

STRENGTHENING PROGRAM DELIVERY
BY
IMPROVING THE CONTRACTING SYSTEM FOR
NON-PROFITS AND PROVIDER AGENCIES

Statement and Recommendations to the
Red Tape Review Commission

The Honorable Kim Guadagno, Chairperson

The Honorable Brian P. Stack
The Honorable Steven V. Oroho
The Honorable John J. Burzichelli
The Honorable Scott T. Rumana

The Honorable Brian D. Levine
Edward B. Deutsch
John Galandak
Tony Monteiro

Presented July 17, 2012

Endorsed by:

Center for Non-Profits
Hispanic Family Center of Southern New Jersey, Inc.
New Jersey After 3
New Jersey Alliance for Children, Youth and Families
New Jersey Association of Community Providers, Inc.
New Jersey Association of Mental Health and Addiction Agencies, Inc.
New Jersey State Association of Jewish Federations
Pro Bono Partnership

Respectfully submitted by:

Linda M. Czipo
Executive Director
Center for Non-Profits
1501 Livingston Avenue
North Brunswick, NJ 08902
732-227-0800
www.njnonprofits.org
lczipo@njnonprofits.org

EXECUTIVE SUMMARY

The recommendations in this paper are the result of extensive discussions among the working group of New Jersey non-profit organizations whose names appear on the cover, as well as outreach and feedback from the broader community of non-profits and service providers. We thank the Governor, the Lieutenant Governor, and the members and staff of the Red Tape Review Commission for the opportunity to present our comments and recommendations, and for focusing on non-profit and social concerns as part of the Commission's work.

Non-profit organizations and service providers are a vital part of New Jersey's economic and social fabric.

- New Jersey is home to **over 30,000 charitable organizations**, which collectively **employ over 304,000 workers** – nearly 10% of the state's private work force – and hold combined assets of over \$67 billion.
- New Jersey public charities **spend more than \$33 billion each year** combined, making them a powerful contributor to our state's economy.
- Non-profits also leverage the time and talents of **more than 1.5 million volunteers** who contribute **services worth an estimated \$3.4 billion annually**.
- New Jersey non-profits **employ more people than the construction, transportation or public utilities industries, and more than finance and insurance combined** – providing jobs to individual taxpayers and pumping payroll taxes into government coffers.
- Non-profits **save taxpayers untold dollars** by providing vital programs and services that make our communities better places to live, work and visit. Government relies heavily on non-profits and other service providers to do things that it can't or won't do on its own.

However, the economic downturn, rising demand and reduced or flat funding have taken a severe toll on the ability of these organizations to provide the vital services that people need. The current contracting system, which has been developed piecemeal over many years and is plagued by fragmentation, needless duplication and complexities, has only exacerbated the situation for many organizations.

Despite significant progress under the leadership of the Red Tape Review Commission and under other auspices to streamline the way business is conducted and services are provided, there is clearly more that could be done. There remain numerous ways in which regulations, policies, and, in some cases, statutes could be changed in order to reduce needless duplication and improve efficiency and effectiveness, toward the ultimate goal of ensuring that services are available and provided in the best manner possible.

Summary of Major Recommendations

CREATE A CLIMATE FOR IMPROVED COMMUNICATION AND POLICYMAKING

- Create an **advisory panel**, comprised of non-profit leaders and other experts to regularly review and make recommendations regarding the development, revision, streamlining and coordination of policies for non-profits and providers.
- Establish a mandatory system of **information-sharing and coordination** within government **across departments and divisions**, in partnership with and reflecting strong input from regulated and contract entities, grantees and other outside experts, in order to reduce conflict and duplication in the development and implementation of policies and procedures. Consolidate contract reform task forces across divisions/departments in order to better utilize the recommendations and reports of these work groups, foster consistency and leverage expertise and creativity.

BOOST EFFICIENCIES AND QUALITY THROUGH IMPROVED CONTRACTING

- **Create a centralized contracting unit to cut down on redundancies and duplicative monitoring and reporting.** Within this unit, also create a centralized vendor database

(“document vault”) for non-profit and provider contracting purposes that would allow one-time filing – or reductions in duplicative filing – of basic information.

- **Establish a contracting boilerplate** for certain components, applicable across departments and divisions, to save time and duplication in submitting repetitive organizational information.
- **Conduct an outside efficiency review of the purchasing process**, including review and establishment or revision of timelines for contract execution, modifications, documentation review and approval.
- **Establish a mandatory prompt contracting process** to cut down on delays in executing paperwork needed to process payment.
- **Review and revise the current prompt payment requirements** to prevent cash flow problems and ensure continuity of service.
- **Review county and local purchasing processes and procedures** in order to reduce duplication and needless bureaucracy in funding, contracting and purchasing practices, and ensure prompt processing of grant and contract paperwork and payments.
- **Apply the “common sense” provisions of Governor Christie’s Executive Order # 2 (2010) to state department contracting policies/manuals and similar non-regulatory procedures** to provide for opportunities for regulated entities and other experts to provide advanced input on regulatory proposals during the development stage. Require state agencies to demonstrate compliance with Executive Order # 2 with respect to contract RFPs, policies and amendments.
- **Establish an inter-departmental task force, comprised in equal proportions of government and non-profit/provider representatives**, to develop *comprehensive* contract reforms across departments and divisions to foster consistency and efficiency.
- **Consolidate licensing, inspections, monitoring and auditing requirements** to minimize duplication and provide for more reciprocity.
- **Implement “deemed status”** to recognize the national or international accreditations of non-profits and providers in order to streamline repetitious state monitoring, licensing and auditing practices. Provide greater options for multi-year contracting to accredited organizations.
- **Reform the registry and background checking/fingerprinting systems**, to remove needlessly duplicative checks and fees while ensuring ready access to a single, consolidated up-to-date database so that potential problems can be uncovered quickly. Provide a complete listing, in layperson’s terms, of the organizations/circumstances in which background checks are required or available.
- **Reward efficiencies** by allowing organizations to reinvest in contracted programs or to retain modest reserves for unanticipated program-related needs.

ENCOURAGE INNOVATION AND INVESTMENT IN TECHNOLOGY AND BEST PRACTICES

- Actively embrace and pursue the utilization of **up-to-date technologies** to facilitate coordination, compliance, filing of reports, contract processes and boost overall efficiency and effectiveness.
- **Abandon requirement of faxed or handwritten reporting** in favor of secure electronic versions.
- **Invest in the capacity and health of New Jersey’s non-profit and provider community by establishing a “Management Assistance Fund”** to enable New Jersey organizations to access funds to secure technical assistance and other infrastructure support.

The full report, including detailed recommendations with rationales, begins on the next page. We thank the Commission and look forward to continuing to work together to foster strong delivery of vital programs and services to the people of our state.

Recommendations to the Red Tape Review Commission

The recommendations in this paper are the result of extensive discussions among a working group of New Jersey non-profit organizations, as well as outreach and feedback from the broader community of non-profits and service providers.

We thank the Governor, the Lieutenant Governor, and the members and staff of the Red Tape Review Commission for the opportunity to present our comments and recommendations, and for focusing on non-profit and social concerns as part of the Commission's work.

Background

Non-profit organizations and service providers are a vital part of New Jersey's economic and social fabric.

- New Jersey is home to **over 30,000 charitable organizations**, which collectively **employ over 304,000 workers** – nearly 10% of the state's private work force – and hold combined assets of over \$67 billion.
- New Jersey public charities **spend more than \$33 billion each year** combined, making them a powerful contributor to our state's economy.
- Non-profits also leverage the time and talents of **more than 1.5 million volunteers** who contribute **services worth an estimated \$3.4 billion annually**.
- New Jersey non-profits **employ more people than the construction, transportation or public utilities industries, and more than finance and insurance combined** – providing jobs to individual taxpayers and pumping payroll taxes into government coffers.
- Non-profits **save taxpayers untold dollars** by preventing and curing disease, educating and nurturing children, providing affordable housing, feeding the hungry, providing employment and skills training, and protecting the environment. They purchase goods and services from businesses, and they attract residential and tourism dollars through artistic, cultural, historic preservation, economic development and other activities that make our communities better places to live, work and visit. Government relies heavily on non-profits and other service providers to do things that it can't or won't do on its own.

In short, **non-profits and service providers are an integral part of what makes New Jersey more affordable, more vibrant, and more livable.**

Unfortunately, non-profits and service providers are struggling under the weight of the economy, rising demand for services and shrinking funding. According to a March 2012 survey conducted by the Center for Non-Profits:

- Nearly three-quarters (73%) of responding organizations reported that demand for services had increased during the past year, and even more (78%) expected demand to continue rising in 2012.
- Thirty-seven percent reported that total funding had declined in 2011, and 40% said that expenses exceeded support and revenue during the most recently completed fiscal year.
- Thirty-five percent of respondents reported that they had frozen or cut salaries by the time the survey was taken, 26% had cut staff, 18% had implemented some reduction of staff hours, and 17% had reduced employee benefits.
- Despite these cost-cutting measures, 61% expected their total expenses to increase in 2012, but only 39% expected total 2012 funding to increase. By contrast, 39% expected total funding to remain the same as 2011, and 18% anticipated a decrease.

The Red Tape Climate

Non-profits, service providers and government share the common goal of improving the quality of life in our communities, state and nation. The non-profit and provider community has a long tradition of working in partnership with government to identify and address public needs, and government is relying increasingly on non-profits to deliver vital programs and services. This relationship depends upon the ability of both partners to exchange information, ideas and recommendations freely.

When policies are enacted on a piecemeal basis or without sufficient input, or when government grants or service contracts cross inappropriately into micromanagement, the result is inefficiency, ineffective or counterproductive policies, and wasted resources for non-profits, providers, the state and broader communities alike. The situation has consequences that extend far beyond contracting entities to organizations, funders and communities statewide.

Non-profit and provider organizations continue to work to advocate for a restructuring and reforming of the state regulatory system to avoid overlapping and duplicative requirements; to achieve regulatory relief from unfunded mandates; to reduce regulatory barriers; to decrease excessive and unnecessary administration and oversight; to minimize and end unwarranted penalization; to increase coordination among the various divisions and departments of government; to encourage outcomes based on achievable goals; and to generate greater awareness and responsiveness to organizational operations and fiscal realities so that they can best meet the needs of those they serve.

We believe that both short- and long-term changes could be made that would improve our partnership with government, help to ensure the efficient provision of high quality programs and foster a climate of creativity and innovation for the public good.

Progress has already been made in several important legislative and regulatory areas, including:

- The raising of the mandatory audit threshold for charities under the Charitable Registration and Investigation Act.
- The enactment of legislation (P.L. 2011, c. 73) to create a web portal through the Department of State to allow non-profits to more easily access funding, compliance, volunteer and other information and to help the public find nonprofit resources, and the web portal's launch in November 2011.
- Pending legislation (A-2167/S-1751) that would establish a task force on Coordination Among Social Service organizations, will allow further exploration of ways to improve collaboration among social service organizations and with government.
- Enactment of legislation (P.L. 2011, c. 136) directing the Departments of Human Services and Children and Families, to the extent practicable, to standardize contracting and licensing requirements, reporting procedures and auditing schedules for provider agencies, is nearing final passage in the Legislature.
- The Department of Children and Families recently announced that it had modified its contracts to a two-year cycle and that all of its requests for proposals (RFPs) had been converted to electronic format.
- Better alignment of functions between the Department of Human Services and the Department of Children and Families will help to reduce fragmentation provide a more seamless system of service delivery for departments, providers and service recipients.
- Productive discussions in the Department of Children and Families and the Department of Human Services and progress in the Department of Human Services, Division of Mental Health and Addiction Services, regarding allowing "deemed status" for provider organizations that are certified by certain national or international accrediting bodies.
- Increased ability to accept electronic contract applications and supporting documents.

- Helping to stop red tape before it starts, such as the withdrawal of the Division of Consumer Affairs' donor designation fundraising pre-proposal 2011-001 last summer.
- Introduction and advancement of legislation (S-911/A-1546), sponsored by Commission members Senators Oroho and Stack, and Assemblymen Burzichelli and Rumana, to relax some of the rules related to door prize raffles conducted by non-profits.
- Introduction and advancement of A-1524, sponsored by Assemblyman and Red Tape Commission member John Burzichelli, to prevent conflict in administrative rulemaking between different regulatory agencies.

Additionally, we would like to thank the members of the Red Tape Review Commission and its staff, led by Elizabeth MacKay, for their vigorous follow-up on the issues we raised in our formal statement to the Commission last July. Not only did the Commission staff explore each specific incident that we brought to their attention last summer, but under her leadership a small working group comprised of Red Tape Commission staff and non-profit and provider representatives has been meeting regularly to continue exploring solutions to the broader issues we have raised.

Clearly, many vital steps have been made in the right direction, but there is also much more that can be done, particularly in the contracting arena. There remain numerous ways in which regulations, policies, and, in some cases, statutes could be changed in order to reduce needless duplication and improve efficiency and effectiveness, toward the ultimate goal of ensuring that services are available and provided in the best manner possible.

The information that follows reiterates and updates our submission to the Commission provided last July, with a special focus on contracting issues from non-profit/provider perspective. We again thank you for focusing your attention to this very important problem.

Guiding Principles

We respectfully offer the following guiding principles as a basis for our recommendations:

- Government, non-profits and service providers are partners in providing essential programs and services that strengthen New Jersey's economy and quality of life. Our recommendations recognize that all are staffed by dedicated people working hard in furtherance of the public good. Our recommendations are in no way intended to diminish the value of the work of any these talented individuals.
- We recognize that the state is facing protracted and unprecedented economic challenges. In this environment, ensuring that New Jerseyans are served in the most efficient and effective manner will require all parties to work collaboratively and explore creative solutions in an open-minded, mutually respectful manner.
- Recognizing that there are many necessary differences among the various programs that departments oversee and non-profits and service providers implement, there are nonetheless many instance in which standardization of formats and submission mechanisms of basic information would help organizations to leverage scarce resources to maximum effect.
- Laws, regulations and policies should strike an appropriate balance to ensure accountability, transparency and protection without needlessly overburdening organizations.
- We believe that streamlining a variety of regulations and government procedures would promote innovation and flexibility, further improving efficiency and effectiveness for organizations and the

State alike. We believe that organizations should be encouraged to remain creative and innovative in their approaches to service delivery and administration.

- Regular communication and joint problem-solving among public/private partners are key to fostering quality, accountability, transparency, innovation and creativity in the effective provision of programs and services.
- We believe that there are many short-term solutions that would bring immediate relief to our organizations and increased efficiencies to the state. However, we also believe it is important to invest in the exploration and development of long-term solutions and new ways of providing effective programming.
- Although government and non-profits may enter into contractual relationships for the provision of a wide array of services, those contracts do not – and should not – alter the independence of non-profit organizations as autonomous entities. Once contract terms are accepted, it is important that an organization be given the flexibility to execute that contract in the best manner it sees fit.
- Although non-profit organizations have social missions in furtherance of the public good, we are just like any other business in that we have expenses to meet, staff to hire and retain, laws and regulations to comply with, and many more issues that are specific to non-profit organizations as well as our particular fields of service. It takes expertise, dedication and financial resources to run a successful, effective organization, including making strategic investments in administration, planning and infrastructure – just as in any successful business.
- Improving the public/private partnership and reducing needless red tape for non-profits and service providers will enhance the quality, effectiveness, efficiency and accountability of our programs and services for the people in our communities.

CREATE A CLIMATE FOR IMPROVED COMMUNICATION AND POLICYMAKING

Rules and regulations that affect non-profits and service providers are scattered across numerous departments, divisions and agencies, and are often enacted piecemeal or in isolation. We believe that policymaking and program delivery would be significantly enhanced with better coordination and more opportunities for communication and the exchange of ideas across all interested parties.

Recommendations

- Create an **advisory panel**, comprised of non-profit leaders and other experts, to regularly review and make recommendations regarding the development, revision, streamlining and coordination of policies for non-profits and providers, in order to reduce duplication and inconsistency, foster comprehensive cooperative solutions across departments and disciplines, and achieve better outcomes in addressing community challenges.
- Establish a mandatory system of **information-sharing and coordination** within government, **across departments and divisions**, in partnership with and reflecting strong input from regulated and contract entities, grantees and other outside experts, in order to reduce conflict and duplication in the development and implementation of policies and procedures. Benefits of such a system could include identification of emerging trends; greater reciprocity between departments and agencies; and development of new, creative solutions to community needs.

BOOST EFFICIENCIES AND QUALITY THROUGH IMPROVED CONTRACTING

The State of New Jersey relies on non-profit organizations and community service providers to fulfill a broad array of essential health, social service, educational, artistic, cultural, vocational and other needs for our state's residents. Generally speaking, we believe that the relationship works best on both sides when the focus is on the big picture:

- *What are the outcomes that we seek to achieve?*
- *What service or program is being paid for?*
- *Are the agreed-upon services being provided safely and in a high-quality fashion, and are they having an impact?*

But in New Jersey and throughout the country, the contracting system is fraught with problems that have widespread significant social and economic implications across sectors. In October 2010, the Urban Institute released a national study of human service organizations, in which New Jersey organizations participated, highlighting a series of pervasive problems with the contracting system:

- **Contracts that don't cover the full costs of providing services** –The problem can take the form of match requirements – some as high as 50%; limits on reimbursable overhead or indirect costs under the contract; or limits on allowable overhead costs for the organization overall.
- **Complex or time consuming reporting requirements** that drive up costs and divert scarce resources.
- **Complex or time consuming application requirements/procedures** that increase costs and discourage some worthy organizations from applying altogether.
- **Late payments to providers**, and delays in processing contract paperwork, wreaking havoc on non-profit cash flows and credit ratings.
- **Governments that change the terms of the contract in mid-stream**, such as imposing additional program requirements or expectations without providing additional resources.

In addition, organizations are struggling under the burdens of **duplicative or contradictory** government **monitoring and auditing** procedures and compliance requirements, as well as **outdated, incompatible or nonexistent technologies** that encourage inefficiency and siphon scarce resources away from mission and program.

Our group conducted a short follow-up survey in early July 2012 to see the extent to which these problems had improved or worsened for organizations in New Jersey since 2010. The chart on the next page lists some of the most common contracting problems and the degree to which the experiences of surveyed organizations have changed over the past two years.

Common Contracting Problems and Changes in New Jersey Non-Profits' Experiences since 1/1/10 compared with 2009				
	Better	About the same	Worse	N/A
Late payments	14%	51%	24%	10%
State dollars not covering full cost to provide services under contract	4%	33%	48%	14%
Timely contract processing or renewal	11%	43%	39%	7%
Changes made by state contract terms after execution	2%	43%	28%	27%
Complexity and time required for preparing contract applications	9%	44%	40%	7%
Complexity and time required for contract reporting	9%	46%	39%	7%
Duplication/overlap of monitoring or reporting requirements (for organizations with multiple state contracts)	6%	37%	27%	30%
<i>N = 90</i>				
Source: Rapid Response Survey conducted July 2012 (currently unpublished)				

To get an idea of how these problems play out in real life, consider the following examples:

- It has become increasingly common for organizations to provide services in good faith for months while awaiting the processing of contract paperwork or receipt of funds. Some organizations have reported that the contract period has come close to completion before the paperwork is actually executed. One organization reported that it had to borrow \$100,000 to provide needed services under a state contract because the funds were six to nine months late in coming. Exacerbating the problem was that this particular contract allowed no deviation from budget line items – compared with the 5-10% that many funders allow – forcing burdensome budget modifications in addition to the hardships created by the late payments.
- Another organization has run the same program each spring for 15 years with funding via the same state agency. Its 2011 approval took only two months. By contrast, it applied a month earlier for its 2012 grant, only to be told two months later to resubmit its application using another form. Although it reapplied promptly and provided the services this spring in good faith and is now preparing its final report paperwork, it has yet to receive the funds, nine months after its initial application submission.
- Organizations have reported increasingly that the terms of their contracts are changed unilaterally by government agencies, sometimes months after the program start date. These changes vary widely, from changes in unit costs to revisions in reporting structures/requirements or changes to how service delivery is tracked. This wreaks havoc on planning and budgets, and results in wasted time, staff and financial resources for governments and non-profits alike.
- It is not unusual for organizations to have gone 5 or even 10 years or more without a cost of living adjustment in their contract ceilings or grant amounts. Along with increases in the regular

costs of doing business (health insurance, facility costs, etc.) that are common to government, for-profits and non-profits alike, reporting requirements under state contracts have also increased dramatically, often without any meaningful connection to program delivery or impact of service.

- The increased administrative requirements, coupled with chronically flat or reduced funding, have taken their toll on personnel, with burnout and turnover are becoming increasingly common. Some organizations have reported that because they are required to both maintain the same staffing level and provide at least the same levels of service, they have had to resort to hiring more entry level personnel to replace their more experienced departing counterparts, which has significant potential implications for service delivery.
- Under the current system, providers are punished for exercising efficiencies, since unspent year-end funds have to be returned to the State rather than re-invested in the contracted program or held in reserve for unanticipated program-related expenses.
- Many organizations, especially those that serve children, people with disabilities, the elderly or other vulnerable populations, conduct some form of background checking or screening of potential employees or volunteers. Some of these checks are required by law, while others are conducted voluntarily. Criminal history and other background checks can cost the State or the service organization from \$70.25 to several hundred dollars. While providing adequate screening is clearly essential, the current system generally does not permit one background and/or fingerprint check to satisfy the requirements of multiple government agencies. Instead, employees or volunteers frequently have to conduct duplicate checks and fingerprinting to satisfy the requirements of each separate government agency with which the organization does business, needlessly driving up costs. Additionally, each organization must perform employee checks against each of the multiple registries, and is subject to penalties if it fails to check any one.
- Despite some progress made in certain departments, many reports are still required to be submitted on paper and either mailed or faxed to the government agency that provides the contracts. Some members report that available technologies that they might use to track levels of service, finances or other matters more efficiently are not deemed to be acceptable by the State.
- Several state departments use the SAGE (System for Administering Grants Electronically) for at least some grant/contract monitoring and reporting functions. The appeal of a common program for such administration is readily apparent; unfortunately, there is no connection or continuity between the programs, meaning that if the provider organization contracts with two separate departments that both use SAGE, it must re-enter the same information into two “separate” systems, drastically reducing any efficiencies that could be gained through the use of this technology.
- One human service organization noted that it spent more than 200 hours of staff time on a detailed contract monitoring visit for one of its state grants. Six months later, the organization had to endure a second visit, covering most of the same items, from another division within the same department, requiring the diversion of an additional 200 hours of staff time to the second visit.
- Some departments have recently begun requiring certificates of good standing and tax certificates as part of contract submissions. Because there is no centralized repository for such materials, organizations must purchase the same documents repeatedly to satisfy the submissions. At fees of \$25 for a standing certificate and \$75 for tax clearance certificates, for an organization with multiple contracts these costs can mount quickly.
- One small social service agency reported that it employs one licensed social worker, but is subject to certain requirements – without adjustment – that were clearly written for agencies with more staff. For example, requirements surrounding evaluation of program staff, quality assurance meetings and the like, do not take into account that the staffer would, in effect, be required to certify the minutes of meetings with herself. Although the contract monitors

recognize the problem, the contract manual itself does not take the size of the organization into account.

- Many contracts include requirements that organizations provide continuing education and training to all levels of professional and para professional staff, including doctors, nurses, clinicians including social workers, addictions counselors, licensed professional counselors, and the like. Unfortunately, third-party contract amendments adopted in 2010 by the Department of Human Services and the Department of Children and Families have placed a \$5,000 cap on the amount that organizations can use from contracted dollars toward this purpose and overall staff development, including the pursuit of degrees and licensure. The cap is \$5,000 per organization, regardless of the number of employees. This limitation on professional education and training is not only contradictory to the contract requirement, but has tremendous implications for staff retention and long-term effectiveness. It is our understanding that similar amendments are being processed by the Department of Health and Senior Services as well.
- The same 2010 contract modifications also placed significant restrictions on the circumstances under which agencies can replace fleet vehicles or even provide basic refreshments at organization functions. These changes result in no improvement to program quality and effectiveness, and instead divert oversight attention and resources that could be better served focusing on outcomes for clients.

Recommendations

- As a matter of good practice:
 - ***Purchase of service contracts should fully cover the actual cost*** of services to be provided, including reasonable levels for indirect costs that are standardized across departments.
 - ***Contracts and grants should focus primarily on the outcomes, quality of service and community impact***, while allowing organizations to retain flexibility and autonomy regarding their internal operations.
 - ***Organizations should be allowed to invest in continuing quality improvement***, via staff development, investment in appropriate technology/infrastructure and other program-relevant means.
 - ***The grant and contracting process should avoid excessive focus on administrative details*** or information that duplicates what organizations already provide to satisfy existing legal, compliance or grant requirements and which are tangential to the performance of the contract.

Reducing inefficiency

- ***Create a centralized contracting unit to cut down on redundancies and duplicative monitoring and reporting. Within this unit, also create a centralized vendor database (“document vault”) for non-profit and provider contracting purposes*** that would allow one-time filing – or reductions in duplicative filing – of basic information, such as address, tax ID numbers, CEO and members of boards of directors, IRS determination letters, registration numbers, good standing certificates, corporate annual reports, IRS Form 990 information returns and other standardized information. The current lack of electronic filing or a centralized information system means that organizations waste time, paper and expense, often to provide the same basic information over and over.
- ***Establish a contracting boilerplate*** for certain information that would be applicable across departments and divisions to save time and duplication in submitting repetitive organizational information.

- **Conduct an outside efficiency review of the purchasing process**, including review and establishment or revision of timelines for contract execution, modifications, documentation review and approval.
- **Establish a mandatory prompt contracting process** to cut down on delays in executing paperwork needed to process payment.
- **Review and revise the current prompt payment requirements** to prevent cash flow problems and ensure continuity of service.
- **Review county and local purchasing processes and procedures** in order to reduce duplication and needless bureaucracy in funding, contracting and purchasing practices, and ensure prompt processing of grant and contract paperwork and payments.

Encouraging Communications and Transparency

- **Apply the “common sense” provisions of Governor Christie’s Executive Order # 2 (2010) to state department contracting policies/manuals and similar non-regulatory procedures.** In providing for opportunities for regulated entities and other experts to provide advanced input on regulatory proposals during the development stage, Governor Christie’s Executive Order #2 is a tremendous step forward in improving communications, transparency and sound policy development by government agencies working in partnership with private entities and the public. It is natural, then, to request that these **common-sense principles be extended to state government contracting policies**, which effectively carry the some weight of regulations but which are often enacted piecemeal and often without meaningful opportunities for input by the organizations and providers that have to abide by them in order to remain eligible for these contracts. We believe that the increased opportunities for input at the early stages will result in a more efficient, effective contracting partnership and better quality programs and services for the people of New Jersey.
- **Require state agencies to demonstrate compliance with Executive Order # 2 with respect to contract RFPs, policies and amendments.**
- **Establish an inter-departmental task force, comprised in equal proportions of government and non-profit/provider representatives**, to develop *comprehensive* contract reforms across departments and divisions to foster consistency and efficiency. A key focus of this task force could be the establishment of shared principles that restore the primary focus on program delivery, outcomes and impact.

Reducing Needless Duplication of Effort

- **Accept the report/findings of an independent, single audit rather than the current, common practice of multiple, duplicative audits being performed by separate governmental units.** Audits are a crucial accountability tool to analyze the financial health of an organization, strengthen financial systems and safeguard against fraud. For those non-profits receiving more than \$500,000 in federal funds (including those passed through the State), the federal Single Audit Act requires an annual audit conducted in conformance with especially rigorous accounting standards and compliance with various state and federal recordkeeping, reporting and legal requirements, pursuant to the requirements of OMB Circular A-133. The Single Audit Act prevents non-profits from having to contract out for multiple audits to satisfy the terms of different government contractors. However, it does NOT prevent different government agencies from conducting *their*

own separate audits with their own personnel/firms, and too often, that's exactly what happens. Audits are time-consuming and expensive, and multiple duplicative audits needlessly sap scarce resources from both non-profits and government. Requiring some form of "reciprocal audit acceptance" among government agencies would reduce costs and improve efficiency.

- **Consolidate program inspections and site visits.** Community programs are frequently stymied by the fact that they must adhere to multiple licensing authorities, program and contract compliance visits and standards, across numerous departments, divisions, and levels of government, with no coordination among them. Such visits can easily eat into days and weeks of staff time, and often occur in consecutive fashion from one department or division to the next. By synchronizing state site visits or replacing multiple visits with a single visit similar to OMB A-133 audits, lengthy and often-unnecessary site reviews that redirect staff time away from direct care services to prepare for site visits would be eliminated while the government's interests in oversight are achieved. Limited government resources would also be freed up for other uses.
- **Recognize the rigorous accreditations by national entities** of provider organizations ("deemed status") in order to streamline repetitious state monitoring practices and eliminate redundant program reviews, licensing reviews, monitoring visits and audits. Although some departments provide deemed status in certain circumstances, many do not; and the procedures in the current process need to be streamlined and standards applied more universally.
- **Provide greater options for multi-year contracting** to accredited organizations and proven high-performers.
- **Revise duplicative and conflicting statutes to eliminate the need for repeated fingerprinting** of the same staff to satisfy the contractual requirements of multiple state agencies.

Develop a consolidated system to facilitate state and national level background checking of employees/volunteers across departments/agencies that would incorporate the various separate registries that have been established pursuant to statutory requirements. Under such a system, a prospective employee/volunteer would only need to submit to the time and expense of a single check, and an organization would have "one-stop" access to the broader array of background records so that potential criminal history problems could be discovered more quickly and less expensively.

- **Direct the Attorney General to maintain a web page, accessible through the to-be-developed Department of State web portal, to provide a current and complete listing of the constantly growing number of laws that require or permit criminal background checks** and, with respect to each such law, a summary of what organizations are covered by the law, which offenses (in layperson's terminology as opposed to citations to NJSA section numbers) are automatic disqualifiers, which offenses are discretionary disqualifiers, and which organization (i.e., a governing agency or the nonprofit employer) makes the determination that a worker is disqualified.
- **Direct the Attorney General to oversee an effort to provide administrative validation to protect employers in their compliance with New Jersey laws that ban hiring of individuals convicted of certain offenses.** A number of New Jersey statutes bar employers from employing persons convicted of certain crimes or who cannot get a state-issued license because of a conviction. However, earlier this year, the U.S. Equal Employment Opportunity Commission (EEOC) issued revised *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (Guidance Memo)*, that puts New Jersey employers between a rock and a hard

place by saying, in effect, that the existence of a state law is not alone sufficient to support a refusal to hire without demonstrating that other risk factors have also been taken into account. The Pro Bono Partnership, a non-profit that provides free legal service to New Jersey charitable non-profits, has recommended, and we endorse, that the Attorney General:

....review the laws that contain employment bars and create a substantial public record that clearly and unequivocally validates that (1) New Jersey's conviction bars are clearly justifiable in accordance with the federal Uniform Guidelines on Employee Selection Procedures (see Section V.B.4-5 of the *Guidance Memo*) and (2) there are no alternative, less discriminatory employment practices that would permit the convict's employment (see Section V.C of the *Guidance Memo*). ... [T]he level of validation the EEOC requires likely will be too expensive for a small employer to achieve and the State is in a far better position to undertake the validation effort... [*Background Checks for Youth Serving Nonprofits: An Overview and Considerations*, p. 9 (May 2012), available at www.probonopartnership.org/FileLib/Documents/backgroundchecksyo.pdf]

- **Consolidate contract reform task forces across divisions/departments.**

Over the years, many departments and divisions have convened contract reform workgroups with provider organizations. The recommendations and reports of these workgroups could be utilized in a more meaningful way and not used as a means of justifying predetermined contracting changes. Many aspects of contract reform/streamlining are broadly applicable across types of organizations, services and departments/divisions. Elevating and consolidating the various task forces and efforts to improve the contracting process would reduce fragmentation, minimize duplication and increase the effectiveness of such efforts.

Reward Operational Efficiencies

- **Allow organizations to channel savings or efficiencies into the establishment of reserves or capital funds** to be carried over to the next contract year to further the purposes of the contract or to be used for unanticipated program-related expenses (higher-than anticipated snow removal at facilities, etc.).
- **Provide for more multi-year contracting** for proven high-performers.
- **Transfer certain capital assets to the provider community**
The State should enable providers to gradually take ownership of capital assets over extended periods of time, thereby reducing the cost of borrowing for capital improvements and reinforcing organizations' financial stability, without requiring further state expenditure.

ENCOURAGE INNOVATION AND INVESTMENT IN TECHNOLOGY AND BEST PRACTICES

An up-front investment in best practices, technology and innovation can yield dividends in terms of creative solutions, a more efficient partnership with government, better community outcomes and stronger organizations that are better positioned to serve the public good.

Recommendations

- As an immediate first step, **allow reasonable uses of technology** to facilitate more efficient documentation, reporting and compliance, including alternative software platforms that satisfy reporting requirements.

- **Abandon requirement of faxed or handwritten reporting** in favor of **allowing encrypted electronic reporting** (e.g., critical incident reporting).
- **Accept electronic signatures and secure electronic filing** of reports and applications.
- **Embrace the use of current and emerging secure technology**, including increased use of Web portals, cloud technology, and modern electronic devices to facilitate quality programs and services, efficiency, transparency, and constructive communication.
- Direct the Office of Technology and Information Services (OTIS) to **develop or adopt a coordinated information technology platform** to support accountability, transparency, efficiency, safety, and value-added operations, in conjunction with end users such as departmental entities, providers and other community organizations, and other experts.
- **Invest in the capacity and health of New Jersey's non-profit and provider community by establishing a "Management Assistance Fund" to enable New Jersey organizations to access funds to secure technical assistance and other infrastructure support.**

Both the State and Federal government help to provide infrastructure support to targeted segments of the for-profit sector to increase productivity, create jobs and grow business to benefit the economy. Give the social and economic contributions of New Jersey's non-profit community, which employ nearly 10% of the state's private work force, it makes good sense to make more such opportunities available to non-profits as well. While some limited federal capacity building programs, such as the Strengthening Communities Fund and the Compassion Capital Demonstration fund (in which New Jersey participated), have previously been available, many have been discontinued, and the dollars appropriated pale in comparison to the need for such infrastructure support. The creation of State and other funds to maintain and improve managerial support and infrastructure in the non-profit sector – like those already in existence for small businesses – would be a wise investment in and for New Jersey. It would be an investment that would help non-profits to run more effectively and efficiently in service to the people of our state.

SOME AVENUES OF POTENTIAL EXPLORATION

The following resources, policies and practices (current and evolving) represent promising avenues of exploration as we work to improve the effectiveness of grant and contracting partnerships between non-profits/providers and the State:

- In March 2010, New Jersey State Comptroller Matthew Boxer issued "Best Practices for Awarding Service Contracts," outlining a series of common-sense principles to foster fair, transparent, and effective government contracting. Among its recommendations, the guide specifically advises governments to issue statements of work that "emphasizes the result to be achieved, and focuses less on detailing the process for accomplishing that goal. The focus should be more on 'what' the procuring unit wishes the vendor to perform and achieve, and less on 'how' it requires those services to be performed." This philosophy could provide a sound beginning to processes to improve contracting statewide.
- The Governor of New York has created a new position of **InterAgency Coordinator for Not-for-Profit Services**, charged with helping coordinate efforts to reform New York's procurement and contracting systems and address challenges nonprofits face in their business relationships with state agencies.
- The United States Federal Acquisition Regulations (FAR) lay out a series of time-tested procedures for the procurement of goods and services across the federal government. While the complete regulations are extremely detailed and comprehensive, an initial review suggests a number of areas worthy of exploration and possible emulation, including:

- Shorter turnaround times in prompt payment requirements
- Greater use of Electronic Funds Transfer (EFT)
- The FAR *Changes Clause*, which governs which elements are contracts may be changed after execution and lays out circumstances under which the contractor is entitled to an “equitable adjustment” if the changes increase the cost or time of performance.

We thank the Lieutenant Governor and the Red Tape Commission members and staff for the chance to work with you to improve the way we deliver vital programs and services to the people of our state. We look forward to continuing our constructive partnership.