



Finance & Operations Committee Meeting Transcript

December 4, 2017

THE CHILDREN'S TRUST FINANCE AND OPERATIONS
COMMITTEE MEETING

The Children's Trust Finance and Operations Committee Meeting was held on Monday, December 4th, 2017, commencing at 9:34 a.m., at 3150 S.W. 3rd Avenue, 8th Floor, Conference Room A, Miami, Florida 33129. The meeting was called to order by Kenneth C. Hoffman, Chair.

Committee Members

Kenneth C. Hoffman, Miami Coalition of
Christians and Jews
Steve Hope, At-Large Board Member
Laurie W. Nuell, At-Large Member
Dr. Magaly Abrahante, Miami-Dade Public Schools
Esther Jacobo, State Attorney Representative Miami-Dade
Inson Kim, Office of the Mayor, Miami-Dade County
Representative Nicholas Duran,
Miami-Dade Legislative Delegation
Shanika Graves, Assistant County Attorney
Leigh Kobrinski, Assistant County Attorney

STAFF:

James Haj, President/Chief Executive Officer

Imran Ali

Donovan Lee-Sin

Emily Cardenas

Garnet Esters

Juliette Fabien

Lori Katherine Hanson

1 STAFF (Continued)

2 Muriel Jeanty, Clerk of the Board

3 Sabine Dulcio

4 Stephanie Sylvestre

5 Vivianna Bohorques

6 Wendy Duncombe

7 William Kirtland

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PROCEEDINGS

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(Recording of the meeting began at 9:34

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a.m.)

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MR. HOFFMAN: I'll call the meeting to order

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at 9:34. Opening remarks will be brief. I know

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everybody needs to get to other jobs as well. So we're

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here today to discuss an amendment or update of the

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procurement policy.

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This has been -- this was notified at the

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last committee meeting, was discussed briefly at the

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Board, along with the procurement presentation.

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I think, after a few provisions that are

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still in flux and discussion with the attorneys of

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what's the appropriate exceptions in certain cases and

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in one or two cases, language, I think what we'd like to

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do is go through the changes to the policy and our

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approval resulted in approval to present the policy to

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the Board subject to the final reconciliation between

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the management and attorneys.

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But I think, for the most part, any of you

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who have read it, I've never read a procurement policy

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before in my life, but it's certainly comprehensive now.

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It's cutting a lot of things.

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But again, it's an ongoing discussion on

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some of the exceptions and some of the approval

1 requirements. So I think, for the most part, we've got
2 a good working policy with a couple of things that need
3 to be worked out.

4 So with that, I'd like to have whomever in
5 management is appropriate to review with us briefly the
6 changes we're making on the policy.

7 MR. HAJ: Thank you, Mr. Chair. Let me
8 start off by thanking you and thanking all the Board
9 members. I know this was not on your calendar. We
10 tried to have it here for the last Board meeting, the
11 last Finance and the last Board so we would not go into
12 December, but we didn't have time.

13 We wanted to make sure that we had an
14 outstanding procurement policy to go before you. As Ken
15 said, we're down to just some minor tweaks. I think we
16 have a great presentation.

17 I'd like to thank our attorneys. I'd like
18 to thank our staff. It's been six months in the
19 working, as well as Eddie, the procurement attorney from
20 the County, who's given us a considerable amount of time
21 to this as well.

22 So I'm going to ask Imran to take you
23 through it. You have, on the I-Pad, the procurement
24 policy. And in front of you, you should have a one-page
25 kind of cheat sheet. Imran, would you take them through

1 it.

2 MR. ALI: So as mentioned in the last
3 Finance Committee, we looked at updating this policy for
4 a number of reasons, you know. The last version
5 reflects changes that we have made practicing, you know.

6 The example we normally use is the fact that
7 in the last solicitation, we had a requirement for an
8 audit and it wasn't in the policy. So if someone had
9 made an objection to that solicitation, we probably
10 would not have won any kind of appeal. But lucky for
11 us, no one did.

12 With our whole technology, there's a lot of
13 changes in the way that we're going to conduct business
14 in the future. So we tried to make these changes
15 reflect how we will do business in the future.

16 Shanika and Leigh and I and many of the
17 other staff worked on this diligently. I know it's not
18 to the perfection. There are some issues, things that
19 we still need to, you know, re-define and look at
20 closely.

21 When we met with Shanika and Leigh and the
22 procurement authority about a week ago, we had 23
23 exceptions, which was a concern for the procurement
24 authority.

25 After back and forth, we reduced that to 12.

1 The original procurement policy had nine, so I think
2 there's a few more -- three more -- comfortable in the
3 additional three more, we take out things that we
4 needed.

5 One of the big inserts that we did in the
6 policy was the fact that we inserted a section that
7 allows us to do the purchase of goods, and we have put a
8 ceiling for \$50,000.00.

9 So that section there will help us to not go
10 through a formal solicitation process; for instance, if
11 we wanted to buy backpacks or T-shirts, which
12 traditionally, if Emily is to buy those things, it
13 probably comes up about \$24,999.00.

14 I know that Emily met last week with the
15 executive team, you know. She wanted to get a feel for
16 the quality of the product. And if you do an RFP with
17 the cone of silence, then you can't do that.

18 So we thought of fifty thousand -- actually,
19 we had it higher, but after negotiation, we brought it
20 up to \$50,000.00. We made some raises to some of the
21 ceiling. The original policy had \$2,500.00 for
22 purchases and we raised that to \$5,000.00.

23 And in the one-pager that you have here, it
24 shows what the new sections are with the routine
25 administrative expenses, the vendor pool, the

1 unsolicited funds and the emergency fund.

2 We have a whole new application review
3 section on the small CBO audit requirement. And for the
4 exemptions, as I said, we have them (indiscernible) at
5 this point.

6 Over the weekend, we still had 15. With
7 communication with Shanika over the weekend, we took out
8 three more. Those are the red lines that you see on the
9 document, the ones that we took out.

10 We have the section -- we increased the
11 appeals process. Originally, the policy had said
12 \$5,000.00. We increased that to \$8,000.00 on the
13 recommendation of the procurement attorney.

14 On the small dollar amount, as I mentioned,
15 for the single vendor, from \$2,500.00 to \$5,000.00. We
16 have a section in the match funding. And Shanika and I
17 were talking as to the clarity because one part of the
18 policy speaks about the CEO authority and then another
19 section speaks about our match funding. So we have to
20 make some tweaks to that before we go to the full Board.
21 We will do that as appropriate.

22 We also defined the community activities in
23 a better format to give the CEO or designate the ability
24 to pay for those kinds of requests, etc.

25 So with that said, I'm hoping that all of

1 you had a chance to look at it. And if you have any
2 questions, we'll be more than happy to answer between us
3 staff and the attorneys so that we could make sure that
4 everyone is comfortable with what we've presented.

5 MR. HOFFMAN: I'd like to clarify again a
6 couple of the things that were put under discussion.
7 One area is the exemptions to the formal competitive
8 procurement process.

9 So as of -- and I'm looking at the screen as
10 well -- as of right now, the proposal is to have, that
11 would be, I guess, 120.12, and the three that are
12 redlined out was not --

13 MS. NUELL: What page are you on?

14 MR. HOFFMAN: This is page 6 on the I-Pad as
15 well. Are there any others -- and I'm asking to both
16 you and our attorneys, are there any others that are in
17 here that are still subject to discussion or question
18 whether they're appropriate or not?

19 MR. ALI: I think Shanika and Leigh still
20 have a concern about the one -- is it #12 -- the
21 consultant, professional services. That was in the
22 original policy under #7 but we added a few things
23 there, you know, IT support and a few other things.

24 But I think the attorneys feel that it's too
25 broad of a perspective. We feel we need this. We've

1 always traditionally needed this, the ability to have
2 professional services and other things as part of the
3 waiver process. But I'll turn to Shanika and Leigh to
4 express their concern about the broad perspective that
5 they see in it.

6 MR. HOFFMAN: And just to clarify, these are
7 exceptions without limitation on dollar amounts?

8 MR. ALI: That takes us to 12-4.

9 MR. HOFFMAN: Under 25?

10 MR. ALI: Anything after that, that's what
11 we always use. Anything that goes over the \$25,000.00,
12 we will bring it to the Board to approve it. The waiver
13 process is a new section also that the procurement
14 attorney recommended.

15 So we looked at the County. We looked at
16 West Palm Beach and they had a policy there but I think
17 the language was not there so we tweaked the language
18 and Eddie, the procurement attorney, tweaked the
19 language, so we made some changes to make it clearer.
20 But Shanika was saying probably we could make it more
21 clear to make sure that we understand it.

22 There is a section in there where the
23 two-thirds majority that we have to show the rationale
24 behind having the procurement, the waiver under that, so
25 Shanika.

1 MS. GRAVES: For that, you have the majority
2 of the Board will approve the policy. The enhanced, you
3 know, majority or the super-majority for the exception
4 to the policy is just to ensure that the majority of the
5 Board plus a little more authorizes this exception to
6 what you generally do.

7 MR. HOFFMAN: Well, we'll get to that in a
8 second. But just to clarify, then, so these exceptions
9 only apply to over \$25,000.00?

10 MR. ALI: Yes.

11 MR. HOFFMAN: In other words, for
12 professional services or audit or the like, if rendered
13 under \$25,000.00, they could be done without a
14 competitive -- they have to go through a competitive
15 solicitation or one of the other provisions?

16 MS. KOBRINSKI: I'm sorry. It's an
17 exception to the formal competitive process. The formal
18 competitive process applies to direct community service
19 contracts over \$25,000.00 and goods and services over
20 \$50,000.00.

21 MR. HOFFMAN: Okay. So under \$50,000.00
22 would be for service elements here, not goods.

23 MS. KOBRINSKI: Right. I don't know if this
24 is helpful. I don't know when everyone got a copy of
25 the latest procurement policy, if it's helpful to kind

1 of walk through how it's organized, you know. We tried
2 to make it or staff tried to make it organized as far as
3 purchases, you know, between zero and \$5,000.00, this is
4 what happens, versus between \$5,000.00 and \$50,000.00,
5 this is what happens.

6 And they've divided between goods and
7 services for the Children's Trust's own benefit and use
8 versus direct community services to providers in the
9 community, so they're slightly different. So I don't
10 know if someone wants to -- if that would be helpful to
11 walk through that.

12 MR. HOPE: So for the exemptions, let's
13 assume you assigned a non-competitive contract to a
14 vendor for \$25,000.00 and that the cumulative amount for
15 the fiscal year, there could be subsequent exemptions
16 for that same vendor.

17 MS. KOBRINSKI: Are you talking about
18 purchases of goods and services --

19 MR. HOPE: Correct, yes.

20 MS. KOBRINSKI: -- for \$25,000.00?

21 MR. HOPE: Right.

22 MS. KOBRINSKI: Would actually fall -- it
23 doesn't fall under the formal competitive process. That
24 falls under the --

25 MR. HOPE: But can that same vendor -- can

1 we procure services for that same vendor under the
2 exemption status two months later?

3 MR. ALI: Not for more than \$25,000.00.

4 MR. HOPE: So the max for that particular
5 vendor would be \$25,000.00?

6 MR. ALI: Yes, for goods and services but
7 not for the direct services.

8 MR. HOFFMAN: Yeah, but just to clarify
9 Steve's question, the line says, "Purchases exceeding
10 \$25,000.00 shall be brought to the Board." It doesn't
11 say -- I think what your point is, purchases from the
12 same vendor in the same fiscal year in excess of
13 \$25,000.00 shall be brought to the Board.

14 MS. GRAVES: So the policy just should be
15 made clear to say vendors cannot exceed --

16 MR. HOFFMAN: I mean, this is an exemption,
17 so you don't either go back to the same vendor or the
18 same thing again in a fiscal year or the same vendor for
19 another thing without coming back to the Board.

20 MR. ALI: Yes. We need to be very cognizant
21 that we all track the amount we spend with each vendor.
22 When it comes to that point we're going to exceed,
23 that's when we bring it. You know, like the last one,
24 we had the copier, because we knew it was going to go
25 over, instead of \$24,999.00, for the extra \$4,000.00, we

1 brought it to the Board. But we do track everything
2 that we spend.

3 MS. BOHORQUES: And where it says, if the
4 initial contract is less than \$24,999.00, once we know
5 it's over twenty five, we bring it to the Board.

6 MR. HOPE: But I guess the question is if
7 you have subsequent contracts for that same vendor, if
8 the cumulative amount exceeds \$25,000.00, then it should
9 go --

10 MR. ALI: -- to the Board.

11 MR. HOPE: If it's \$25,000.00 per year,
12 fiscal year.

13 MR. HOFFMAN: Then again, even that language
14 talks about a contract for something versus multiple
15 contracts for different things for the same vendor.

16 MR. ALI: Okay. We'll clarify it.

17 MR. HOFFMAN: Okay. So, Leigh, do you want
18 to walk us through very quickly --

19 MR. ALI: So for the goods and services,
20 like I said, we added that section in there and we
21 raised the limit to the \$50,000.00, and that's separated
22 from the policy -- in the policy for the purchasing of
23 direct services and community services.

24 Most of the policy spends much of the time
25 dedicated to the formal solicitation process, where you

1 go through the solicitation, where you go into the cone
2 of silence, where you receive the applications into the
3 new system. Everything will have to be electronic, so
4 that section takes care of that.

5 Now, once a solicitation is issued, we set
6 the maximum that the person could apply for. Now it
7 will say, the solicitation is up to \$200,000.00,
8 \$500,000.00. And then based on the amount of
9 applications we get, then we determine how many
10 organizations we're going to want to provide the
11 services. We look at where we want the services and we
12 divide the money appropriately as to how we want to do
13 that.

14 So that's the formal competitive
15 solicitation. The purchase of goods is very limited,
16 the day-to-day routine purchases, and the majority of it
17 is under, you know, like, \$2,500.00. We get pre-bids.
18 Normally, if it's above \$2,500.00, now it's going to be
19 over \$5,000.00.

20 If -- Wendy, you can chime in here. If we
21 don't get the appropriate bids, what is it that we do at
22 that point?

23 MS. DUNCOMBE: For ones that are under
24 \$5,000.00 -- I'm sorry -- over \$5,000.00?

25 MR. ALI: Yes.

1 MS. DUNCOMBE: Over \$5,000.00, it would have
2 to be, according to the -- it may fall under the
3 exemption. If we're taking out the waiver, probably
4 there is some possibility, if I'm following correctly,
5 the other one may also see if there's anything else
6 under the direct policy that would give an exemption
7 would be another thing. And checking to see if there's
8 a sole source, if that's another viable source, and the
9 last would either fall under the competitive, but if
10 it's -- depending on the threshold, as far as whether or
11 not it falls.

12 MR. ALI: Okay. The other piece of the
13 whole policy is the creation of the vendor pools. And
14 the vendor pools, at the beginning, we would issue a
15 solicitation and then we choose how many vendors, three
16 or four, to put into the vendor pool, depending on the
17 area of service.

18 And once those vendors are in that pool,
19 then at times, under communication or IT, we probably
20 would choose a vendor in need of a service. We would
21 look at the area of qualification and decide which is
22 the vendor that we would choose at that point. Is that
23 how we do it?

24 MS. NUELL: Pretty much, yes.

25 MR. ALI: There's a question that came up

1 from Shanika as to what happens after that three or
2 five-year period, so we included in the language in the
3 policy that after that period, when we re-submit for the
4 vendor pool, we do a formal competitive solicitation
5 again to create the vendor pool, so that's that aspect
6 of the policy that we included.

7 MR. HOFFMAN: Then we were talking about the
8 exceptions which are on page 6.

9 MS. KIM: Can we back up a second about the
10 vendor pool. You said you have a pool of pre-qualified
11 companies. So do you put out a scope to them and then
12 they bid on it? I just want to clarify that.

13 MR. ALI: Emily?

14 MS. CARDENAS: The pool itself is a request
15 for qualifications. So it's not a scope for specific
16 services. It's the description of the kinds of services
17 we may need over the course of several years. Once they
18 get into the pool, if we have a very specific project,
19 then we go into the pool and we present that project to
20 the vendors who are equally qualified to do that work
21 and then we ask them to get into detail about how much
22 would you charge for that, you know, and then we do sort
23 of a -- it's almost like a mini-bid, if you will, for
24 that specific project.

25 MS. KIM: Okay. As long as there's

1 competition among the pool, the companies in the pool.

2 MS. CARDENAS: I did just want to point out
3 that over the course of time, some pool members choose
4 not to, like, you know, if we have three qualified
5 vendors that enter the pool and then, you know, they
6 might not decide that they want to work on that project.

7 So just because you put it out, it doesn't
8 mean that all vendors in the pool are going to compete
9 for it. And so sometimes if we put three or four
10 qualified members to do something, put it out the first
11 year, all of them compete, the second year, maybe three
12 compete, the third, maybe two compete, you know, or
13 none, depending on their availability to do the job.

14 So you just -- you don't know where it's
15 going to go. But you do, you know, talk to them all and
16 see, you know, if they're interested and what they're
17 going to charge and what their qualifications are to do
18 that particular project.

19 MS. KIM: As long as the companies in the
20 pool have the opportunity to --

21 MR. HOPE: Just a question in regards to the
22 pool. A few months ago, there was a discussion on how
23 can you be inclusive of smaller businesses. So
24 Miami-Dade County, for example, I think, had the DB.

25 And I'm just looking at the School Board

1 procurement policy that has the micro-business
2 enterprise. And the intent behind that is that small
3 businesses will have an opportunity to compete, so their
4 policies are designed in such a way, I guess, to take
5 into consideration the size of the business.

6 All procurement policies right now do not
7 have a consideration for small businesses who it might
8 be difficult for them to compete with some of the larger
9 vendors.

10 Is your intent, at least if not now, in the
11 future, to at least make some amendment to the policy
12 that can be inclusive to accommodate small businesses?

13 MS. CARDENAS: I just want to say that small
14 businesses make up the overwhelming majority of members
15 that we work with, at least the ones that I work with.
16 Even solo practitioners, I mean, you know, there might
17 be only one that we consider a large company that I do
18 business with in communications. Pretty much everybody
19 is a small business.

20 So we've never seen that being a small
21 business has been a competitive disadvantage. In fact,
22 we get better service from small businesses or
23 individual consultants.

24 MR. HOPE: But the School Board, for
25 example, and the County see there's a need to kind of

1 formalize that in their procurement policy. So I guess
2 the question need not be now but at least something for
3 consideration in the future.

4 Do you think that there's a need to have
5 that outlined in the policy?

6 MR. HOFFMAN: Let me just say, as a
7 clarification, how many vendor pools do we have now? I
8 know we have one --

9 MR. ALI: Communication is one and IT.

10 MR. HOFFMAN: One for IT. I mean, the one
11 concern which I think has come up at this committee and
12 maybe at the Board as well is that sometimes the vendor
13 pool, by the nature of the pool, only has one or
14 sometimes two people, two vendors who are qualified or
15 at least they're willing, but I think we've come up with
16 single-source in many cases because nobody bid from the
17 vendor pool.

18 Did we just say this is refreshed every
19 three years?

20 MR. ALI: Yes.

21 MS. CARDENAS: Did we bring it down -- I
22 think we're trying to increase it up to five.

23 MR. ALI: Well, we said three or five,
24 depending on the evaluation after three years.

25 MS. CARDENAS: Correct. And just so you

1 know, because we don't have -- if we have a project and
2 there's nobody in the pool, then depending on our
3 expectations, we go out of the pool. So the pool does
4 not lock us in if we need to do something and we feel
5 that the vendors in the pool have diminished, there's
6 members in that particular pool that can't do the
7 project, we will go outside the pool and bid and seek
8 additional bids just for that one project.

9 MS. KOBRINSKI: And just to clarify, when
10 you create the pool initially, you're doing it through a
11 formal competitive process, right? I don't think that's
12 in there, that talks about what happens in year 3 or 5,
13 but to form the pool to begin with, it says there's an
14 open and fair competitive process but it doesn't say --

15 MS. CARDENAS: It says "competitive RFP" at
16 the bottom of page --

17 MS. KOBRINSKI: Yeah, after year 3 or 5, it
18 re-solicits to create a new one.

19 MR. HOFFMAN: My only comment -- and again,
20 I know the redline we're dealing with on the I-Pads is
21 the most recent and it's not really reflected on the --
22 but the five years does seem like a long time. I know
23 it's having to put the staff through a process every
24 three years, but five years --

25 MS. SYLVESTRE: So for the five years is to

1 accommodate for the IT services. So if you were to --
2 the cost of moving services from one IT vendor to
3 another IT vendor is not a low-cost endeavor when you
4 just talk about the actual money but also for the time
5 and disruption to the organization.

6 So we would prefer not to have to go
7 re-solicit and potentially change vendors every three
8 years; rather, every five years. So that's why we have
9 the process where we have a vendor at year 3, we're
10 going to do a more in-depth analysis of whether or not
11 this vendor is truly meeting our needs.

12 And then at year 5, we'll say, by year 5,
13 there's been enough progress in the IT space that it's
14 worth re-thinking and looking at another vendor, we
15 might even say that solution we have today, we don't
16 want it any more, we want a different solution.

17 So a good example is our QTF services, we've
18 procured that for five years to get a lower rate. And
19 during the course of the five years, we've determined
20 that we actually don't even need a data center, so the
21 services, the way we are using it today doesn't need to
22 do that.

23 So when we re-procured the solution, we did
24 not include a data center. And now we have another
25 vendor that's going to be providing similar services but

1 not the same.

2 REPRESENTATIVE DURAN: So is it worth
3 considering, since you said it's mainly for the IT pool,
4 to bring an exception to the IT pool as opposed to
5 constricting the others?

6 MS. SYLVESTRE: Well, I think there's also
7 the whole concept of creative -- the longer the company
8 knows you, the better they're able to provide a more
9 targeted solution.

10 MR. HOFFMAN: But whether or not -- I
11 appreciate what you said, but maybe I'm not
12 understanding why that would preclude a vendor that you
13 want to have for five years or continue to service, if
14 you decide a new pool was required because it would
15 trump, why would that preclude your existing vendors
16 from continuing to contract with the Trust, even in the
17 case of the communications?

18 MS. SYLVESTRE: The perspective was coming
19 from -- the perspective we're using was the fact that if
20 the vendor is providing the services and meeting our
21 expectations or exceeding our expectations, that going
22 through the process just to go through the process might
23 not be the most effective use of anybody's time. That
24 was where that was coming from, not that the vendor
25 would be precluded from reapplying again.

1 MR. HOPE: Have we looked at what the
2 County, what is their procurement to their pool looks
3 like? Is it similar?

4 MR. ALI: I know we have looked at it, yes.
5 But we've looked at the questions and we have looked at
6 the providers and I speak to the procurement department
7 to get some answers.

8 MR. HOFFMAN: I mean, others may have
9 thoughts on the three to five years. Among other
10 things, it says, "After year 3, we'll decide whether to
11 do it for two more years." But I think it has to be
12 before the end of year 3 because otherwise, we're
13 already into year 4 to do it.

14 MS. SYLVESTRE: During year 3, yes.

15 MR. HOFFMAN: Or before the end of year 3,
16 if that's the end of the policy. But, you know, this is
17 also, I think, connected with what Steve thought. I do
18 think this is something we need to make sure that we're
19 able to continue to get new vendors that are qualified.
20 I don't think it should preclude our existing vendors
21 from having contracts that are already approved in year
22 2 or 1 or 3 in a subsequent year to renew it versus
23 allowing other people to take advantage of their
24 opportunities.

25 Any other thoughts on the exceptions,

1 Shanika, the ones that are left in there, do we have any
2 concerns? Should we discuss this?

3 MR. ALI: The only one that you recommended
4 to remove is the insurance. And we discussed that with
5 the procurement attorney, when we had told him why we
6 needed an exception because of how we carry our
7 insurance, and we feel pretty strongly that we needed to
8 have that exception because of the insurance company,
9 that we get to look for other companies and get the
10 cheapest insurance and the best for corporate.

11 MS. GRAVES: Okay. So our position is that
12 the exceptions should be limited. We don't want
13 exceptions to the policy that really remove a lot of the
14 policy.

15 We recognize that the Trust has interest in
16 doing, you know, they have actual interest in trying to
17 say, this is what we're dealing with and this is what
18 we're asking for with this exception.

19 So we've raised, you know, some questions
20 about some of the exceptions. And once we discuss it,
21 you know, our discussions are -- our issues may still
22 remain. But at the end of the day, for staff to discuss
23 it with the Board and for the Board to determine if this
24 is acceptable.

25 So I think for us, we recognize it may be

1 more -- I think the issue with this for staff has been
2 the insurance is more cost-effective to go to one
3 broker, that that broker get quotes saying, you know, do
4 it that way, and we understand that.

5 We don't necessarily think an exception is
6 needed but we understand staff's position.

7 MS. KOBRINSKI: And I would also say, I
8 still see on G-10, I think, I just think a question is
9 what subscriptions, memberships used and materials
10 related to letter "C", what that encompasses. I'm not
11 entirely clear.

12 On G-12, we still think that's overbroad and
13 there are some new things that are in here versus the
14 old policy are the financial services. I think the
15 other one said, Administrative fiscal monitoring
16 contracts, there was an exemption in here.

17 There's an accounting and auditing services
18 exemption, a financial services exemption. Internal
19 staff professional development is new. IT support is
20 new. Capacity-building and evaluation services, those
21 are very broad categories that a lot of things can fit
22 into that you're exempting from a formal competitive
23 process. Those are our concerns.

24 MR. HOFFMAN: Well, I mean, I think, as we
25 discussed at the outset, I'd like to have that dialogue.

1 I'm happy to participate in the next couple of days
2 before the Board, and to the extent that we get
3 comfortable with the narrowing of those, then we'll
4 conclude them. If not, let's take them out. But a
5 potential future project, along with other things, we
6 might want to change.

7 But I think it might, from our prior
8 discussions, this is important for at least the formal
9 process to be approved and there's other exceptions that
10 I think we need to move forward a policy so that the
11 RFP's can be ready for the coming solicitations.

12 The other item that's red on here, which I
13 think is redlined in reverse, is a procurement waiver on
14 the bottom of 6 and the top of 7. I said "redlined in
15 reverse" because the language that's struck is out is
16 language I think I suggested might work and then -- I'm
17 sorry, the language that's there, the language I had
18 suggested, and I think the language that was struck out
19 is actually the language that the procurement attorneys
20 proposed.

21 And I think we discussed with Shanika the
22 concept of a -- implying that it goes to the Board for
23 approval. And I think we discussed a few tweaks in the
24 language with the attorneys and they're suggesting a
25 two-thirds of the Board members present, which is a

1 higher standard than a majority for the normal approval
2 but it's a lower standard than would be required to
3 adopt the policy itself.

4 But I think having that explained makes
5 sense for a particular waiver, where we have at least
6 half the Board or two-thirds of the -- half of the Board
7 standard. Unless there's any objection from management,
8 we ought to try that. If it doesn't work in the future,
9 then we can --

10 Are there any other questions about this?

11 DR. ABRAHANTE: On page 8 of 21 on the
12 policy, 1NC-1-C, other than a charter school approved by
13 any public school system, the law in Florida also
14 authorizes eight universities to approve charter schools
15 that are considered large schools, so I think that
16 should be there to be covered, so a charter school
17 approved by any public school system or a state
18 university.

19 MS. GRAVES: So the law --

20 DR. ABRAHANTE: It's Chapter 1002.32 is what
21 I wrote down.

22 MS. GRAVES: Yeah, but I think this comes
23 from the prohibition from the Trust funding public
24 schools.

25 DR. ABRAHANTE: Right. And so I want to

1 make sure that any charter school approved by a state
2 university is also precluded.

3 MS. GRAVES: No, so that will be for the
4 Board to decide if you want to treat all charter schools
5 similarly or just the prohibition on the charter schools
6 that is based on the Trust not being able to fund the
7 public school system, so those are two separate things.

8 DR. ABRAHANTE: But the charter school is to
9 be a public school, whether it's approved by the Board
10 or approved by the state university.

11 MS. GRAVES: Okay.

12 DR. ABRAHANTE: It's just that under the
13 law, there's those two options, and the universities
14 cannot approve lab schools. We can approve all other
15 schools. So there's a distinction of those charter
16 schools in that regard.

17 So actually, it's just to protect the Trust
18 from not having a lab school apply for funding that is a
19 charter school. We don't have any right now.

20 MS. KOBRINSKI: What did you say the
21 provision was, the Chapter?

22 DR. ABRAHANTE: 1002.32, State Statute
23 1002.32. That speaks about sponsoring entities. That's
24 the name of that section.

25 MS. SYLVESTRE: How does that impact our

1 ability to fund universities under regular --

2 MS. KOBRINSKI: She's just saying how they
3 become a member school.

4 MR. HAJ: How they get approved.

5 MR. ALI: We can make any adjustments or
6 edits.

7 MR. HOFFMAN: Any other questions or
8 comments?

9 MS. NUELL: I had asked Jim before, I think
10 it's pretty clear that it's also pretty technical, the
11 appeals process, so if we could just maybe go over the
12 appeals process so the Board is very clear on exactly
13 what I think the presentation will be at the Board. The
14 solicitation process was pretty clear, too, but this
15 doesn't state in that policy.

16 And I think one thing that came out of
17 the -- a really important thing that came out of the
18 presentation where we may have gotten into a little
19 trouble last year was what exactly was the communication
20 to providers about what is an appeal, you know, what
21 qualifies as an appeal.

22 If you're not happy, you can still come and
23 talk about it but it's not an appeal. It's very
24 technical, the days and that sort of thing, and I want
25 to make sure that we understand any issues with it.

1 MR. HAJ: Madam Chair, do you want to go
2 through that now, the appeal?

3 MS. NUELLE: Yes.

4 MS. BOHORQUES: So within three days of
5 notification of whether the applicant was approved or
6 denied the funds, they have three days to submit a
7 request for review or a notice of appeal.

8 The appeal is really for procedural errors.
9 A request for review is just they want to sit with us
10 and go over the application. They're not appealing but
11 it's more so getting feedback on the application.

12 Once that is received, we have -- I think
13 it's 15 days to meet with them, whether it's to listen
14 to their appeal because there was a procedural error or
15 visit with them and talk through their application.

16 And then after that meeting, we have three
17 days to respond. If it's a notice of appeal, we have
18 three days to respond to their appeal.

19 MR. HAJ: And none of that has changed.
20 This is in the old policy as well.

21 MS. NUELLE: Right, yeah.

22 MS. KOBRINSKI: So you might want to define
23 what a "request for review" is, because I wasn't clear
24 that those were two separate procedures.

25 MS. GRAVES: And right now, the way it's

1 written, it seems like it could be called either one.

2 MS. NUELLE: I don't think we've ever had to
3 deal with this. So as I was reading, you know, as I was
4 reading this, it's so technical about, you know, the
5 examiner concurs with what condition and, you know,
6 designee, a two-thirds vote shall be required to take
7 action or an agreed recommended action, you know, blah,
8 blah, blah.

9 So I don't think we've ever been in that
10 situation that I can recall.

11 MR. ALI: In the last solicitation, we had
12 two appeals whereby they were not happy with the
13 appeals. So they didn't press a formal appeal, so we
14 had hired two retired judges. And going into the final
15 stages, they decided to withdraw.

16 MS. NUELLE: Right. So that's what I mean,
17 the Board, you know, I think from that aspect, I don't
18 think we as the Board have had to deal with that before.

19 MR. HOPE: Question. We've got in the
20 appeal, it says that the applicant would have to provide
21 one percent or an amount of \$8,000.00. So it could be a
22 small not-for-profit organization. Doesn't that create
23 some problems for them, and is this non-refundable?

24 MR. ALI: No. The last two that made a
25 deposit of \$5,000.00, one gave \$5,000.00. But it's to

1 cover the cost that we have to go to pay for a judge, an
2 officer. I mean, one judge could cost \$5,000.00. And
3 we know it might be hard for a small organization, but
4 if it's one percent, Bill, would that be much less?

5 MR. KIRTLAND: Well, it's the lesser of the
6 two, so at a minimum, it's \$8,000.00.

7 MR. HOPE: Right. So minimum is \$8,000.00.
8 So you have a small organization that applied for
9 \$150,000.00 which is primarily designed to go towards
10 programmatic expense. They're not happy with the
11 outcome so they appeal. So they're basically losing
12 \$8,000.00 of that programmatic expense because it's
13 non-refundable if they go through the full process.

14 MR. HOFFMAN: Well, I understood, first of
15 all, this is not -- this is not the appeal that they
16 weren't happy with the decision. This is a procedural
17 error where there's been an appeal and a decision that
18 is wrong and then the applicant is, in essence, taking
19 us to court to have that -- I do think -- and I did ask
20 the same question about the \$8,000.00.

21 I do think it's appropriate that we're not
22 necessarily -- we're not trying to disincentivise
23 because of exercising their rights but protecting the
24 Trust in the event that it's determined that they're not
25 entitled to the appeal.

1 Whether it should be \$8,000.00 -- I think it
2 was \$5,000.00 previously -- whether it's \$8,000.00 at a
3 minimum or --

4 MR. KIRTLAND: Right. And Wendy just
5 informed me that if the actual expense doesn't reach
6 that threshold of \$8,000.00, we give them back the
7 difference.

8 MR. HOPE: But I would say it discourages
9 small not-for-profit organizations who may believe that
10 they have a valid concern because this amount is
11 significant for a small organization. It may discourage
12 them from going ahead with the process.

13 MS. SYLVESTRE: I think that in practice, it
14 wouldn't discourage them because the point at which
15 we're talking about engaging a judge to do mediation,
16 there's been so many conversations and negotiations back
17 and forth.

18 So there is a -- there's a long runway up on
19 the front end for the smallest of persons who contest
20 and object without having to incur any expenses.

21 MR. HOPE: Okay.

22 MS. NUELLE: So they have a pretty good shot
23 if they get to that point.

24 MS. SYLVESTRE: Yeah, I mean, if there is --
25 if we determine that there is a procedural error, we're

1 going to make the appropriate corrections. We're not
2 going to still say, you have to go to mediation to get
3 the appropriate -- it's more from the absolute --
4 they're saying that, no, no, no, you're wrong and the
5 series of conversations that we had wasn't sufficient to
6 dissuade them.

7 MS. CARDENAS: I just want to point out
8 here, this is an extreme outlying situation. In the 15
9 years that I've been here, I can't even count on one
10 hand the times that this has happened.

11 MR. HOFFMAN: Okay. But your point is that
12 you're basically treating somebody bidding for an
13 \$800,000.00 contract the same way as a \$50,000.00 or
14 \$100,000.00.

15 MR. HAJ: The cost is still going to be the
16 same.

17 MS. SYLVESTRE: But technically, we have to
18 treat them the same way because our expectations of them
19 are the same regardless of the monetary value of the
20 contract that we're awarding.

21 MS. NUELLE: And I think it's good for Board
22 members to know that that's an area that some providers
23 might, you know, talk to Board members about, especially
24 since it does not happen very often.

25 MS. SYLVESTRE: I think -- and to Vivianne's

1 point, in the past, people didn't understand that
2 there's a difference between an appeal and a
3 consultation meeting or --

4 MS. BOHORQUES: Request for review.

5 MS. SYLVESTRE: -- a review meeting. So
6 people will say, I want to appeal the amount of money I
7 got or the award. But then you would sit down with them
8 and at the end of the meeting, they would agree that
9 there's no procedural thing amiss.

10 And so now we would set up a subsequent
11 meeting to walk them through why we scored their
12 application the way it was scored and give them pointers
13 on how to do a better job.

14 And it's not only for us to apply for our
15 funding, for any funding that's available. So this
16 time, we're wanting to make it very clear so that you
17 don't have to go through two meetings because --

18 MS. NUELLE: To find out you're in the wrong
19 line.

20 MS. SYLVESTRE: -- there's different people
21 in the appeals meeting than in the review meeting.

22 MS. NUELLE: No, I think that in the
23 presentation, that was one of the things that, you know,
24 needed to be communicated more clearly and where we
25 maybe had problems before. Thank you.

1 MR. HOFFMAN: Just one other clarification.
2 At the bottom of page 12, the last two paragraphs, I
3 think there are about three sentences that deal with
4 cost of the appeal and neither one of those three
5 sentences says that if the applicant is successful, that
6 they get all their funds back.

7 And I think that again, I do not want to
8 spend the Trust's money, but if an applicant is
9 successful, I don't think they should have to pay for
10 the appeal, so we need to clarify that.

11 And the only other question here, if we're
12 looking at it closely, is what fees will we be charging
13 for the time spent. Do we have a rate card to determine
14 how we would assess those fees?

15 If not, I would just add to recover
16 out-of-pocket costs of the appeal as part of doing
17 business.

18 Any other questions?

19 (NO VERBAL RESPONSE.)

20 MR. HOFFMAN: So again, I think that what we
21 will do at this point is take a vote to recommend that
22 subject to -- per the discussions with counsel in the
23 areas that we went over at this meeting and any other
24 concerns, that this be brought before the Board meeting
25 to be held Thursday.

1 MS. NUELLE: How is that working so far?

2 MR. HAJ: We have about 13.

3 MS. GRAVES: The exceptions, that's up to
4 the committee and the Board. We've already discussed
5 it. We're not in agreement on those. And so staff can
6 present it to the Board and if there are any questions
7 from you all or any questions from the full Board, we'll
8 be happy to answer it. But our position on those is not
9 going to change.

10 MR. HOFFMAN: I'd like to, again, in terms
11 of being able to have the Board approve what's required
12 for the solicitation, I would request that management
13 not bring before the Board any provisions, particularly
14 as exceptions to which our own attorneys have not agreed
15 at this point, and we can revisit that with any other
16 clean-up at a future date.

17 I don't want to -- I don't think we need to
18 have a discussion on the Board, for example, about
19 whether insurance should be accepted or not. And we're
20 calling a special meeting so we can get the solicitation
21 process going.

22 So if we do have -- if we don't have
23 agreement on that, then I'd rather not bring that from
24 the Finance Committee to the Board.

25 MR. ALI: So could I ask a question?

1 MR. HOFFMAN: Sure.

2 MR. ALI: So is this meant for the original
3 policy also, if we go back to that language with the
4 professional services?

5 MR. HOFFMAN: Well, let's let them reflect
6 that again between now and the meeting. I'm happy to
7 discuss that with the attorneys but I think the original
8 policy is still valid and acceptable as part of the
9 procurement policy. I would certainly be supportive of
10 not making a change to the original policy. Esther?

11 MS. JACOBO: So let me just ask, though.
12 When we get to the -- so at the Board, we're going to
13 get a revised policy and there will be discussions
14 outside between the attorneys and the staff and we're
15 going to -- there will be some change we will have seen
16 at the Board because we'll be talking about what they
17 agree or don't agree on?

18 MR. HOFFMAN: Right. So we're not going
19 to -- I think they're centered in the --

20 MS. JACOBO: On the exceptions --

21 MR. HOFFMAN: -- on the sections we
22 discussed.

23 MS. JACOBO: Okay.

24 MR. HOFFMAN: Okay. So I guess I'll
25 entertain a motion to do what I just said.

1 MS. JACOBO: I move to do what you just
2 said.

3 MS. NUELLE: I was just thinking, I can't
4 wait to hear how you put that.

5 MR. HOFFMAN: I'm sure the court reporter
6 will notate that accurately. All those in favor?

7 (WHEREUPON, the Board members all responded
8 with "aye".)

9 MR. HOFFMAN: Opposed?

10 (NO VERBAL RESPONSE.)

11 MR. HOFFMAN: Okay. Thank you for taking
12 the time out this morning so we could move this forward.

13 (Whereupon, at 10:28 a.m., the meeting was
14 adjourned.)

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REPORTER'S CERTIFICATE

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STATE OF FLORIDA:

COUNTY OF MIAMI-DADE:

I, Fernando Subirats, Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did report the proceedings in the above-styled cause; that the foregoing pages, numbered from 1 to 40, inclusive, constitute a true and complete record of my notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor financially interested in the action.

Dated this 15th day of January, 2018.

Fernando Subirats
Court Reporter