

METRIX ADVISORS, LLC



PVC Program Overview

Denver City Council Business Development Committee

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About Us



- Founded in 2009
- Focus on state & local government
- Policy oriented business process solutions
- ACDBE / DBE Certified
- 20+ years experience in finance, government and technology

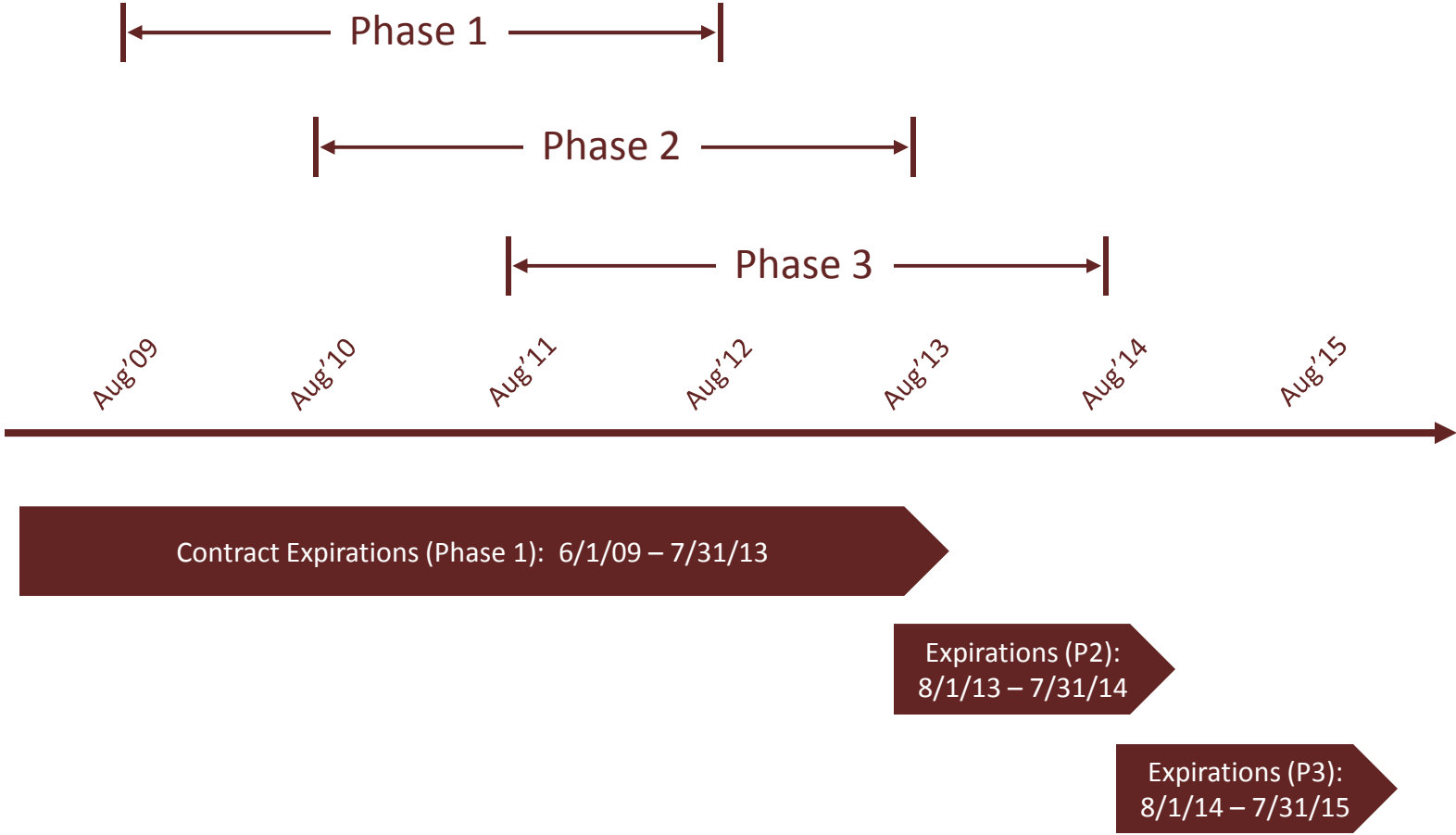
About PVC



- Multi-year collaboration between DIA and concessionaires
- DIA Rule 45 governs the program
- Provides for Third Party Administrator (TPA)
- Comprehensive longitudinal evaluation program
- Incentives holistic performance
- Top performers offered opportunity to negotiate directly with DIA for new concession contract
- Implementation began March 2012



Implementation Phases



Appeals Manager



- Contract with Flahive Group, LLC
- Marty Flahive, Principal
- *Experience:*
 - ✓ 40 years in and around Denver government
 - ✓ Uniformed services collective bargaining negotiator and advisor
 - ✓ Facilitator School Finance Partnership
 - ✓ Prior agency Deputy Director
 - ✓ Juris Doctorate / Master of Business Administration



Appeal Eligibility (2 reasons)

After the Program Benefit determination

A Concession may appeal pursuant to final scoring to determine a PVC Candidate's receipt of Program Benefits in the following cases:

1. ***If a Concession is equal to or within seventeen (17) percent of acquiring the MAP necessary to obtain the Program Benefit;***
2. If circumstances occur that fall within the definition of "Force Majeure" in the Concession Agreement;
3. The TPA erroneously deemed or used poor judgment in deeming a transfer in ownership as a change in control; or
4. A PVC Candidate that has two or fewer concessions in its Scoring Pool.

Scoring Inaccuracies for a Calendar Year

Concession may protest the calculation of its PVC Program score for a particular calendar year:

- ***A scoring error or inaccuracy is defined as a mathematically incorrect result from a failure to correctly perform mathematical operations, or based on erroneous numerical information, transposing numbers etc.***
- All alleged errors must be identified in writing and received by the TPA no later than April 30 of the year following the calendar year that is the subject of the protest.
- In this protest, a Concession must document any remaining scoring issues relevant to the prior calendar year so that the TPA can either correct the scoring or affirm correctness of the scoring.



Rule 45 Appeal Provisions

- 11.03: *“Concession shall notify the TPA and DIA in writing within 30 days of ... notification ... its intent to pursue an appeal ... (‘Appeal Letter’).*
- TPA submits *“panelist candidates to DIA and the appealing PVC candidate within 10 business days”* of appeal *
- 5 additional business days for parties to agree to a final panel
- If parties cannot agree on panel, Appeals Manager appoints three neutrals
- Hearing must be set within 30 calendar days of final panel selection
- If all limits used, and no agreed delays, hearing is within 51 calendar days of appeal (plus allowance for some holidays)

** Panel appointment also requires agreement on date*

Supplementary Provisions



- A standardized appeal template is provided to each concessionaire eligible for appeal.
- Additional ground rules in effect since August of 2014 provide internal deadlines:
 - 15 business days from receipt of appeal for DIA to submit a response to the appeal letter
 - 5 business days for concessionaire to offer any reply
 - 5 business days for DIA to offer any reply
 - Ideally, 5 business days to allow panelists to digest later documents

Appeal Process (2 methods)



Appeal	Phase	App Letter Date	Hearing Date	Days to Hearing
Retail	1	1/15/2013	2/21/2013	37
Retail	1	1/15/2013	2/21/2013	37
Food & Beverage	Full	9/2/2014	10/15/2014	43
Food & Beverage *	3	11/21/2014	2/5/2015	76
Retail *	3	11/18/2014	2/25/2015	99
Retail *	3	11/28/2014	3/4/2015	96
Retail * **	3	11/25/2014	3/30/2015	115
Retail **	3	12/2/2014	3/25/2015	113
			Average	77

* Delayed at request of concession counsel. DIA agreed.

** Delayed at request of DIA due to illness. Concessionaire agreed.

Mission Yogurt Timeline (Phase 1)



Date	Milestone
1/17/13	Three original Mission appeal letters received
2/24/15	Notification re DIA motion to dismiss 106 matter [A.M.]
2/24/15	Email to Mission laying out remaining steps [A.M.]
3/10/15	DIA response to Mission appeal
3/10/15	Appointment of Panel (later revised) [A.M.]
3/17/15	Original deadline for Mission reply to DIA response
3/30/15	Original date set for hearing (revised to 3/27)
4/1/15	Revised deadline for Mission reply
4/15/15	Revised hearing date