

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

May 12, 2010

Council Chamber, 8th floor

CONVENE: 2:03 p.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember Gladys C. Baisa, Member
Councilmember Sol P. Kaho'ohalahala, Member (in 2:05 p.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Danny A. Mateo, Vice-Chair
Councilmember Jo Anne Johnson, Member

STAFF: Gayle Revels, Legislative Analyst
Yvette Bouthillier, Committee Secretary

Leinaala Kihm, Executive Assistant to Councilmember Medeiros

ADMIN.: Helene Kau, Assistant Budget Director, Budget Office, Office of the Mayor
Kathleen Aoki, Director, Department of Planning
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:

Lori Tzuhako, Director, Department of Housing and Human Concerns
Rudy Esquer, Grants Administrator, Department of Housing and Human Concerns
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: **Item 71:** Sandy Baz, Chief Executive Officer, Maui Economic Opportunity, Inc.
Tom Cannon, Chairman, Tri-Isle Main Street Resource Center
Jocelyn Perreira, Executive Director, Tri-Isle Main Street Association Center
Others (10)

PRESS: Akaku: Maui Community Television, Inc.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting for May 12, 2010 is now in session. The time is 2:03. The Chair would like to introduce the Members that are present this afternoon. We do have Member Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Baisa.

COUNCILMEMBER BAISA: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Member Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good afternoon, Chair.

CHAIR PONTANILLA: Aloha. Member Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon.

CHAIR PONTANILLA: Good afternoon. And Member Victorino.

COUNCILMEMBER VICTORINO: Aloha and good afternoon, Chair.

CHAIR PONTANILLA: Aloha. Excused at this time are Members Johnson, Kaho'ohalahala, and Member Mateo. Upfront we do have from the Administration, First Deputy Corporation Counsel, Traci Fujita Villarosa, as well as Helene Kau, the Assistant Budget Director. Again supporting the Committee is Gayle Revels, our Legislative Analyst, Yvette Bouthillier, our Committee Secretary.

Members, we do have only one item on the agenda but we do have several people signed up for public testimony.

ITEM NO. 71: COUNTY GRANT AGREEMENT PROVISIONS (C.C. No. 10-78)

CHAIR PONTANILLA: And the purpose for this meeting this afternoon is, is to discuss standard County grant agreement provisions and how they relate to fee-for-service agreements. So, there's some differences in, in both, and, and Corporation Counsel will be apprising us on the differences between fee-for-service as well as grant agreement. And the Chair's intent is not to take any grantee in regards to

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

their agreements with the County this afternoon. It's just for the Members to be aware of the differences between fee-for-service and grant agreements.

So, Members, we do have two people signed up for public testimony this afternoon. For those that are providing testimony, you have three minutes to provide your testimony, one minute to conclude, and if you can provide us with your name and the organization that you represent, the Chair and the Committee would appreciate that. Before we start public testimony if everyone in the room can turn off their cell phones or put it on the silent mode. Thank you.

The first testifier this afternoon is Sandy Baz.

...BEGIN PUBLIC TESTIMONY...

MR. BAZ: Good afternoon, Chair Pontanilla and Committee Members. My name is Sandy Baz and I represent Maui Economic Opportunity. And I first of all just wanted to thank you for taking this up so quickly. It's rare that we see politicians promise things and, and it's rare that you see people thank them for fulfilling for their promises. They usually cut them down for not fulfilling them, but I just wanted to say thank you. It's, it's important.

The subject that you guys are talking today, while it may seem not quite relevant or important, it is incredibly important. You know, a lot of the discussions that you guys have during budget cycle is related to nonprofit grants and how those are going to be apportioned. . .appropriated. First of all, you know, through the Mayor's budget, and then through your budget, and then also how they're implemented as far as the County's departments are concerned. So, this is one of the critical aspects, because it's one of those steps that it takes to be able to have nonprofits provide services for the County.

I'm very happy that you're looking at the differences between grants to nonprofits and fee-for-service contracts. And sometimes the, the two are, are muddled together. Sometimes nonprofits receive both fee-for-service contracts and grants. And so, that's something that, that you guys will like at in detail and, and how that operates and how. . .what are the different functions of that and, and all that.

You know, one of the things to consider MEO's been receiving grants from the County for probably as long as the County has been giving grants, and we've seen changes over the years. One of the things that I really have to commend the Department of Housing and Human Concerns staff, Grants Management Division staff on is they're experts in administering grants. You know, they've been doing

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

it for a very long time. They have set up, you know, procedures and templates and things like that that, I think, could assist some of the other departments in that arena or may even, you know, be something that you take and say all grants run through a Grants Management Division of the County, whether. . .no matter what department they're in, just so that there's consistency. Nonprofits. . .it's very hard for us to plan and prepare and, and know what to do if there's not consistency, so maybe something to think about.

So, thank you, Mr. Chair, and Committee Members, for your diligence this afternoon in reviewing this very, very important topic. And I hope that this isn't just the final view, but it's something that will be looked and, and come to a, a conclusion about in the near future. So, thank you very much.

CHAIR PONTANILLA: Thank you. Members, is there a need to have any part of the testifier's testimony rephrased? Member Baisa followed by Member Nishiki.

COUNCILMEMBER BAISA: Thank you very much, Chair. Thank you very much, Mr. Baz, for being here this afternoon. In your own words, as briefly as you can, what is the difference between a grant and a fee-for-service contract?

MR. BAZ: A fee-for-service contract is when the County desires to purchase a service or a equipment or some, you know, capital item or construction. And that you define what you want to do. You put out the specifications of what that looks like, then you go out to bid, and you have people bid on that to provide that service. What. . .how they provide the service has to fit in within the specifications, but as far as how much administration they're charging or whatever is not relevant, because it's based on a fee-for-service.

The nonprofit grants that, in my opinion, what, what those are, are where you or, or the Mayor, whoever is appropriating, a dollar amount to fund an operation of a, of a nonprofit, and that nonprofit then is subject to other restrictions and rules and things to implement it. Usually there are goals set up, but if you serve, if you project to serve 500 people in a program, and you serve 470 or something like that, it's, it's a grant for that program, and, and that target population is not a fee-for-service of an individual unit cost, but an actual grant for the total amount.

COUNCILMEMBER BAISA: Okay, so, under your definition in a grant situation like say...

CHAIR PONTANILLA: Member Baisa, rephrase of the testifier's testimony.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER BAISA: I'm, I'm trying to rephrase what he's explaining so that I think we all understand it, Chair. I'm sorry, I won't belabor this, but I think it's important because we heard this during, during the budget process.

CHAIR PONTANILLA: That's the reason why Corporation Counsel is here.

COUNCILMEMBER BAISA: Correct.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER BAISA: Under a grant situation where there is not a RFP but then you are given a grant to perform a program, then you would not expect then if you serve 470 people instead of 500 to have your grant reduced?

MR. BAZ: No.

COUNCILMEMBER BAISA: Okay, thank you very much. I just wanted to have that clear.

CHAIR PONTANILLA: Thank you, Member Baisa. Member Nishiki.

COUNCILMEMBER NISHIKI: Under your grant agreement have you always been paid?

MR. BAZ: I...let me try to understand the question, you're, you're saying that...

COUNCILMEMBER NISHIKI: You're given a grant.

MR. BAZ: Uh-huh.

COUNCILMEMBER NISHIKI: Okay. There's. . .when you say you are giving, given a grant, does that mean that you immediately get monies?

MR. BAZ: No.

COUNCILMEMBER NISHIKI: Okay. So, so, you perform a service through a grant, but have you had problems with receiving monies?

MR. BAZ: Yes.

COUNCILMEMBER NISHIKI: And, and what has been the history of this with this Administration?

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MR. BAZ: In various things and, and, I dealt --

COUNCILMEMBER NISHIKI: Why don't you be specific.

MR. BAZ: --with. . .okay. In. . .recently we've had some issues with an appropriation that you guys provided for planning and design for our transportation facility. You guys appropriated \$700,000 so that we could help to design our, our new transportation facility. That grant was not given to us until the last day of the fiscal year that it was appropriated in. So, we had to rush through getting that grant agreement signed and executed so that we could get. . .start to get the funding. Then the grant agreement was changed so that they required cash matching on that, which is not something that you guys appropriated. And it was a change so that it wasn't reimbursed for expenditures that we did on a timely basis but reimbursed. . .we were given quarterly allotments. So, that \$700,000 was split up into four quarters. It, it had some difficulties over the time because of that. That's one specific example if you're looking for it.

COUNCILMEMBER NISHIKI: Okay, so now you, you sign, or you are given a grant by the County, there's. . .is, is within the language of the grant, does it specify how the payments are to be made?

CHAIR PONTANILLA: Mr. Nishiki, can you limit your questioning to --

COUNCILMEMBER NISHIKI: I guess, I guess, I guess, yeah, Mr. Chairman.

CHAIR PONTANILLA: --the testifier's testimony in regards to rephrasing.

COUNCILMEMBER NISHIKI: Let me, let me, let me explain.

CHAIR PONTANILLA: No, I know where you're getting at. Okay, I know where you're getting at.

COUNCILMEMBER NISHIKI: Okay, good.

CHAIR PONTANILLA: And those type of questions --

COUNCILMEMBER NISHIKI: I hope you can read my mind.

CHAIR PONTANILLA: --I hope that you keep it for our Corporation Counsel.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER NISHIKI: But I, I would not, I would not be able to get this unless I get examples.

CHAIR PONTANILLA: Well you, you got the examples in your head.

COUNCILMEMBER NISHIKI: No, no, no, no. I want to know what was promised by the Administration in regards to how the monies are being paid, and are different grants handled differently. And...

CHAIR PONTANILLA: That's the reason why Corporation Counsel is here this afternoon.

COUNCILMEMBER NISHIKI: Right, but we would not be able to ask these questions of Corporation Counsel unless we have definite *examples* of how this Administration handles their grants and why perhaps they did not have enough money for this design that they have contracted out.

CHAIR PONTANILLA: Mr. Nishiki, I'm going to go with this agenda, okay. And, and, basically I'm here administering this meeting in regards to understanding grant agreements, fee-for-service . . .(inaudible) . . . provide to this County, and the information that we're going to receive is from Corporation Counsel. In regards to your questioning I, I would like to have you refrain from asking those questions or talk to the grantee directly in regards to the problems that they have.

COUNCILMEMBER NISHIKI: Mr. Chairman, I'll tell you something. I would not be able to say anything to this Administration unless I know if there are inconsistencies. I, I, I won't. . .or I'll, I'll use the word abuses, okay. And if there are then I think it is up to this Council Committee to find that out so that we can dictate to the Administration that perhaps they need to improve the process. And the only way we're going to find out is if we ask these people what hardships they had because of the way a grant or fee-for-service is being administered.

CHAIR PONTANILLA: I will not allow...

COUNCILMEMBER NISHIKI: If you know that. . .the answer then you need to educate us.

CHAIR PONTANILLA: I will not allow that at this meeting. Thank you.

COUNCILMEMBER NISHIKI: Well, I, I, I, then it's, it's, it's pretty well rubber stamping nothing as far as I'm concerned.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

CHAIR PONTANILLA: Thank you. Members, any more questions. . .not questions but any part of the testifier's testimony that you want rephrased? Thank you, Mr. Baz.

COUNCILMEMBER NISHIKI: I'm not happy.

CHAIR PONTANILLA: Mr. Cannon.

MR. CANNON: Good afternoon, Chair Pontanilla, and Council Members. I'm Tom Cannon, Chair of the Tri-Isle Main Street Resource Center. We appreciate the. . .an opportunity to discuss this agenda item, at is, as it is a very important part of our. . .of the budget deliberation process.

Nonprofits are at the mercy of their funding source. Most of us bend over backwards to comply with all requests from our granting agency department. We go the distance, because we believe in the mission purpose of our respective organizations, and are willing to stand up for these principals. Clearly there needs to be an avenue or recourse and there needs to be an avenue for recourse and redress prior to the budget process for dealing with any concerns regarding the administrative oversight of grants and negotiations for our new agreements.

A communication. . .communication is important and must be a two-way street, and a working relationship founded upon a clear understanding of Main Street's history, small town expertise, its ability to track professional resources from many career paths, and its direct relationship to the grant. Main Street's extensive knowledge of a diverse community enriches the County government and the role of Planning is greatly enhanced by a public/private partnership with its local Main Street program.

Our local Main Street program has always utilized a tried and true process that values community. We have a credible record of accomplishment and are good stewards of public funds. Positions on issues and projects are fact based and derived from extensive consensus building strategies that consider diverse view points and professional recommendations. Our small town program has produced significant positive results saving the County many thousands of taxpayer dollars by augmenting government services with professional resources at a fraction of the costs. Our work product has been used repeatedly in many County endeavors.

We have recently met with Planning and Corp. Counsel officials with the help from Chair Pontanilla. Their recognition of and clarification of the distinction between a grant agreement and other contracts has demonstrated a sincere effort at hooponoono. In the spirit of goodwill, we look forward to executing our grant

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

agreement and full payment for services rendered as we are still hard at work on behalf of our small towns.

We have so much work to be done on, on the Maui Island Plan and to assist in fulfilling the implementation of our respective community plans. We will continue to put the needs of our small towns, their families, and businesses first, never compromising on economic revitalization within the context of historic preservation. We endeavor to move forward as we must all work together to accomplish this. We will honor and respect the voice of our grassroots communities as we stay focused on a unified vision for our small towns, their unique --

MS. REVELS: Three minutes.

MR. CANNON: --sense of place and quality of life as we plan for our preferred future.

We thank our excellent staff and others who have had the courage to stand up with our organization, and for the tremendous out pouring of community support. We also thank our County Council whose unwavering due diligence has made the difference. We humbly ask for your continued help and extend our appreciation to those who have made it possible to come to an accessible. . .acceptable resolution. Please understand that we need our full bare bones appropriation as we first requested and this is already. . .as this was already a 10 percent reduction from previous years appropriation and our true needs. Mahalo for your understanding and support.

CHAIR PONTANILLA: Thank you. Members, is there a need to have any part of the testifier's testimony rephrased? Member Molina.

COUNCILMEMBER MOLINA: Yes, thank you, Mr. Chair, and I'll try to respect the parameters that you've set for today's meeting as it relates questionings. My question for Mr. Cannon, good afternoon, well I'm glad to hear that you've apparently. . .the organization has reached some form resolution with. . .between the Planning Department and Corporation Counsel, because it was, you know, your issue that, I guess, served as the impetus, if I'm correct, Mr. Chair, for us having this discussion here. Have you been given a timetable as to when the organization will be receiving their funds?

MR. CANNON: I believe that the. . .they, they said that it would come right after we sign the, the agreement, which we're almost at right now. We're having our attorneys look at it to give us their feedback, but it appears that we are very close, so that's a good thing.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER MOLINA: Okay, I hope we get as close as possible so we can kind of put this one aside.

MR. CANNON: So true.

COUNCILMEMBER MOLINA: But anyway, I certainly appreciate you bringing this matter up. I think it's educational for all to understand how the process works and to understand the differences between fee-for-service and any grant agreements between this County and other entities. Thank you, Mr. Cannon. Thank you, Chair.

MR. CANNON: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more rephrasing from the testifiers' testimony that you want? Member Nishiki.

COUNCILMEMBER NISHIKI: Tom, how can we guarantee someone like your organization that this process won't drag out the way it has? Is there a need perhaps for a change to be made in the process?

MR. CANNON: You know, if, if you don't mind, I'd like to ask our Executive Director for her opinion on that. She's been in the trenches more than the rest of us. Could I ask her to answer that for you?

COUNCILMEMBER NISHIKI: I don't care who answers it. Is she, is she going to speak later?

CHAIR PONTANILLA: Please come forward.

MR. CANNON: Yes. No, she's not going to speak later, I don't believe.

MS. PERREIRA: Good afternoon, Chair Pontanilla, Council Members. Councilman Nishiki, in response to your question, is there ways to improve the process? I do believe there is ways to improve the process that might be more conducive so that we don't get into a situation that we had this year.

COUNCILMEMBER NISHIKI: Yeah, but my question is how, how do you? I mean you can believe something but how do you do it? How do you improve it?

MS. PERREIRA: Well, I think, you have to start a little earlier, and, and, I think, there has to be a real clear understanding of if, if there are difficulties that's

**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

experienced that if that, that, that when you have a problem or you're hitting a road block or, or you're hitting a stalemate there, there should be opportunity to try to rectify that well before we get to the point of, of the budget, budgeting process. Because...

COUNCILMEMBER NISHIKI: So, so, are you, are you saying that in this particular instance it, it, it was not a personality problem?

MS. PERREIRA: It was a contract issue. Anybody that has made a note of that was trying to make trite of a very serious problem. It. . .that was, that's a convenient excuse to put across not to deal with an issue. It was a contract issue and there was a, I guess, a difference in philosophies, and, and, I think, there was a misunderstanding in, in a, in a terminology of the fact that we are a grant and we're not a consultant contract. And I think you're going to talk about that little bit with your Corporation Counsel.

But, you know, that. . .when you, when you have changes in, in departments and, you know, as, as things happen over time, it is really, really important, and would be helpful, I think, if the departments really had a two-way street relationship with the grantees that they're administering. That they actually get an opportunity to have like an orientation session or something so that they fully understand the programs that they're administering, because if there are questions that may arise it is helpful that they don't get off on the wrong track, that they can get a, get a clear understanding. Oh, I thought, you know, in other words, sometimes people, people will operate on an assumption, instead of coming from a point of clear fact. So, if you assume there's something that a, a manner of operations, and you're assuming that and nobody stops you and says wait a minute that's not correct, this is the manner in which we function. This is the manner in which we've always functioned, and so then if there is a confusion that happens at that point, you can try to rectify it very early on.

COUNCILMEMBER NISHIKI: I'm done.

CHAIR PONTANILLA: Thank you. Members, any more rephrasing from the testifiers' testimony? Seeing none, thank you again, Jocelyn and Tom.

MR. CANNON: Thank you, Chair.

CHAIR PONTANILLA: Okay, Members, on April 9, 2010, this Chair, had sent to our Chairman, Chairman Mateo and to all of you Members, and the subject was County grant agreements. . .agreement provisions. And my letter states that requesting that the matter related to standard County grant agreement provisions

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

be referred to the appropriate standing committee for discussion and action, and that's the reason why we're here this afternoon.

During the Budget and Finance Committee discussion of line item, line item grants, the issue of standard grant agreement provision was raised. Questions included the following: Are there any standard provisions for all County grant agreements? If so, identify those provisions. When did the County initiate standard grant agreement provisions? Does the County apply standard grant provisions consistently among all departments? And, and do the departments have the ability to modify the grant provisions? So, these are the questions that were asked in our Budget and Finance Committee meeting during the budget process.

So, this afternoon we do have Corporation Counsel with us and, and Helene Kau from the Budget Office as well as some of the department heads that do administer grant agreements as well as fee-for-service type agreements. And at this time, the Chair would like to call on our First Deputy...

COUNCILMEMBER MOLINA: Chair, Chairman? Sorry, point of order. Have we concluded public on, on the matter?

CHAIR PONTANILLA: Oh, I'm sorry.

COUNCILMEMBER MOLINA: Yeah, thank you.

CHAIR PONTANILLA: Yeah, if there's no objections, before --

COUNCILMEMBER MOLINA: Thank you, Chair.

CHAIR PONTANILLA: --recognizing First Deputy Corporation Counsel, if, if there's no objection, the Chair would like to close public testimony at this time.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you.

...END OF PUBLIC TESTIMONY...

CHAIR PONTANILLA: So, at this time, the Chair would like call on Ms. Fujita Villarosa.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: Thank you, Mr. Chair. I think one of the first and some of the testifiers already mentioned this, but one of the first things that the County has to consider. . .the departments must consider when they are considering doing a grant or a procurement contract is that they have to realize that those are two very different processes.

Procurement contracts are subject to the Hawaii Procurement Code. So, there's a, a State process that we have to go through, and we have a Purchase Division in the Department of Finance that's responsible for overseeing all of those procurement contracts. And there's not really a clear. . .well I can't really find a clear definition or distinction between the two that I found like in law. But from what I understand, basically when the County needs to hire somebody to provide services to the County, you know, to a department, you need to follow the Procurement Code for that. It needs to either. . .you need to either go out to bid or you need to do an RFP depending on what the services are or the goods that you're purchasing.

But if the County is interested in providing funds to fund a program for the public then those are usually done through a grant. There is no real...except for social service grants that go through the Department of Housing and Human Concerns Grants Review Committee, there's no universal process for grants. So, that's different from, from procurement contracts. So, each department does its own grants. They have their own process and they have their own agreements.

I'll say that with regards to procurement contracts, because those are under the jurisdiction of the Department of Finance, I'm the one that processes and drafts all of the procurement contracts for the County. I do start off with a, a standard form that I use for all procurement contracts. But once I draft the contract using our standard form it goes to the contractor. Some contractor's ask for changes to be done to the contract. So, even though I start off with a standard form the end contract may be different. So, I can't say that all of our procurement contracts are identical, because they're not. It depends on the circumstances, and even those negotiations are different, because I, I consult with the department and I ask them. I tell them, I tell them what the contractor is asking, what, what changes the contractor is asking for. I tell them what it means. I tell them if we take it out this is what could happen, but that decision of whether to revise that contract is a business decision that County, that the department needs to make, because they're the ones that are responsible for that project. So, sometimes provisions are taken out, sometimes they're left in, but I consult with the department, we negotiate with the contractor and we come up with a contract that everyone can agree to.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

Grant agreements are done pretty much the same way except that they're not funneled through just one deputy in my office. They're handled by several deputies depending on the department that the grant comes out of. Each of my deputies, as you know, are assigned to the different departments. So, for example, the deputy that advises Economic Development would handle all of the Economic Development grants, same thing for Housing, and all the other departments. So, they work with their, with those departments, and the staff in those departments to come up with the grant agreements.

So, there are two different processes, grants versus procurement contracts. And if you don't have a clear understanding of that there can be some confusion.

CHAIR PONTANILLA: Thank you. Members, questions for Corporation Counsel? Member Victorino.

COUNCILMEMBER VICTORINO: Thank you. So, Ms. Villarosa, just so that I'm clear, your procurement contract is the, the term fee-for-service, is that, that a similar term?

MS. FUJITA VILLAROSA: That's correct.

COUNCILMEMBER VICTORINO: Okay, so because we've heard that said many times. So, I just wanted to connect the two.

Secondly, you're saying that all contracts basically when we're talking grants, we go back to grants to now, start off with a standard contract? When you started out you just use a standard form?

MS. FUJITA VILLAROSA: The difference with grants is because they are handled by the different deputies they start off with a standard. . .they usually start off with the grant agreement that, that they've had, 'cause --

COUNCILMEMBER VICTORINO: Okay.

MS. FUJITA VILLAROSA: --you know, it's not usually a brand new grant. It's usually a year that a grantee, you know, that comes up each year. We have discussed, and it's not just with grant agreements, but we've discussed in our office coming up with a standard form that everybody would use to start, at least to start from. So, that is something that, that my office is going to be working on. But it doesn't mean though that all grant agreements are going to be identical. It just means that we would all start with the same form.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER VICTORINO: Same like the procurement --

MS. FUJITA VILLAROSA: Right, right.

COUNCILMEMBER VICTORINO: --you know, you start with this contract and then --

MS. FUJITA VILLAROSA: Changes can be made.

COUNCILMEMBER VICTORINO: --it goes wherever it may have to go depending on the purveyor and as well as the department, right?

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER VICTORINO: Okay. So, understanding that you just stated that most of the grants now are pretty much been in existence for a long. . .a very few new ones, right? And so, if grantee A, whoever and A might be, has been around for the last 20 years, 15 years, whatever, and they've had this standard contract, or their contract, is it unusual or is it not unusual to look at it and make changes from the department's standpoint, not so much the grant, the department itself? Does that happen often, once in a while, not often? What is it?

MS. FUJITA VILLAROSA: I'm not sure.

COUNCILMEMBER VICTORINO: Okay.

MS. FUJITA VILLAROSA: I'm not sure how often it happens. But if they. . .if, if changes are made they're usually to address some, some concern.

COUNCILMEMBER VICTORINO: Okay, and, and, and these, and again, I guess, the, the real challenge is department heads no matter...are only here for so long and then they move on for whatever reasons, new Administration, change job, whatever, whatever. So, when these department heads come in and they see a need to change they come to you to ask for the change, right?

MS. FUJITA VILLAROSA: That's right.

COUNCILMEMBER VICTORINO: And they bring the justification for that, for the rationale of that change, right?

MS. FUJITA VILLAROSA: That's right.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER VICTORINO: Okay. And vice versa, let's take the grantee, you know, the person getting the money. If they feel changes should be, do they have the right to send back to you as the Corp. Counsel and say, oh, no, we don't want this, we don't want this. It should be this way, this way. Do they have the right to do that?

MS. FUJITA VILLAROSA: Yeah, we ask that, we ask that they work through the departments, because we wouldn't make those decisions in a vacuum.

COUNCILMEMBER VICTORINO: Okay.

MS. FUJITA VILLAROSA: So, what happens is the, is our Department would draft the grant agreement. We send it back to the department, and the department transmits it to the grantee. So, if the grantee wanted to propose changes it should go through the department, and then the department would request our assistance.

COUNCILMEMBER VICTORINO: I see, okay, so, there's not a direct line to you from the grantee. It is usually through, it is usually through the department?

MS. FUJITA VILLAROSA: That's correct.

COUNCILMEMBER VICTORINO: Okay. And the last question I have and I'll let other Members ask. Going back to procurement or fee-for-services, do you find that, that is more difficult to administer than a straight grant or is it easier to administer? In a technical point what I'm trying to get to is, you know the contract itself, you know, hey, I want you to do this for me. I want you to go on Market Street and count every day from 8:00 to 4:00 how many people walk by, so you know exactly what the scope of work is, right? And so, then you go back and forth and whatever. And so the final decision comes down to okay this is what we agree upon, we'll pay you this much, boom, they agree, yes, yes, sign, done. So, that one, in, in my mind, it should be pretty easy, because you come to some kind of conclusion on what needs to be done and then you follow up afterwards. Is that correct to make sure that service was rendered?

MS. FUJITA VILLAROSA: Well...

COUNCILMEMBER VICTORINO: The department I should say.

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER VICTORINO: Follows up, right?

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: Right. With the, with the procurement contract, the department, like I said, the department is hiring somebody to do some work for the department.

COUNCILMEMBER VICTORINO: Right.

MS. FUJITA VILLAROSA: So, they have an idea of, you know, they know what they need. With the grant agreement, I'm, I'm not sure when you mean what is easier to administer, because both agreements require oversight.

COUNCILMEMBER VICTORINO: Right.

MS. FUJITA VILLAROSA: But with the grant agreement the project is not for the County. It's for the public.

COUNCILMEMBER VICTORINO: Right.

MS. FUJITA VILLAROSA: So, what that entails is normally the grantee does regular reports to the, to the department, and the department monitors the grantee's progress on the project through those reports. So, it's a little bit different. The oversight is different.

COUNCILMEMBER VICTORINO: Okay, so, so, so, to put it in a real quick, in a nut shell, as a grantee, you know, I am then now mandated to give you some kind of report on what I did, how I used the money, and all of that, right, Mr. Chair?

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER VICTORINO: Right. And as a procurement, you know, you just do the job. You don't have to give a report after the job is completed, generally speaking. If I wanted to count people from 8:00 to 4:00 on Market Street for a week, you make sure that it was there, somebody's there, did the count, hand in the count, and that was done, right?

MS. FUJITA VILLAROSA: Right. Right.

COUNCILMEMBER VICTORINO: I mean putting it in simplified terms, yeah.

MS. FUJITA VILLAROSA: Yeah. The department would just ensure that the, that the contractor is completing the work according to the contract specifications.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER VICTORINO: Yeah, so, I just wanted to make it clear to the public what the real difference, in real layman's terms as far as what people are doing, and how these changes come about. I'll let the other Members ask their questions. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Mr. Nishiki.

COUNCILMEMBER NISHIKI: I, I, I want to go, Mr. Chairman, to a memo from Corporation Counsel dated March 31, 2010, Traci. And in it, I requested information relating to different types of contracts used by the County with consultant, independent entities, and grantees. One of my questions that I asked for was an explanation of what type of contract has been offered to Wailuku Main Street Association, specifically, for 2010 as well as the type of contracts used in years prior to '07, '08, and '09.

In that response Corporation Counsel, Michael Hopper, writes "The proposed 2010 contract for Wailuku Main Street as in prior years is best characterized as a grant agreement, a grant agreement. Grant agreements vary from department to department and from agreement to agreement depending on the purpose and nature of the grant, and the needs, priorities, and requirements of the agency administering the grant. Because of this variation, which is permitted by law, it would be impossible to characterize all grant agreements as belonging to the same type when referring to terms of a particular agreement."

Now, I think, the Administration's concern seems to be County liability and the desire for consistency. However, here are the concerns. If you say consistency, "If there is a goal..."--and I don't understand Mr. Hopper's explanation--"...that grant agreements vary from department to department and from agreement to agreement depending on the purpose and nature." So, if this was a provision within Wailuku Main Street and the language, and this was boilerplate then that would make sense, right?

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER NISHIKI: Okay, that would make sense. However, if the provisions requiring department staff at all meetings regarding ownership of documents and work product and reporting and so on are necessary to protect the County liability, but if they are in all grant agreements and is this standard?

MS. FUJITA VILLAROSA: Not all grant agreements include a product at the end --

COUNCILMEMBER NISHIKI: Yeah, yeah.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: --you know, that would require ownership language.

COUNCILMEMBER NISHIKI: Yeah, and this, this, yeah, I want to go on and say this. It says, any information--this is what was in the contract--any information, data report, summary, table, map, or study given to or prepared or assembled by the grantee under this agreement that the County requests to be kept confidential cannot be made available to any individual or organization and so on. And it goes on to say the County shall have complete ownership of all materials, both finished and unfinished, that is developed, prepared, assembled, or conceived by grantee. Is this something that we normally write in these agreements?

MS. FUJITA VILLAROSA: I'll state...

COUNCILMEMBER NISHIKI: And, and, I guess, specifically, Mr. Chairman, why?

MS. FUJITA VILLAROSA: That...

COUNCILMEMBER NISHIKI: What, what was the, the intent?

MS. FUJITA VILLAROSA: Right. There, there's other language, okay, when we were talking about that particular provision in the grant agreement the purpose was to...and, and I learned about all this recently, 'cause I didn't know much about this Wailuku Main Street grant. So, I, I learned a lot about in the last few days.

The, the reason why additional language was put in was that Mike wanted to make sure that the County could comply with our open records law, 92F, HRS 92F, which is our Uniform Information Practices Act. That law requires that all government records be open to the public.

In the past, apparently in a prior grant, there were some documents submitted that had. . .well it included some language on the front of the report that said that the document may not be reproduced without permission or copied without permission of the entity that created that, that document. And so, because of that concern they wanted to include language now. That language that you just read is not in the current version of the grant that we just finished negotiating. What we did instead of putting all that language in is, is that it just now says that it just recites what the law is, that record, any documents that are submitted pursuant to this grant agreement are going to be a government record and they're subject to HRS 92F. Much simpler, it gets to the issue, you know, of what --

COUNCILMEMBER NISHIKI: Right.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: --the problem was without a lot of extra, you know, language in there. So, it's, it's substantially different now.

COUNCILMEMBER NISHIKI: Mr. Chair, and, and, and the reason why, I guess, the concern is. . .and I'm glad it's been worked out. But all that time, Traci, wouldn't it have been. . .isn't there a better way to, to deal with these kinds of circumstances? I mean, had it gone, Mr. Chairman, to somebody within your Department and, you know, I'm not saying that one attorney or the other attorney servicing the different departments all may have a different view, but wouldn't it be something that our Corporation Counsel, like say Traci or Brian, can look over to eliminate these kinds of. . .I don't what, what, what would I, what would I have called it. . .the inability for a grantee and the Administration to come to some sort of agreement in a more efficient circumstance, Traci. I mean, if you look at this and what occurred, wouldn't you say that it's troubling to you that we have this problem?

MS. FUJITA VILLAROSA: It was definitely a learning experience.

COUNCILMEMBER NISHIKI: Yeah, okay.

MS. FUJITA VILLAROSA: I mean, you know, every. . .each deputy in my office has their strengths and weaknesses and we learn from them, and we hope that we. . .next time, you know, we'll be better.

COUNCILMEMBER NISHIKI: Traci, and, and, and, and, and thank you for being human. But trying to do better and, and, and, and looking at the circumstance still does not address the time that it took from when it was starting to be negotiated to the negotiation, the negotiation, which yet has been completed.

MS. FUJITA VILLAROSA: Right, right, well. . .

COUNCILMEMBER NISHIKI: That's the problem --

MS. FUJITA VILLAROSA: Yeah.

COUNCILMEMBER NISHIKI: --that I. . .see, see, you guys, need to look at the other side of the fence. You only look at these guys. . .the directors or whatever and, and this is who you protect. I'm looking at the organization that is doing the project, doing the service, and, and, and, and, and, and the inability of them, Mr. Chairman, to do it. I don't know how these people did it, but they did it anyway without resources. And, and, and this is to me what was brought up in

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

this year's budget. And, and, and, I'd like to see that type of concern when the two. . .the department and the grantee isn't agreeing, isn't agreeing. I'd like to see you guys step in quicker. Because I think that most of it has to do with language and, and, and, and, and being able to work out something there.

MS. FUJITA VILLAROSA: Right, right. I became first aware of this issue during budget. But, yes, I, I do plan to raise this with the deputies at our monthly meeting. Go over it as an example, go over it how it could be handled differently, and ask them to come seek help if they need it sooner. I, I don't...

COUNCILMEMBER NISHIKI: And, and, I think, you need to make your door open to the nonprofits or whoever that, that are having the problem. If it's, if it is at a stonewall situation.

MS. FUJITA VILLAROSA: Yeah, yeah, no we...

COUNCILMEMBER NISHIKI: That's what I see occurring.

MS. FUJITA VILLAROSA: No, Brian and I, always take calls from, from anybody. I mean, we don't...

COUNCILMEMBER NISHIKI: Nonprofits?

MS. FUJITA VILLAROSA: Yes.

COUNCILMEMBER NISHIKI: Okay.

MS. FUJITA VILLAROSA: And we meet with them, so.

COUNCILMEMBER NISHIKI: Okay, I, I, I have more, but I'll let other Members.

CHAIR PONTANILLA: Thank you. Member Medeiros.

COUNCILMEMBER NISHIKI: Thank you.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. So, my understanding is that the process starts pretty much with the standard form, and have we been provided copies of those standard forms so we can see what information is put on that standard form to, to give us a better idea of the process? Can you provide us with copies of the standard form?

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: There's a standard form for each. . .probably I would say for each department.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: But we don't have. . .what, what we need to work on is a standard form for the County that's going to require some time, because not only do, do all the deputies have to agree on the language, but all of the departments are going to have to agree on something. But I don't, I don't foresee them to be very different, but we could provide you with . . .(*inaudible*) . . .

COUNCILMEMBER MEDEIROS: I, I think it would give me a better idea of --

MS. FUJITA VILLAROSA: Yeah.

COUNCILMEMBER MEDEIROS: --where the process starts and what information is on the form. So, it then, it then goes to the grantee or contractor as you said, and then there's a consultation with the department. And then if the contract is going to be revised there's again a consultation with the department, and the department, according to you, decides what the revisions will be and what would be offered.

MS. FUJITA VILLAROSA: It's in. . .a contract has to be mutually agreeable between both parties. so it's a negotiation. If the department...

COUNCILMEMBER MEDEIROS: Okay, between the department and --

MS. FUJITA VILLAROSA: Grantee.

COUNCILMEMBER MEDEIROS: --and the grantee.

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: But also I just want to point out that you're talking about a very small percentage. I mean the vast majority of grants are just signed with no changes. It's only a small percentage that there's this negotiation.

COUNCILMEMBER MEDEIROS: There's some issues going on. Okay because I wasn't able to ask some of the testifiers this question, because it wasn't in their testimony and I was just trying to follow what the Chair wanted to do.

**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

My question would have been since there's differences between the departments of how they, how they process and negotiate their agreements, isn't that what produces the issues with the grantees that they don't understand the process well because take this example. If you have one grantee or one organization that deals with more than one department on different grants, doesn't that pose an issue and a problem that we're inconsistent in our process that each department is different? Why would it be that way? Why wouldn't it be standardized?

MS. FUJITA VILLAROSA: It can be standardized, it's just not. I don't know...

COUNCILMEMBER MEDEIROS: Who determines if it gets standardized?

MS. FUJITA VILLAROSA: We. . .the Council could, could create an ordinance --

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: --that outlines the process for all grants. There is none right now.

COUNCILMEMBER MEDEIROS: Okay, yeah, I, I think that's a part of the process that creates some issues because if, you know, you can see a, a grantee coming in and going to one department, and then they have a grant with another department, and going to that department for the second. . .other grant, and then it's, it's a different process for them to consider. So, you, you can see where it, it puts them in a really difficult position.

What determines when the funding of a grant that has been approved is provided?

MS. FUJITA VILLAROSA: I think that varies by, by grant too. Once the grant is, the grant agreement is fully executed, then the funds are encumbered. Same as the procurement contract. Once the funds are encumbered then it really depends on the grant. Some grants are a reimbursement type grant where the grantee must submit request for payment and attach copies of receipts and things.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: Other grants are disbursements, you know, quarterly, maybe or, you know, some, some time period of disbursements. Some, some grants are just upfront lump sum disbursements, it depends.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER MEDEIROS: Okay, I can see the difference in that part. So, once, once the department decides to approve the grant, and after review by Corp. Counsel, then, then the grant is executed?

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER MEDEIROS: Okay. And so once it's executed then it becomes the department's prerogative when they're going to provide the funds?

MS. FUJITA VILLAROSA: Right, pursuant to the terms of the grant agreement. Yes.

COUNCILMEMBER MEDEIROS: Right, okay, and at that point of the process if the grantee then has some disagreements about the provision of funds, who can they go to other than the department, because the issue will be with the department not providing the funds? So, it would be difficult if they go to the department and, and cannot get it resolved. Is there somewhere else they can go to help resolve that?

MS. FUJITA VILLAROSA: Our Department, whenever somebody has a dispute with a department, we advise them to, to, to speak with the Managing Director 'cause the Managing Director has oversight over the departments.

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: We, we don't. Corporation Counsel doesn't. I mean we can advise, but, you know, we can't force the, you know, the --

COUNCILMEMBER MEDEIROS: Yeah.

MS. FUJITA VILLAROSA: --departments to do, especially if it's something that's legal.

COUNCILMEMBER MEDEIROS: Right.

MS. FUJITA VILLAROSA: A lot of times the disputes are policy oriented so.

COUNCILMEMBER MEDEIROS: And then maybe, finally...thank you, Mr. Chairman. Finally when there's negotiations between the department and the grantee about the provisions or stipulations in the agreement, and they can't come to a mutual agreement, what, what, what's the process then?

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: Well like what happened with Wailuku Main Street Association, I, I was brought in to help, and what I did. . .and I wasn't, like I said I wasn't involved in the. . .I didn't know a lot about the history of it, so I, I came in with a fresh perspective you could say. And basically, I just identified what the issues were, what the needs of the department were, and tried to come up with alternative language that would satisfy both parties.

COUNCILMEMBER MEDEIROS: Right.

MS. FUJITA VILLAROSA: Just trying to think, you know, about something completely different maybe that would work, that sort of thing.

COUNCILMEMBER MEDEIROS: Okay, thank you, and thank you for the information about the Managing Director having oversight, because that would, that would be something important to consider.

So, so, the fee-for-service as you, you said or described, was for the County, something for the County?

MS. FUJITA VILLAROSA: Right, fee-for-service is another term that we don't really use that term in the County. We use procurement contract.

COUNCILMEMBER MEDEIROS: Oh, okay. I'm, I'm using that, because that's what's on the agenda and I didn't want --

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER MEDEIROS: --to say something different then what's on the agenda.

MS. FUJITA VILLAROSA: Yeah, it was, it was kind of confusing but it is, it is a procurement contract --

COUNCILMEMBER MEDEIROS: Oh, it is a procurement contract.

MS. FUJITA VILLAROSA: --where the County is purchasing goods and services, right.

COUNCILMEMBER MEDEIROS: Something. And, and on the other side the grant agreement is actually for the public?

MS. FUJITA VILLAROSA: Right.

**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

COUNCILMEMBER MEDEIROS: Okay.

MS. FUJITA VILLAROSA: That's generally how I think --

COUNCILMEMBER MEDEIROS: You.

MS. FUJITA VILLAROSA: --of that, the difference.

COUNCILMEMBER MEDEIROS: Okay, thank you, Corp. Counsel. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. Thank you for clarifying the procurement versus the, the grant. I guess, my question would be one that is related to testimony that was given to us while we were on Lanai, and this was a, a grantee. And according to, to their testimony they said that the, the, the conditions of the, the grant sort of changed along the way. So while the Council made an appropriation for a set amount that was interpreted by the department to mean that, that was divided amongst almost like a, a procurement then a fee-for-service that it would be divided amongst the numbers of individuals served by the grant. So, it ends up that they may not be getting the full amount of their grant based on the fact that enrollment numbers changed during the, the term of the grant. So, so, are we talking about the grants or are we talking about procurement for services to, to preschools or, you know, do you...

MS. FUJITA VILLAROSA: Those, those are usually grants, because again they're not providing services to the County, to the County government. They are providing it to the public. Some grants are issued by RFP. That's why it gets confusing, because people. . .what, what we've done because there's no universal process for grants, some departments that want to have a more competitive process to award grants have sort of borrowed the process from procurement law where you can issue a request for proposals, and then, you know, the department or some committee ranks them, you know, and does some sort of a competitive award. So there, there are instances where grants are awarded based on a RFP but it's not a procurement contract.

COUNCILMEMBER KAHO'OHALAHALA: Yeah, you know, I think, I, I did raise that during the Department's review during the budget process and we were told that those were the conditions of the grant. Is that so, it. . .I'm, I'm hearing a different interpretation of a grant right now versus that of a procurement, and I am assuming that the, the Human Services and, you know, Human Concerns is

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

providing grants to, to preschools as, as we have appropriated. But we're not talking about a procurement of services, so, I think, that needs to be clarified, Chair, in the...

The other thing that comes to mind is that, that we have so many different processes that you are saying right now between departments, and then now adding another, you know, an RFP as another process. Why wouldn't we want to look at a sort of beginning, because, I think, earlier we thought that when you said you were reviewing this that there was a standard form, you know, but then you said but you begin it that way, but then it sort of takes it own direction and morphs into other things depending on who the or who and what the department requires, you know, so. So, would it not be more efficient for us to try and look at a standard way of dealing with all grants? And then beginning at, at one level, and then if there are stark differences from one department to another then that would be added into the, the application form itself to identify that, but rather than leaving it. Is, is it this nebulous thing that happens, and that from case to case that we would be creating language specifically for, for the individual entity?

MS. FUJITA VILLAROSA: Yeah, I think, that, that Council should probably ask the departments that manage these grants. In Corporation Counsel, we do not have any grants. I can't speak from that perspective, but I do know that in the past some departments that don't often manage grants have some difficulty, because there's no. . . I can't provide them any guidelines really, because there aren't, and all I can, I can point them to other existing grants for examples on how other departments do it. But there's not, you know, a standard process. But I don't want to say that, that having this standard process would be helpful in all cases that's why I, I say, you know, you should speak to the people that actually manage these grants on a daily basis.

COUNCILMEMBER KAHO'OHALAHALA: Okay, now, in the Corporation Counsel, are you the, the first point of contact in terms of these kinds of agreements?

MS. FUJITA VILLAROSA: The departments make, make that first request to our Department to draft.

COUNCILMEMBER KAHO'OHALAHALA: Okay, but is there any specific person assigned within the Corporation Counsel who's responsibility would be to take care of these kinds of contracts?

MS. FUJITA VILLAROSA: There's not one person. Because they're handled by department, each department has their own attorney, and that attorney drafts the grant.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER KAHO‘OHALAHALA: So, do we have differences between the Corporation Counsel then themselves in terms of how to draft these contracts?

MS. FUJITA VILLAROSA: I think that the, the concept is the same. In other words, we all start with a form, and we pretty much will just use that form if it’s agreed upon by both parties. But if it. . . if there are changes requested by either party then, then we negotiate. I mean that part is pretty standard, everyone goes through that.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, but I now I’m seeing several layers of individual kinds of opportunities for interpretation in terms of contract language --

MS. FUJITA VILLAROSA: Right. Right.

COUNCILMEMBER KAHO‘OHALAHALA: --‘cause you’re going to start at Corporation Counsel, which is assigned to a department, and it goes to a department is from another department, and the differences between that. And so, it begins to, to just become a multiple kind of complex issue to, to resolve, and there’s no one, real point of, of --

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER KAHO‘OHALAHALA: --contact or...

MS. FUJITA VILLAROSA: Well, grants are. . .they’re so diverse. I mean, you know, Planning has grants, and Housing has grants, and, you know, each department has their grants and their own needs. So, and those deputies know those departments best as far as what, what their needs are, what their, what problems they have had in the past, and that sort of thing. But, as I said, you know, some, some of the attorneys are stronger at it, because they do it more often. For example, the attorney that’s assigned to advise Department of Housing and Human Concerns, most of her time is consumed by grants. Whereas, the deputy assigned to Planning they have what two or, I mean, they have very few grants. So, it’s just the opportunity to deal with these issues is different for the deputies, because of, because of the department that they advise. I, I personally, I advise Finance and Liquor. I do no grants. You know, so, it just depends on the assignment and what the department does.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, but are, are you suggesting then that, that we consider looking at some kind of standardizing in terms of how we process --

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

MS. FUJITA VILLAROSA: Sure, sure.

COUNCILMEMBER KAHO'OHALAHALA: --this and how we produce those documents. So, are you in agreement with that then?

MS. FUJITA VILLAROSA: Yeah, I, I, I think, that it's helpful to have, you know, a standard process that, that people can follow so that everybody knows what the steps are. But what, what that process should be, I think, that you need to talk with the departments and figure that out, 'cause that part I'm not sure.

COUNCILMEMBER KAHO'OHALAHALA: Okay, okay, I appreciate that. Thank you.

CHAIR PONTANILLA: Thank you. Member Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair, very interesting discussion. What I'm getting and I hear very clearly is we have a need for standard grant provisions that we really don't have them now. And because of that, I think, Chair, it would be a really good idea to keep this item open, and maybe in about six months from now after the new year starts and we see how the contracts go, maybe we can take a look and see how we're doing. Are we doing better? Are the contracts getting consummated? And are people getting money? And are they making any kind of progress in standardizing the process? I think it might be a really good idea. And I want to say I'm extremely happy to hear that this situation has been almost resolved. And I'd like to thank everybody for working on that.

CHAIR PONTANILLA: Thank you, Member Baisa. I was going to file this communication, but what I can do is forward to maybe Committee of the Whole.

COUNCILMEMBER BAISA: Chair, I think, it needs to go somewhere. I tell you why if we drop it we're going to be here doing the same thing next year.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER BAISA: That's just after 37 years of grant experience. Thank you.

CHAIR PONTANILLA: I understand you. Member Molina.

COUNCILMEMBER MOLINA: Thank you, Chair. I heard your suggestion by the way, as Chair of the Committee of the Whole, so why not. I, I'm with Member Baisa

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

too. I want to make sure that we not, you know, file this away, just to ensure that, for example, the Main Street Association gets their pay, and in terms of what was discussed. And, and it's not just about them. It's about all --

COUNCILMEMBER PONTANILLA: All. Yeah.

CHAIR MOLINA: --in whom we deal with and make sure that there's fairness. And I can agree with Mr. Nishiki saying that we have to look at it on both sides, and not just from our own perspective from the County. But we have to look at all the organizations that do provide services, very much needed services for this County. And I certainly want to ensure that there's fairness involved so at least we can eradicate any perception of unfairness or biasness. You know, we are the government and we are all supposed to treat everyone equally. So, I'm with Member Baisa, and would ask that if, if that is the mechanism we would like to look at maybe referring it to the Committee of the Whole, I'd be open to it as well. Thank you, Chairman.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: Member Victorino.

COUNCILMEMBER VICTORINO: Yeah, thank you, Chair. And I do concur, but I don't want to wait six months. I do understand what you're talking about, Ms. Villarosa, and in business we have standard contracts and then we take it from there.

And I think that's important that we do, and, I think, the Committee of the Whole should take this up in the very near future as far as standardizing a contract. We can bring each department in, but once you say a standardize contract or a standardize, standardize grant application, everybody will know what they need to do, and what needs to be submitted, and, and then go from there. Now, whether they're approved by a Grant Review Commission or Committee I should say or whether it's approved by the department, whether it's approved by us here at the Council, it doesn't make a difference that everything starts the same way. And, Mr. Chair, you've been in business long time you know that we all have standardized applications, standardized procedures, and all that leads is always fairness and the ability for everybody to know what needs to be done.

So, to wait six months--no offense to my colleague on the other end--is not something I'd like to see. If we want to really do this right, and we want the

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

Administration to get a message, which I hear some of us say, let's give them the message, whether it's appointees to our Boards and Commissions or whatever, well let's tell them, and let's work on it together. Let's get it done. Now, I know we got a lot of things coming up real quick, right, Mr. Chair? I mean, you and I both know we are going to have a very busy time but this is something very important 'cause, you know, again, Ms. Baisa's, right. A year from now we'll be right back here with the same problems, maybe not the same group, maybe not the same person or same entity, but it'd be another one having the same challenge.

So, I think, it really behooves us to, behooves us I should say, excuse me, to do this. Get a standardized application, standardized procedures for both grantees and procurement. And, I think, procurement may already have pretty much that, because you, you stated that. But then all them know what the procedures, what needs to be submitted, what's going to be required of them. And every department should have pretty much the same, you know, audits, financials, and whatever else that, that's necessary, yeah.

So, Mr. Chair, I don't think we have to wait six months. I think something like this should be done in the very near future. At least get this, you know, let's get the ball rolling, and, and that way the departments can come in now. Let's work with them. Let's get something standardized, and then in the future, hopefully, we don't have this issue. We know exactly what's coming down and we understand the contracts too. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. And Ms. Villarosa had stated that from all of the departments, Housing and Human Services has the most and they are very familiar regarding grant agreements. And, of course, the young attorney that's sitting back there is anxious to, to move forward on this. Member Nishiki, you have any questions?

COUNCILMEMBER NISHIKI: Yeah, yeah, thank you. And, and, Traci, I think, we need to look at as you said probably Chapter 3.36, that's that grant program, Mr. Chairman.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER NISHIKI: And, and work on it because in this way, and I'm not saying that the Administration is doing it, but it would eliminate perhaps giving that burden on a department head to put unnecessary language or whatever and, and, and create a, a hardship. But if we . . . *(inaudible)* . . . 3.36, Mr. Chairman, and, and look at changing some of the language in there I think that may be it.

**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

After all, we give grant money. It's the Council that sets the policy. So, I'm not saying that I don't want to work with Administration. I really want to work with them but I think that, that, for me, when I listen to some of the nonprofits and their concerns that's where the road blocks were created.

So, I think, we need to look at 3.36 and work with Traci and try to set up some standard provisions in here. That would be my suggestion, and I've heard other Members also talk about it. And also, Traci, someone said it, you know, not someone said it, she actually said it. Thank you, Traci.

CHAIR PONTANILLA: Thank you. Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Were you going to allow Ms. Kau to give some opening comments that may generate some questions from us? Or what was your plans?

CHAIR PONTANILLA: My plans was to ask Corporation Counsel to provide us with information on grant agreements as well as the term fee-for-service.

COUNCILMEMBER MEDEIROS: Okay. So, she was just there for resource in case we had questions for budget.

CHAIR PONTANILLA: Because this Budget and Finance Committee meeting --

COUNCILMEMBER MEDEIROS: Oh, okay.

CHAIR PONTANILLA: --you know, she's here.

COUNCILMEMBER MEDEIROS: Okay, thank you.

CHAIR PONTANILLA: Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Pass.

CHAIR PONTANILLA: Member Baisa.

COUNCILMEMBER BAISA: No, sir, I think that we all understand, and just for the trying to defend my six months. One of the reasons why I brought that up, and I totally understand what Member Victorino is saying sooner is better, but my experience is that when the budget is finalized, the new fiscal year will start on July 1, so that's another month. And then it will take the departments another four or five, six, seven, eight, nine months to get their grants executed. And so,

**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

that's when the information will become available as to how the process is going. We won't know in a few months. Thank you.

CHAIR PONTANILLA: Thank you. Member Molina.

COUNCILMEMBER MOLINA: Oh, no, Chair, just awaiting your recommendation.

CHAIR PONTANILLA: Oh, okay. Members, any questions for Corporation Counsel? If not, before I make my recommendation I just want to thank you, Traci, for being here this afternoon explaining both grant agreements and fee-for-service and the procurement. It gives us a better understanding and give the nonprofit organizations a better understanding of the differences. So, Members, hearing your comments, the Chair's recommendation is to defer County Communication No. 10-78 and probably refer it to the Committee of the Whole for further discussion.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Okay, thank you. Members, that concludes our...

MS. REVELS: Mr. Chair, for clarification, if you defer the item it stays in the Budget and Finance Committee. If you want it referred to the Committee of the Whole--

CHAIR PONTANILLA: Oh, okay.

MS. REVELS: --we need a motion to, to refer the item to Committee of the Whole.

COUNCILMEMBER MOLINA: Okay.

CHAIR PONTANILLA: Okay, we'll refer to Committee of Whole.

COUNCILMEMBER MOLINA: So move, Mr. Chair.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER VICTORINO: Second.

CHAIR PONTANILLA: Moved by Member Molina, second by Member Victorino to refer this County Communication No. 10-78. Any discussion? All in favor of the motion please say "aye".

COUNCILMEMBER MOLINA: Aye.

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

May 12, 2010

COUNCILMEMBER VICTORINO: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Seven ayes; two excused, Member Johnson and Member Mateo.

VOTE: **AYES:** **Chair Pontanilla, and Councilmembers Baisa, Kaho'ohalahala, Medeiros, Molina, Nishiki, and Victorino.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Vice-Chair Mateo and Councilmember Johnson.**

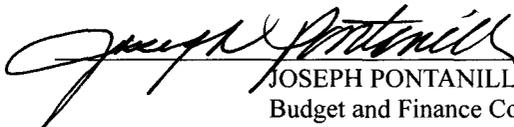
MOTION CARRIED.

ACTION: REFER County Communication No. 10-78 to Committee of the Whole for further discussion.

CHAIR PONTANILLA: Members, that's all we have this afternoon. And hopefully it does create some clarity in regards to grant agreements, and fee-for-services, and RFPs. With that, this meeting of Budget and Finance Committee is now adjourned. . . .(gavel). . .

ADJOURN: 3:15 p.m.

APPROVED:



JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf:min:100512:daf

Transcribed by: Delfey Fernandez

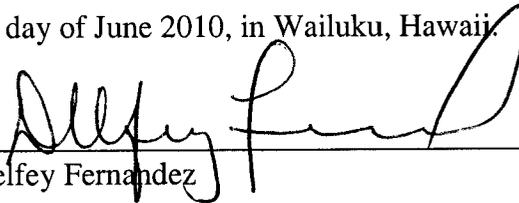
**BUDGET AND FINANCE COMMITTEE
Council of the County of Maui**

May 12, 2010

CERTIFICATE

I, Delfey Fernandez, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 3rd day of June 2010, in Wailuku, Hawaii.



Delfey Fernandez