

STATEMENT OF MILA KOFMAN, J.D.
EXECUTIVE DIRECTOR, DISTRICT OF COLUMBIA HEALTH BENEFIT
EXCHANGE AUTHORITY
BEFORE THE
COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
PHIL MENDELSON, CHAIRMAN

TUESDAY, OCTOBER 22, 2013

Good morning Chairman Mendelson and members of the Council of the District of Columbia. My name is Mila Kofman. As Executive Director of the DC Health Benefit Exchange Authority (Authority), it is an honor to be here today. I am testifying in strong support of the Health Benefit Exchange Authority Amendment Act of 2013, Bill 20-196 -- legislation that clarifies that the Authority is exempt from the Procurement Practice Reform Act of 2010 (PPRA). This bill would treat the Health Benefit Exchange Authority just like the Washington Convention and Sports Authority, the Auditor, the Retirement Board, the Housing Finance Agency, and others -- all having a clear exemption from PPRA.

First, thank you, Mr. Chairman, Councilmember Alexander, and members of the Committee of the Whole for your strong support of our efforts to create a new health insurance marketplace in the District of Columbia known as DC Health Link. DC Health Link is the new on-line health insurance marketplace implementing the Affordable Care Act. DC Health Link offers new quality, competitively priced health coverage to individuals and families and small businesses in the District.

As a result of your strong support, the Mayor's support, and the work of my staff and sister agencies, we successfully opened for business at 8 a.m. on October 1. In fact, Bloomberg news reported that we were one of four states to have a successful launch on October 1. As of October 21:

- 12,294 individual accounts have been created,
- 1,894 applications for coverage have been completed and submitted on-line,
- 321 applicants have selected the coverage they want and the insurer of their choice,
- 164 applicants requested an invoice for payment,
- 426 employer accounts have been set up to begin the process of providing coverage to employees through DC Health Link and 19 finished setting up their accounts and are ready for employee open enrollment.

Earlier this month, the U.S. Office of Personnel and Management issued final regulations and guidance designating DC Health Link – our small business marketplace -- as the place that will provide coverage for Congressional staff and Members of Congress. We anticipate thousands of Congressional staff and Members of Congress obtaining their health insurance coverage through DC Health Link.

As you know, we have all major insurance companies – Aetna, Carefirst, Kaiser, and United -- offering 267 health insurance products to employers through DC Health Link. Three of the four insurers are offering 34 products to individuals. I am proud to say that we probably have the best small business marketplace in the nation and we are among the best marketplaces for individuals and families.

Our success to-date directly relates to our temporary exemption from PPRA, which you enacted earlier this year and which expires February 22, 2014. The clear exemption from PPRA has enabled us to procure necessary services quickly and efficiently. This includes the necessary IT staff and services needed on an ongoing, expedited basis in order to build an on-line marketplace that works and meets federal and local requirements.

BACKGROUND

As a way of background, the DC Health Benefit Exchange Authority is new. The enabling legislation you passed to create the Authority was signed into law March 3, 2012. The Board -- seven voting members who are District business owners and other private District residents and four non-voting members who are government agency directors -- were sworn in on July 16, 2012. I started as the Authority's Executive Director in January 2013.

In addition to implementing a fully transparent stakeholder-based policy process to help us with many policy decisions, I have been building a team to staff the Authority -- or what I call the public-private partnership created by our enabling legislation. My biggest challenge has always been "time." All other state-based marketplaces, and the federal marketplace, began building their on-line health insurance marketplaces in prior years and had staff to do so. Our deadline was the same as others -- October 1, 2013 -- but we had much less time, especially with the IT build. The contract for the IT systems integrator and build was signed in early January 2013. That contract is through DHS.

Despite the short time frame, on October 1, we opened for businesses successfully. Our success is directly related to the temporary exemption from the PPRA.

- The PPRA exemption has allowed us to rapidly respond to known needs, unknown needs, and urgent needs when what was already in place failed. I believe that this

has been your intent in establishing us as a quasi-government entity and in further clarifying our status under the PPRA earlier this year.

I also attribute our success to Councilmember Alexander – the Chair of the Committee on Health – who helped to ensure that we stayed on track through monthly oversight hearings and by strongly supporting legislation that removed barriers to our success.

To succeed, we had to be efficient, strategic, and fully accountable to you, the federal government, and the residents of the District. As you know, the Authority’s Executive Board adopted standards for procurement in the Fall 2012 – and those are the principles that guide our actions. Although the 2012 procedures allow me as Executive Director to approve certain expenses without full action by the Executive Board, I have adopted an enhanced process that requires approval by several voting Board members. In addition, any contract approved by the full Executive Board over \$1million, or a multi-year contract, requires Council approval. Finally, certain contracts also require approval by the federal government. Our activities are scrutinized heavily by the federal government (we are funded through federal grants). The significant oversight of our spending by the Authority Board, coupled with good government practices we have adopted, results in efficient “good government” practices.

Additionally, the Authority’s contracting officer has more than 20 years of experience in District procurement. She utilizes best practices and expertise with PPRA, and its accompanying regulations, to help ensure that we incorporate “best practices” and have the most efficient procurement to enable us to build the new marketplace – an unprecedented endeavor given its complexities both in IT and in law.

Procurement Practice

To date, the DC Health Benefit Exchange Authority has executed over 50 procurements – most of which have been issued since May. Approximately 20 of these exceed \$100,000. These range from major Council-approved contracts like the Contact Center to small contracts like our initial work by Wakely Consulting Group, Inc. (\$100,000). Wakely is the firm where Jon Kingsdale, the first executive director of the Massachusetts Connector and Patrick Holland, the first COO of the Connector, are now principals. Having been able to work with the nation’s foremost experts (no one else has set up something that resembles the ACA’s marketplaces) has greatly contributed to our success. In fact, Jon Kingsdale provided expert support to many of our policy working groups early this year – helping us make decisions based on facts and experience in other states, and lessons learned in setting up and operating the Massachusetts Connector.

In addition to these procurements, we have issued 36 sub-grants since July. Three of those are our cutting edge partnerships with the business community – the DC Chamber of Commerce, the

Greater Washington Hispanic Chamber of Commerce and the Restaurant Association of Metropolitan Washington. These organizations are trusted voices in the business community. They are promoting DC Health Link and educating the business community about new coverage options. Since October 1, they are also helping to get people enrolled. The other 33 sub-grants are for DC Health Link Assisters. The funding is to community organizations, faith based organizations, community health centers and others -- providing personal help to people and enrolling them in health coverage through DC Health Link.

In addition to complying with good government principles reflected in PPRA, we comply with all other District laws including the requirement to prioritize Certified Business Enterprise (CBE). To date, we have seven direct procurements with CBE's and two of our major contractors – Maximus and Weber Shandwick -- have engaged three CBE subcontractors.

IMPORTANCE OF AN EXEMPTION

Here are several examples that help highlight just how important the clear exemption from PPRA has been to our success:

- *DC Health Link Assisters*: On April 15, our Consumer Assistance and Outreach Advisory Committee adopted recommendations for an initiative (grant based) to help us enroll “hard to reach” populations. On April 18, the Executive Board unanimously adopted these recommendations. On May 9, the Executive Board approved the Institute for Public Health Innovation to serve as our grants administrator for this program. On May 24, we issued the Request for Applications (RFA) and broadly promoted the RFA. On June 5, we held a public session to answer questions about the RFA. More than 150 people attended. We also posted more than 20 pages of questions and answers online. Applications were due June 24. We received 87 applications requesting over \$75 million in funding. Our budget for the assister program was approximately \$6.4 million. On August 13, the Executive Board reviewed the proposals and voted to conditionally approve grants to 35 organizations totaling approximately \$6.4 million. The grants were conditional because we had to check for up-to-date tax payments to the District. We also had to check for financial integrity before finalizing grant agreements and organizations had to provide work plans. We executed all grant agreements last month. As a result of this process, we now have nearly 200 trained assisters helping people in person to enroll.
- *Printing & Mailing of Notices*: On June 17, my staff informed me that the process for printing and mailing notices had failed. Notices are required by the ACA. It was urgent to address this because printing of notices impacted the IT software developers' ability to build and test the notices. The next day I asked our procurement officer to find the

quickest possible way to remedy this. On July 26, she arranged for us to piggyback onto an existing contract with another District Agency. On August 16, we began to see there was a problem – the vendor could not handle the volume and other necessary work required. By August 20 we knew that we needed another vendor quickly. On August 22, we entered into a contract with a new vendor. This demonstrates that as a result of being able to act quickly, we were able to avoid a potential delay in the software development that would have delayed the October 1 launch.

- *Translation of Required Notices:* Translated notices are required by the ACA and failure to produce them would mean that we would be out of compliance with federal law. The notices were also necessary for software development. Our procurement officer was informed of the need for a translation vendor on July 3, and the vendor was engaged on July 5. On August 6, we learned that the vendor was not producing quality Amharic translations. On August 13, we executed a separate procurement for Amharic service with a different vendor. As a result of being able to act quickly, we avoided a potential delay in software development.
- *Rate & Form Review:* We learned in early May the Department of Insurance Securities and Banking (DISB), our sister agency responsible for implementation of major areas of the ACA, needed additional experts to review rates and forms. The time period for review and approval was very short. Rates and forms must be approved by DISB before any insurer can offer those products through DC Health Link. On May 16, our contracting officer was advised of the need and by May 22, two of the three procurements were in place and the third was done on May 30. These were small purchases, each under \$100,000, but they were critically important to ensuring that DISB had the additional human resources necessary to review and approve rates and forms. As a result, approvals were done timely and there was no delay in loading approved rates and plans into the carrier web portal. Carriers were able to check their plans and rates to ensure accuracy. Consequently, when DC Health Link launched on October 1, consumers could see rates and benefits.
- *Cost Calculator:* In mid-July we learned that the planned calculator functionality would not be operational by October. A cost calculator is a vital tool for consumers to help them estimate annual out-of-pocket expenses and premium reductions. The Washington Consumers' Checkbook is a DC-based nationally known non-profit that works with the federal benefits office (OPM) and has been developing similar tools for other states. The Consumers' Checkbook was able to address our immediate problem and for the next open enrollment season to develop full plan cost comparisons so that consumers can estimate their annual expenses by plan. On August 13, our Executive Board

approved this contract. We entered into a letter contract with Consumers' Checkbook on August 15. On October 1, we had a functioning cost calculator for consumers to use.

- *Contact Center*: Staff began to work on the RFP in March 2013. Before it could be issued, the RFP had to be approved by the Centers for Medicare and Medicaid Services (CMS). We issued the RFP on April 18. Five qualifying bids were received and reviewed by a panel of reviewers from the Authority, DHCF, and DHS. The evaluation concluded on June 12. The terms were negotiated by the Authority's contracting officer. On June 17, the Executive Board approved sending the contract to the Council. The Council reviewed the contract and voted to approve it on July 10. The contract was signed on July 11, 2013. This contract also went through the CMS process and was approved by the federal government on July 31. Our Contact Center opened for business on September 3.
- *Communications and Marketing*: In May, staff began to draft the RFP for Communications and Marketing. We issued the RFP on June 3. Bidding closed on June 24. Eight bids were submitted. An evaluation panel of Authority staff and a social marketing and communications expert from DOH reviewed and made a panel recommendation on July 9. The Executive Board approved the selected vendor on July 22 and a letter contract was issued on July 24. This contract will be sent to the Council for retroactive approval.
- *IT Team*: A successful IT project requires an experienced team leading the effort. Designing, developing, and launching the on-line marketplace (that exchanges information with federal and local data hubs, insurers, and federal agencies) is the most complex IT project that has ever been done. We used the ITSA process initially until we realized that such process could not produce results in the timeframe necessary. By spring, the urgency of not having sufficient city-side experts to manage the IT built reached emergency level. We found three CBEs – Enlightened, New Light Technologies, Inc., and Networking for the Future, Inc. – to bring in the expert IT team we needed. On May 9 the Executive Board retroactively approved these contracts to April 30. Through the three CBE contracts we have been able to bring on board 25 key technology experts to lead our implementation efforts. Experts range from the lead application architect and lead development technical advisor to a performance tester and product integrator. This team, with their broad range of technology expertise, continues to be critical to the design, development, test and deployment of the web portal software system known as DC Health Link. In fact, this team has been critical to our success and without which we could not have had a successful launch. In other words, without this team, we would not have an on-line state-based marketplace.

All of these procurements have been critical to our success and I believe would not have been possible without a clear exemption from PPRA.

Time is the most significant obstacle with IT projects. Even a few days can be the difference between success and failure. Also, there is significant competition for scarce IT experts. With many states implementing their own marketplaces and the Federal Government implementing a marketplace in many states, we have to be able to move immediately to attract, lock-down, and retain the resources necessary to maintain and grow DC Health Link's system functionality. This level of flexibility, strategy and speed is something that has been vital to our development and will be vital to our continuation and growth.

FUTURE SUCCESS

Importantly, moving forward, I believe that we will not succeed without a permanent, clear exemption from PPRA. As of today, I know of several procurements we will need to conduct. However, the biggest lesson from the last nine months is that for every known need, there are multiple unknowns that are typically urgent and need to be handled very quickly. The future needs that I know about include: consumer satisfaction and quality evaluations, network adequacy and secret shopper provider directory evaluation, changes to the web portal required by federal regulations and consumer satisfaction/user feedback, evaluation of the IPA program, data analysis and federal reporting services, payment processing services, cost allocation services, and EDI (IT) services.

In making this request for exemption on a permanent basis, we are also committed to enhancing the Authority's current Contracting and Procurement Policies and Procedures. Our Procurement Officer has begun the process of revising our current policies. The revised ones will incorporate the principles of best practices of government contracting while continuing to allow us to be nimble, efficient and accountable. They will be brought to our Executive Board for adoption, as is required by our bylaws, and will then be issued as regulations. Our goal is to finalize these by spring.

It is our priority to operate in a way that is both accountable and efficient. Our work is not yet finished now that we are open for business. Much like other IT companies improving their products and services, we will do so with DC Health Link. Quick response to known and unknown needs is critical to our short term and long term success.

Mr. Chairman, I thank you for your strong support of DC Health Link. I would be happy to answer any questions you or any other Councilmembers may have.