

Contract Negotiations and Non-Standard Agreements

Background

- “Non-standard agreements”
 - Interagency Agreements, Procurements, Grants, Revenue, and Miscellaneous
- 4 FTEs to manage contract negotiations
- Work with project managers, risk, and OGC to limit risk



Objectives and Scope

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 - Determine the most commonly-negotiated clauses
 - Determine contract compliance with regulations and policy
 - Assess the process' efficiency
- Scope
 - Executed non-standard agreements from January 1, 2020, to January 1, 2021
 - Contract Log Database open assignments for dates in May and June 2021

Methodology

- Interviews
 - All Contract Negotiators
 - 14 Stakeholders
- Document Review
 - Selection of 205 executed agreements
 - Selection representative of agreement type and value
 - Reviewed Contract Log Database for open agreements and aging

OBSERVATIONS

Non-Finding Observations

- Non-standard agreements are viewed as less risky
- Contracts Team is highly regarded
- Business decisions reside with the business unit
- 3rd party size and agreement value affect negotiation difficulty
- Too many variables to determine how long an agreement should take
- Jurisdiction, indemnification, and audit clauses are most difficult to get into an agreement
- “Implied Clauses” support contracts
- Procurement files are present

Establishing Key Performance Indicators and Addressing Backlog May Help Manage Staff Workload.

- Staff carried an average of 71.5 (May) and 68.5 (June) assignments
- Ideal amount is a maximum of 40, based on staff interviews
- Causes:
 - Old and non-updated assignments
 - No performance indicators formally defined
 - Staffing has not returned to previous levels
- Effects
 - Increased time waiting for contracts to be completed
 - Increased workloads can lead to mistakes

Recommendations & Management Response

1. Implement a method for reviewing assignments.
 - Management Response: *Agree*
 - Biweekly meetings to proactively ID closures.
 - Administrative staff review of assignments.
 - Streamline processes for reviewing small risk and low-cost procurements.
 - Currently hiring a 3rd negotiator.

Recommendations & Management Response

2. Establish a baseline number of assignments
 - Management Response: *Agree*
 - Maximum contract range will be developed and implemented by Q2 2022
 - Review baseline once BPSI is completed.

A Technological Solution Could Reduce Control Activity Time and Increase Efficiency.

- Estimate 4 hours in administrative tasks per assignment
- Causes:
 - Manual input for setting up checklists, folders
 - Inefficient system for documenting notes and tracking
- Effects
 - Negotiators' time and attention is not spent on negotiating
 - Tracking system inefficiencies make it appear as if agreements aren't updated and increases tracking difficulties

Recommendations & Management Response

3. Work with internal solutions and work with the BPSI integrator to meet department needs.
 - Management Response: *Agree*
 - Scope of work has been drafted for the contract management software.
 - BPSI team members reviewed the scope to ensure it meets needs.

QUESTIONS?