



MEMORANDUM

TO: HUMAN SERVICES COMMISSION

THROUGH: TRENT RHORER, EXECUTIVE DIRECTOR

FROM: DAN KAPLAN, DEPUTY DIRECTOR
JOHN TSUTAKAWA, DIRECTOR OF CONTRACTS *JKI*

DATE: SEPTEMBER 18, 2018

SUBJECT: REPORT ON USE OF CONTINGENCY FUNDS FOR FY 17/18

At the June 28, 2018 meeting, President Kahn requested a report on the use of contingency in HSA contracts. The HSA Office of Contract Management has reviewed the contracts and grants under the HSA Commission and prepared the following report.

Background:

During FY 17/18, the HSA Commission oversaw 153 contracts and grants totaling \$137,165,260 in value. In addition to the contracts and grants overseen by the HSA Commission, the Office of Contract Management also handles the DAAS grants and the OECE contracts for a total of 380 contracts and grants.

Adoption of contingency by HSA:

Contingency is a contracting clause used by the Department to make minor increases to a contract through a 10% optional allowance approved by the Commission.

The Human Services Agency first used contingency in 2015. The process was proposed and approved at the March 2015 HSA Commission meeting.

Contract language was developed by the City Attorney’s Office and adopted by the Department as part of the initial contract approval. The contract language specifies the original contract amount and also specifies the contingency and a total not-to-exceed amount of the contract using contingency.

When contingency is used, the contractor or grantee submits a budget to HSA. When the budget is approved, the contractor can bill within the allowable amount.

Uses of contingency:

The uses of contingency are include cost of doing business (CODB), addbacks, one-time-only modifications, and other modifications. CODB and add backs are approved through the city budgeting process. One-time-only costs are vetted through an internal review process to ensure budget availability.

Cost of doing business: These are increases provided at a citywide level for non-profit contractors and grantees. CODB addresses the rising costs of salaries, rents, and other costs in the Bay Area. Recent CODB increases for FY 16/17 and FY 18/19 have been 2.5% each year. CODB represents the most common use of contingency. Please note that sometimes CODB's are added through formal modification in conjunction with other increases that exceed the contingency, or are included in the original contract approvals.

Addbacks: As part of the annual budgeting process, funds are added at the Mayoral and Board of Supervisor levels for services in the city. Some addbacks are done as modifications of existing contracts. If the dollar increase is small enough, it is often added through the contingency process.

One-time-only modifications (OTO): These refer to an HSA contract savings re-allocation process. The Department uses a formal process later in the fiscal year to cover unanticipated one-time-only costs. These include programmatic enhancements for contracts and might cover an unanticipated expense such as equipment or staffing cost, or an increase in services provided.

Bridge extensions: These are increases used to extend a contract for an additional month or two, in order to continue services while completing a procurement or certification process.

Other modifications: There are other modifications that may include items like increased service provision and other unanticipated program costs. If the modification fits with the scope of the existing contract and within contingency, the contingency process is used to increase funds for the contract.

Benefits of Contingency as an administrative function:

The use of contingency streamlines the contracting process. It allows for more efficient and timely addition of minor funds to contracts and grants without doing a formal contract modification. Some increases like CODB are less than \$1000 in amount.

The processing of a formal modification involves negotiations, review and signatures by the contractor or grantee, HSA directors/deputy directors, City attorney's office, and the Office of Contract Administration (for contracts). The process of a formal contract modification can take several weeks or longer. After modification, the contract submits a new budget in the CARBON system that must be approved by the contract manager. In addition to the work, a formal modification in the electronic system can impact the ability to make payments in the electronic system (FSP)

In contrast, the approval of a contingency involves review and approval of program management and contracts, submission of a new budget by the grantee and approval of the budget by contracts. The process can be coordinated and completed in a few days.

Review of existing HSA contracts and grants:

At the Commission’s request, the HSA Office of Contract Management reviewed the uses of contingency for FY 17/18. The review covered 153 contracts and grants that were active during FY 17/18 and had been approved by the HSA Commission.

Categories	Contracts		Grants	
	Uses	\$ amount	Uses	\$ amount
CODB	2	\$4,542	32	\$340,847
Addbacks	0	\$0	0	\$0
OTO Mods	0	\$0	0	\$0
Bridge Extensions		\$0	5	\$56,941
Other mods	2	\$221,490	0	\$0
Total	4	\$226,032	37	\$397,788

There were 41 uses of contingency. The total value of contingency was \$623,820. This represents about 0.5% of the annual contract value.

Uses of Contingency in FY 17/18

The primary use of contingency is used for CODB’s. This was used in 34 instances. While almost all nonprofits receive CODB’s, it should be noted that CODB’s can be added through other contracting mechanisms including through new contracts, renewals of existing contracts, and as part of formal contract modifications.

Another use (5 instances) of contingency was a bridge or closeout extension. If a contract is not ready to renew due to procurement delays, a bridge extension can be used to carry the contract for an additional month before the new contract can be certified.

One large use of contingency (\$201,929) was to cover costs for the security contract until the new contract could be started on July 1, 2018.

Conclusion

Contingency continues to be a useful contracting mechanism for minor increases to contracts and grants. It decreases the time involved with contract modifications and does not create payment issues within the city fiscal system.

Surprisingly, the actual use of contingency was only 0.45% of the total contract budget. This is 1/20th of the potential 10% contingency allowance available. This reflects the limited use of contingency as a contracting process.