Committee members were also required to attest that they do not, and will not, acquire any direct or indirect financial interest with any proposer. We did not analyze the composition of the rating

panels to determine if any conflict existed between them and the agencies they evaluated.

Phase Three

As indicated in the RFP, phase three evaluations were completed by OAPP staff and were based on each agency's performance history. Therefore, phase three is commonly referred to as the "internal" evaluation. If an agency proposed to continue serving multiple behavioral risk groups, a score was given for their performance in each program, and those were averaged to arrive at a final phase three score. In the event an agency had no history with OAPP, references identified in the proposal were contacted and a score was calculated based on the information supplied. Although the RFP implies the phase three evaluation was to be completed by committee, we found this not to be the case. Instead, select personnel from OAPP's Financial Services section completed one portion of the phase three evaluation related to the timeliness and adequacy of financial documents and billings submitted by the agency. Remaining questions on service delivery history were completed by that agency's respective program manager. To ensure the accuracy and objectivity of the scores, two additional OAPP personnel reviewed the program managers' scores.

We reviewed phase three evaluation instruments for the seven agencies in our sample. None of the instruments contained any meaningful comments, and none listed the names of those responsible for completing them. We also noted that some elements of the evaluation appeared subjective and did not include any written justification that would independently support the scores awarded each proposal. Therefore, as noted below in the Additional Data Supporting Scores section, we conducted a more detailed analysis of the scoring methodology and supporting documents for five of the agencies. We strongly recommended the evaluation instrument be changed for future RFP's to avoid the appearance of subjective scoring. Our recommendations are included on the attachment to this report.

Additional Data Supporting Scores

OAPP management agreed that the phase three evaluation instrument should be modified to document the names of those involved in the evaluation and review process, and should include a section for rater comments. There was also a consensus that more information should be included to justify the numeric scores. However, OAPP management did not agree with our evaluation that the phase three instrument was subjective, and denied that the scores were unjustifiable. OAPP management told us that raters had been appropriately trained on scoring the phase three evaluation instrument. Additionally, staff told us that standardized scoring procedures were followed, and that the scores for each evaluation could be supported.

We interviewed two Program Managers responsible for rating many of the agencies in our sample, and both confirmed they received training on completing the phase three evaluation instrument, and were provided with written Internal Review Procedures. The procedures identified the specific documents that certain scores were to be based on, and aided the Program Managers in identifying the correct number of points to be

awarded for each question. Program Managers also indicated that the source documents identified in the procedures were available for review.

Program Managers also told us that both a Program Supervisor and a Division Director reviewed the completed evaluations and, if necessary, supporting documents. In several instances, we were told that evaluations were returned to the Program Managers with comments, questions, or corrections. Neither of the Program Mangers we interviewed felt pressured to unfairly rate any agency, and neither disagreed with the final score assigned any of the proposals they reviewed. Program Managers also told us that original phase three evaluations became cluttered with comments, questions and revisions during the review process. As a result, Program Managers were asked to prepare a "clean copy". The original evaluations and clean copies were then retuned to the Program Supervisors, who compared them for discrepancies. The original evaluation instruments were then destroyed. Our comments on changing this latter process are in the attached recommendations.

Evaluation of Supporting Documentation

In addition to the above interviews, we examined the Internal Review Procedures and documentation supporting phase three evaluations for five agencies which submitted service proposals for SPA eight. The Internal Review Procedures are organized on a question-by-question basis, and parallel the evaluation instrument. The scoring criteria for each question were easily identifiable, the source documents were logically listed, and point values for each criterion were clearly indicated.

We also found the documentation supporting the phase three evaluation to be extensive, taking into account numerous aspects of each agency's performance with OAPP. A variety of reports, logs, and monitoring instruments, as well as an agency performance rating on behavioral risk group levels, provided meaningful guidance in determining each agency's phase three score. Notwithstanding the subjective nature of some phase three criteria identified above, we found the supporting documentation maintained by OAPP to be well organized, useful, and exhaustive, allowing for meaningful qualitative and quantitative analysis of the technical and procedural competence of each proposing agency. Overall, the evaluations and underlying documents were found to adequately support the phase three scores.

Evaluations by Behavioral Risk Group

During our review of phase three evaluation instruments, we identified one proposing agency that was not accurately scored based on their service history with OAPP. That agency was rated in five behavior risk groups and, according to the phase three Internal Review Procedures, each of the scores should have been averaged to arrive at a final score. However, we noted that only the two highest scores were averaged. As a result, the agency received 22.5 more points than it should have for each of their eight category 1A proposals.

We reviewed supporting documentation to determine whether this was an error in the scoring process or the result of misconduct on the part of the rater. Supporting

documents confirm the agency served five behavioral risk groups, and justified the respective scores for each service. However, we were later presented with a second, duplicate phase three evaluation instrument which excluded any mention of the three lower-rated behavior risk groups. Neither OAPP management nor the program manager responsible for rating the agency could explain the existence of two conflicting phase three evaluations. OAPP management agreed the agency's phase three score should be reduced for each of the eight category 1A proposals submitted. At the time of this report, OAPP staff was re-computing the scores to determine if this change would affect the amounts awarded to each agency.

To determine whether similar discrepancies existed in other proposals, we requested to review phase three evaluations for each contractor providing services to four or more behavioral risk groups. Four such contractors were identified, and phase three evaluations were reviewed for three of them. We were told the fourth contractor failed to submit a proposal by the deadline and was disqualified. All appropriate behavior risk group scores were averaged for two of the contractors, and the third contractor submitted proposals for only two behavioral risk groups. Therefore, only ratings for those two groups were used to determine that contractor's phase three score. However, upon comparing the three agency's final phase three scores to the scoring grid provided by OAPP, one agency's score was different. OAPP was notified of the discrepancy and indicated that they erroneously provided us an outdated version of the RFP scoring matrix. OAPP staff also stated that the current scoring matrix included the correct data.

Final Scores

The final score (an average of the phase two and phase three ratings) for each agency was also recalculated and compared to a scoring matrix provided by OAPP. We found that scores for one proposing agency were averaged incorrectly, resulting in that agency being improperly penalized eight points. OAPP attributed this finding to the fact that they erroneously provided us an outdated version of the scoring matrix. They also indicated that the current version already included the appropriate score.

OAPP Response

We met with OAPP management and discussed our preliminary findings regarding the phase three evaluation instrument. Charles Henry, Director of OAPP, responded in writing to our concerns. Although the phase three evaluation instrument was developed and recommended for use by the Centers for Disease Control and Prevention, OAPP has revised the evaluation to include several areas for comments, as well as the reviewers' signatures. According to Mr. Henry, the revised instrument will be used in all current and future solicitations. In addition, OAPP management verbally agreed with all of our recommendations. Please refer to the list of recommendations attached to this report.

Additional Issues

During the course of our investigation, we received an allegation that the mandatory bidder's conference was not attended by each proposing agency. In addition, a representative from one agency expressed concern stating that the three day extension of the filing deadline was inappropriate, and that neither she nor her agency had been notified of the change.

Bidders Conference

According to the RFP, a "Proposers' Conference" was to be held on June 8, 2004, and attendance was not mandatory. Therefore, attendance had no impact on the evaluation process.

RFP Deadline

According to Mr. Henry, he made the decision to extend the July 6, 2004, RFP deadline to July 9, 2004 in consultation with County Counsel. According to Mr. Henry, the deadline was extended when it was determined that a significant number of agencies in service planning area four had not submitted their proposals, and that a re-bid would likely be necessary to recruit sufficient providers in this area. Mr. Henry blamed the low response rate on the fact that the RFP deadline fell on the first workday following the July 4th holiday.

Mr. Henry indicated that OAPP's website was updated with the new deadline, and that an email was sent to each agency which had submitted the mandatory Intent to Apply form. Since some proposals had been opened, agencies were allowed to reclaim and update their submissions.

We reviewed a July 8, 2004 email disseminated to a variety of people identified by OAPP staff as stakeholders in the RFP process. Although we did not know the names of those identified as contacts for each proposing agency, many of the email addresses bore the names of agencies on OAPP's scoring matrix. In addition, a person from the agency initiating this complaint was included on the list of email recipients. We were told an RFP addendum attached to the e-mail identified the new RFP submission deadline, and stated that proposing agencies could re-submit or update their proposals. It appears OAPP appropriately consulted with County Counsel about extending the deadline, and that adequate notification of the change was given. Accordingly, we do not believe the extension of the RFP deadline had a material impact on the RFP process.

Conclusion

Overall, it appears that the evaluation process used in this RFP is acceptable, was appropriately disclosed to applicants, and was generally followed by OAPP staff in rating each agency's proposal(s) to provide services in one or more SPAs. As noted, we did identify several calculation errors (which have been corrected), and a number of procedures that we believe should be changed in future OAPP RFPs. Nevertheless, in

our opinion, these matters do not rise to a level of concern that would necessitate re-scoring (except as noted) or re-bidding this RFP. Accordingly, we recommend that the scores listed on the scoring matrix, as corrected and as re-traced to scoring instruments by OAPP management, be accepted for the purpose of awarding funding under this contract.

We relied on OAPP management to provide us with documents and spreadsheets they used to calculate and aggregate agency scores. We became concerned by the frequency with which OAPP provided what they termed "inaccurate" and "outdated" documents, particularly with respect to the final scoring matrix used to rank each agency and which is eventually used to allocate contract funds. We strongly recommended, and OAPP management agreed, to re-trace RFP scores from the scoring instruments to the summary scoring matrix to ensure that the appropriate score was transferred. In addition, as part of this process, we recommended that OAPP management re-verify that applicable behavioral risk groups scores were appropriately calculated for each proposing agency, and that any corrected scores also be traced to the scoring matrix. OAPP management also agreed to perform this verification.

In addition, we recommend that more than one OAPP staff participate in any phase of future RFP evaluations to ensure there is no appearance that one person could materially affect an RFP score. At least one of these additional person(s) should not be an OAPP staff person. We also recommend that OAPP examine their procedures for document handling, and ensure evaluators provide written details to justify their scores. Regarding this last recommendation, we were able to find appropriate documentation to document most scores, however, information supporting those scores was not included on the scoring instrument. These and other recommendations are included on the attachment to this report.

Recommendations

1. To ensure the correct data is used in evaluating and awarding contracts, OAPP management should re-examine their procedures for document handling to ensure only one official version of such documents exists, and can be readily identified.

2. To ensure that the correct scoring information was included in the OAPP scoring matrix, OAPP management should re-trace the RFP scores from the scoring instruments to the summary scoring matrix and also re-verify the applicable behavioral risk groups scores were appropriately calculated for each proposing agency, and that any corrected scores also be traced to the scoring matrix.

3. To minimize the appearance that one person could have a material affect on a RFP score, OAPP management should ensure that more than one person be responsible for the initial scoring of the evaluation instrument in future RFPs and that at least one person(s) is not an OAPP staff person.

4. To increase the credibility of the phase three evaluation, OAPP management should require evaluators to provide written details justifying their scores on the scoring instrument.

5. To ensure a chain of accountability for scoring decisions, OAPP management should stop the practice of creating a "clean copy" of scoring instruments by discarding original working documents.