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Next Generation Contracting

A Contract Reform Agenda for Funders and Nonprofits

FPSI produces occasional papers on subjects related to accountability in general and Results-Based Accountability™ (RBA) in particular. This paper responds to requests over the years for ideas about how RBA can be applied to the methods by which government agencies and private philanthropies write agreements with those to whom they give money (referred to here as contractors or grantees).

Following are 10 provisions that I believe should be in contracts of the future.

Provision 1. Specify the 3 to 5 most important performance measures (from the *How well did we do it?* and *Is anyone better off?* categories).

Contracts of the future should specify the top measures to be used in performance reporting and continuous improvement. These should be taken from the *How well did we do it?* and *Is anyone better off?* categories. The choice of measures should be negotiated between the funder and the contractor/grantee.

Provision 2. Specify that the contractor will use a continuous improvement process (the RBA 7 Questions).

The contract should specify that the contractor will use some form of continuous improvement process. The RBA 7 Performance Accountability questions are a good choice for this purpose, but if you have something you like better that's OK. Continuous improvement should be used at (or phased in to) every level of the organization.

Provision 3. Specify how the funder and contractor will work in partnership to maximize *Is anyone better off?* customer results.

Right now the relationship between funders and grantees is often a feudal relationship: overlord and serf. Funders can sit back and watch their grantees struggle and it's not their problem. We need to create a more co-equal relationship between funders and grantees, so that they work in partnership to produce the best possible results for their customers. Contracts should specify how this partnership will work, possible through meetings two, three or four times a year using the 7 Performance Accountability questions as the agenda. At these meetings, funders must be willing to take on tasks to help the contractor/grantee improve.

Provision 4. Specify that the funder will work with the rest of the funding community to simplify and standardize contracting and performance reporting.

If you run a nonprofit anywhere in the world, you are probably receiving funding from 10 or more funders all with different grant application and performance reporting requirements. You spend all your time running around meeting all these separate requirements and don't have time left to do your real job of running the agency. I believe funders have an obligation to get their act together. And this means standardizing application, contracting and reporting requirements. Funders should commit in writing, in the contract, to working with other funders toward this end.

Simplification of performance reporting should make use of one page reports. These should include the name and brief description of the program or project and its contribution to population quality of life, the presentation of the three to five most important performance measures in baseline form, the story behind those baselines (including accomplishments), partners with a role to play and the action plan to get better. Attached to each report should be a story about a customer who is better off.

Provision 5. Clear articulation of role of the contractor/grantee in population/community well-being using the language of contribution and not attribution.

Contracts of the future should explain the role that the contractor's services play in population/community quality of life. Contracts should use the language of contribution, not attribution or proof of impact.

Provision 6. 10% for quality management and administration.

Many contracts with nonprofits provide money for services only and nothing for administration. We have been steadily degrading the infrastructure of the nonprofit community for the past 30 years or more. If we are going to rebuild this essential capacity, we must begin providing set-asides for this purpose in all contracts. 10% is a placeholder. The actual amount may be more or less depending on the size and type of the contract.

Provision 7: Multi-year funding using 3 year rolling contracts

Most funders run funding and contracting processes on an annual basis. Let's say it's a January to December cycle. Somewhere around September each year, you're not sure if you're going to get a contract for the next year. Some of your staff start looking for other jobs. The uncertainty interferes with the delivery of service. Under this system, every year, we systematically destabilize the entire nonprofit sector. It needs to stop. When we know we're going to have an on-going relationship with a given organization, why not write three year rolling contracts? After the first year you write a new third year. After each year you write a new third year. You always have a three year contract. Naturally there must be safeguards that allow for termination when necessary, and

provisions that allow the funded amount in the contract to change. But the basic structure of the relationship does not have to be re-established from scratch every year.

Provision 8: Targets that are fair and useful.

There is a long history of overusing and misusing targets. We set unrealistic targets and then beat people up for not meeting them. It's a lousy way to manage. We need to step back and re-assess how we use targets. Targets should meet two criteria. They are fair and useful. Most targets are neither fair nor useful. They're not fair because they're not achievable. And they're not useful because they lead to game playing behavior. What we want from targets is aspirational striving behavior and not games. It is actually not necessary to set targets at all. The idea of turning the curve is a powerful way of gauging progress without ever setting a target. But if you do use targets, make sure they are fair and useful.

Provision 9: Fund flexibility allowing the transfer of up to 10% across line items and across program lines.

Contractors need flexibility in the administration of the contract. Contracts of the future should allow contractors to move up to 10% (or another specified amount) of the funding between line items and between services without going back to the funder for approval.

Provision 10: Request for Results: Getting past the sometimes negative effects of competitive RFP contracting or tendering.

Current RFP / tendering processes lead to nonprofits competing with each other for grants. These organizations are natural partners, and yet the RFP process sets them up as adversaries. Why not try something that [Placer County California](#) once did? They had a sizable amount of money they were going to spend to improve specific child, family and community outcomes. They knew exactly which nonprofits were most likely going to get the money. They got them all in the room together -- over three 5-hour open space sessions --and let them work to come up with joint proposals about how best to use the money. (Note: this is NOT an endorsement of payment for outcomes. Attaching financial incentives to outcomes ALWAYS produces perverse incentives.)

End Note: Some organizations (most notably the [New Zealand Ministry for Social Development](#), the [New Zealand Ministry of Business, Innovation and Employment](#), and the government of [Western Australia](#)) have adopted these ideas or are experimenting with them. Other practice examples will be posted over time to the "What's New" of [resultsaccountability.com](#). Comments on this paper are welcome at the email address below or as postings to the RBA/OBA Facebook Group.