

King County Interlocal Agreements and Public Agency Contracts

Management Study

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INTRODUCTION

The management study of King County's Interlocal Agreements and Public Agency Contracts was initiated at the request of the Metropolitan King County Council, and included in the Council-adopted 1997 Auditor's Office work program. The study was prompted by Council's interest in determining whether the scope and terms of executed interlocal agreements and other public agency contracts were consistent with the Council's intent.

Interlocal agreements and public agency contracts provide public jurisdictions with a mechanism to make the most efficient use of their powers by jointly cooperating to provide services and facilities. RCW 39.34.030 and .080 clearly define two types of interlocal agreements which *must be authorized by legislative bodies*: 1) joint cooperative agreements in which two or more public agencies share responsibilities for coordinated action; and 2) agreements covering services that only public agencies

are authorized to provide, such as law enforcement services.

STUDY OBJECTIVE

The primary study objective was to determine whether the scope and terms of the County's executed interlocal agreements and other public agency contracts were consistent with the intent of the Metropolitan King County Council. In addition, County practices established for interlocal agreements and public agency contracts were reviewed to determine whether the processes were consistent with State and County legal requirements.

GENERAL CONCLUSIONS

The general study conclusion was that the County's decentralized contracting process was reasonable; however, some interlocal agreements and amendments to interlocal agreements were not directly approved by the Council in accordance with Washington State law. In addition, numerous County agencies were confused about what constitutes an interlocal agreement, and the appropriateness of various contracting formats for interlocal agreements, other public agency contracts, and for amendments to interlocal agreements and contracts. A County policy that defined interlocal agreements, identified services covered by such agreements, and provided consistent and efficient contracting formats was considered desirable by County agencies.

MAJOR FINDINGS AND RECOMMENDATIONS

FINDING 2-1 *King County's decentralized contracting practices have resulted in confusion, and some interlocal agreements and public agency contracts were not consistent with State law.*

Although Washington State laws are specific in regard to the content and authorization requirements for interlocal agreements, the County has not adopted an official policy that clearly defines an interlocal agreement and authorization requirements. In addition, the County's contracting processes, including processes for agreements with other public agencies, are largely decentralized with the exception of the interlocal agreement process for newly incorporated cities. The result was that numerous County agencies were confused about what constitutes an interlocal agreement, and the appropriateness of various contracting formats for interlocal agreements, other public agency contracts, and for amendments to interlocal agreements and contracts. More importantly, however, some County interlocal agreement and public agency contracts for joint cooperative and restricted public services (e.g., law enforcement, detention, etc.) were not consistent with State law.

It was also noted that the County largely deals and is treated in good faith in contractual arrangements with other public agencies. Given the fact that the County's contracting processes were

generally working well without serious legal complications (e.g., breached contracts), it was important to balance "technical neatness" with the delivery of essential public services. Public perception was also an important consideration because the County is often criticized if projects cannot be completed in a timely manner due to contractual issues.

The study recommended that the Metropolitan King County Council consider developing a committee comprised of officials and staff from the Council, Executive and Prosecuting Attorney's Offices, to develop a policy on interlocal agreements that can be adopted as official County policy. The policy would also consider the criteria for decision-making or signature authority for the various types of interlocal agreements that are consistent with the State law. In addition, the Council should consider formally delegating signature authority to the County Executive for those agreements and contracts that do not require direct legislative review and approval.

The study also recommended that, based upon the formal Council policy, the Office of Budget and Strategic Planning Intergovernmental Relations Section, in cooperation with the Prosecuting Attorney's Office, develop guidelines that provide clear formatting and content references for all interlocal agreements and other public agency contracts.

Finding 3-1. *Based upon the agency responses, the significant performance objectives specified in the interlocal agreements and contracts were generally achieved and consistent with the Council's intent.*

A sample of 135 (approximately 10%) interlocal agreements and public agency contracts was drawn for analysis from 1,351 agreements and contracts identified by the Office of Budget and Strategic Planning. Approximately 284 questionnaires were then distributed to County agencies and contractors to determine whether the contractual objectives were achieved and documented in accordance with the Council's intent. Based upon 188 completed questionnaires covering 125 (92.6%) of the 135 agreements, and audit staff review of the original agreements and authorizing legislation, the significant performance objectives were achieved and consistent with the Council's intent. In fact, performance objectives were achieved for 115 (85%) of the sample agreements and contracts, and 133 (99%) of the sample agreements and contracts were consistent with the Council's intent.

Finding 3-2 *Based upon the survey responses, amendments to interlocal agreements and public agency contracts were generally consistent with the Council's intent.*

Based upon the survey responses, 36 (26.7%) of the 135 interlocal agreements and public agency contracts selected in the sample were modified. One-half of the contractual amendments were attributed to financial adjustments (40%) and billing issues (10%). Term extensions accounted for approximately one-quarter or 24% of the amendments, and scope of service changes accounted for 20% of the amendments. Based upon the survey responses, the majority of the amendments were routine in nature.

However, few of the contractual amendments were directly authorized by the Council. In fact, only 8

(22%) of the 36 contractual amendments were directly approved by the Council even though 33 (92%) of the 36 amendments were consistent with the Council's intent specified in the original contracts. It should be noted that the low percentage of Council-authorized contractual amendments identified in the survey responses was consistent with the County's general contracting practices. That is, formal Council approval of contract amendments was not generally obtained except through the annual budget process.

The study recommended that if the Metropolitan King County Council determines that a policy on interlocal agreements is desirable, the policy should also consider the criteria for decision-making or signature authority for amendments to interlocal agreements.

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