Introduction: the nonprofit sector in New York City and issues in provision of human services

This paper explores how public human service programs are structured and managed between government and nonprofit organizations in New York City and other jurisdictions. It examines the relationships between government departments and nonprofits in providing human services to residents in New York City and other localities and states. When, where, and how does government utilize nonprofit organizations to deliver human services? What is the history and extent of these relationships in different jurisdictions? What mechanisms—grants, government contracts, and other vehicles—are employed to establish these relationships? How have they developed over time, and what efforts have been made to improve them?

The research develops a case study of contract reform in New York City in order to understand its key elements and to create a framework for comparative analysis that draws on scholarship about government-nonprofit relations and human services contracting. This paper builds on two previous papers about initiatives to improve human services contracting in New York that were presented by the author at recent ARNOVA conferences (Krauskopf 2013, 2014). Attention is also paid to recent events that bear significantly on government-nonprofit relations and on the health and survival of the human services system in New York.

The previous papers focus on two City administrations and the transition between them in 2014 and after. Many of these improvements came during the administration of Mayor Michael Bloomberg, who was in office for three terms (2002-2013), and they have continued under the current administration of Mayor Bill de Blasio. This New York City case is ongoing, and developments that are reported here address persistent issues in the contracting process and the relationships that drive them, as well as other recent events that affect government-nonprofit relations.

New York makes more extensive use of its networks of nonprofit service agencies than do other jurisdictions, in part because it has long had a highly developed social services sector that presents opportunities for government contracting and is itself a force that influences how public policies are implemented. New York City government officials have made it a priority to
improve contracting and related processes to increase the efficiency and effectiveness of this public-nonprofit service delivery system. Nevertheless, important problems remain to be resolved.

Final approvals of government contracts are often delayed for a variety of reasons involving government contracting departments, Mayor’s Office, City Comptroller, and nonprofit service providers themselves (Mayor’s Office of Contract Services 2014, 2015). As a result, nonprofits too often find they must and do begin to provide employment, homeless, child care, and other vital service programs before reimbursement mechanisms are in place. With inadequate cash flows, some must borrow, using lines of credit when they have them or drawing on a government-assisted facility through the Fund for the City of New York. Other organizations utilize limited reserve funds, which they may also need to subsidize government rates that do not cover basic costs of the services they contract to fund. Many nonprofit organizations operate without financing for their reasonable administrative and overhead costs. Complaints about unfunded mandates resonate throughout human services system from nonprofit service providers up through local, state, and federal governments. Duplicate documents are still being requested by government departments despite creation of a central database to house them (Human Services Council 2015, United Neighborhood Houses 2015).

These longstanding practical problems impact operations of nonprofit providers and affect the clients who need services. Nonprofit organizations are concerned that program designs are determined and performance targets set without sufficient consultation with the providers of the services. Policy decisions made without sufficient lead time affect where and how services are provided.

Steven Rathgeb Smith has pointed to many of these problems in an overall review of nonprofit contracting with government, and they are clearly not unique to New York City (Smith 2010). The Urban Institute has also conducted with the National Council on Nonprofits a series of surveys that document issues in government-nonprofit contracting on a state-by-state basis, and collaborative efforts have been initiated in at least seven states to address problems similar to those in New York (Urban Institute 2013, National Council of Nonprofits 2013).

A key question in New York City is why the well-established and generally positive government relationships with nonprofit organizations in delivering human services have not led to correcting more of the fundamental operational problems. Leaders in both sectors express appreciation for the importance of an effective process, and both have invested considerable time and effort to make essential improvements. In particular, the two most recent City administrations have addressed the problems at senior levels.

**Political transition between the recent and current Mayors**

Mayor Bloomberg was a successful businessman and philanthropist before he became Mayor in 2002. He continued during his three terms in office to own Bloomberg L.P., the news and information company that he founded, and to oversee Bloomberg Philanthropies, whose CEO
was the First Deputy Mayor. Since leaving office, he has returned to leading the company, his former First Deputy Mayor, Patricia Harris, continues to head the foundation, and Linda Gibbs, who spear-headed many of the contracting reforms as the Deputy Mayor for Health and Human Services, has joined his urban and international consulting operation.

Mayor de Blasio has previously held federal and local public policy, political, and legislative positions. Beginning his term as Mayor in 2014, he is a former New York City Public Advocate, one of the three officials elected on a citywide basis, and had been a Member of the City Council from Brooklyn. During his campaign and first two years in office, he has emphasized the problems caused by inequality among City residents and communities.

These Mayors differ in their philosophy and approach to government. Bloomberg emphasized managing the City effectively and preparing it for future sustainability challenges, while de Blasio has underscored programs that address inequality in housing, income, and other areas and has generally promoted his more “progressive” agenda.

Regarding their human services policies and priorities, Bloomberg’s executive budgets included cuts in social services (many of which were restored by the City Council during the annual budget adoption processes). De Blasio, by contrast, committed to end the “budget dance” and has expanded certain human services, including pre-kindergarten and after school programs. Both have utilized City resources to create more affordable housing in the face of the City’s unresolved homeless crisis.

While there are significant differences in emphasis and management styles of these two administrations, the goals of management efficiency and client services have been important for both administrations. The management improvement initiatives begun by the Bloomberg administration have generally been sustained by current City Hall officials. In fact, many of the same people continue to do the substantive work of managing the systems improvements and developing new ones, reporting now to the Mayor’s Office of Operations instead of the Deputy Mayor for Health and Human Services, whose office developed them during the Bloomberg administration.

At the internal policy level in City Hall and in leadership of organizations representing the nonprofit services sector, commitment continues to advance these management initiatives. However, the buy-in at the operational level in City departments seems to be less consistent, as exemplified by frequent requests for documents that have already been provided by nonprofits to a central City system. Correction of the fundamental problems that confront nonprofit organizations and their leaders remains elusive, despite the ongoing support of policy-makers.

**Implications of the pattern of government-nonprofit relations in New York**

Before looking in more detail at the contracting reforms implemented by New York City government, it is useful to review the way in which government-nonprofit relations have developed and evolved. The nonprofit sector in New York is large and important economically.
There were more than 1.25 million jobs in the nonprofit sector in New York State in 2010, constituting 18% of the State’s private sector workforce and paying $57 billion in wages. Forty-seven percent of those jobs are in New York City, and the largest numbers are in healthcare, education, and social assistance (New York State Department of Labor).

The nonprofit sector is relatively a more substantial part of the economy in New York than nationally, where 10% of private sector jobs are found in nonprofit organizations. It is also more dynamic, growing by an average of 1.7% annually from 2000-2010, contrasted with a job loss of .6% annually in for-profit jobs in New York (Salamon 2012). The economic impact of the nonprofit sector, important as it is, constitutes only one facet of its role in the City’s public processes.

Government-nonprofit relations have long flourished in New York City through different mechanisms in many areas of policy and programming. For example, Dennis Young’s three typologies—that government-nonprofit relationships are supplemental, complementary, and/or adversarial—are all found in abundance in New York. Education and healthcare organizations, among others, run programs that supplemental (parallel) to those of government with each program serving different constituents according to separate approaches. In human services, many nonprofit organizations are the complementary agents for government by carrying out government-financed child care and child welfare, senior citizen, counseling and mental health, and many other services. Adversarial actions also occur frequently through efforts by nonprofits to influence public budgets, government social policies, and the administrative requirements for programs (Young 2006).

The means by which nonprofits exert influence on civic life and policy are many and diverse. These forms include studies and reports about social conditions and program effectiveness, official testimony at legislative and City Council hearings, formal comments on proposed administrative rules, and a variety of other lobbying and advocacy strategies. Class action law suits and other litigation tactics are also utilized by legal services and issue-focused organizations to affect human services policies and their administration. Less formal actions involve mutual consultations among nonprofit leaders and government officials, public education through reports and statements in the media, and other nonprofit advocacy actions that influence the direction of government.

New York City has developed a distinctive pattern of government-nonprofit interactions that provides a highly visible example among those examined nationally by scholars in the now established field of nonprofit organization and management (Smith & Lipsky 1993, Smith 2006, Salomon editor 2012, Tschirhart & Bielefeld 2012, Renz 2010, and others). As noted, program emphases in New York have changed in the recent political transition between mayors, but the well-developed fundamental practices that are central to the day-to-day workings of public programs continue. Although there will undoubtedly be further changes in the future in the human services field, it is inconceivable for government to function without its nonprofit partners.
What we find today derives from programmatic responses to social and economic conditions over long periods of time in New York City, going back to the 1960s and even before. What kind of solution to then new and urgent problem was required, and how could it best be organized? The responses have occurred in different eras with multiple human services problems and changing City government administrations. Addressing a pressing social problem in an effective way has been the driver that shaped public programs.

No single political ideology or philosophy of management has prevailed. The waves of public administration theory—whether “new public management,” privatizing, or other approaches—have not produced fixed administrative patterns. Instead, program tools were created in New York to respond to public problems as they have occurred over time. There has been a pragmatic evolution of governmental instruments in response to changing conditions and needs. Often, these instruments of public policy have drawn upon both City departments and nonprofit sector organizations for their operations (Krauskopf 2015).

A general strength of this approach to government-nonprofit relationships is that it leads to specific policies and programs that address immediate problems requiring action. Policy-making is improved by the information provided and positions taken by nonprofit organizations. Because there is no overriding ideology, solutions are not pre-determined and can be shaped to fit the need at hand. In some European countries, by contrast, there is a prevailing philosophy that establishes the pattern of government programming (Anheier 2014). Government utilization of the capacity of the nonprofit sector enables diverse services to reach residents and communities according to their differing needs.

Although the more ad hoc approach to development of government-nonprofit relationships in New York has been generally beneficial, there are consequences. City government departments tend to establish their own ways of operating and setting the rules for the nonprofits with which they contract. Centrally established processes must contend with decentralized practices established by the departments. Nonprofits must respond to reporting and other requirements unique to each department and sometimes to the different programs within them. Among the liabilities in New York’s event-driven approach is that significant issues in systems and relationships often go unresolved.

**Scope and extent of human services contracting**

The primary mechanism connecting New York City government departments to nonprofit service providers is via contracting. In fiscal year 2015, the City approved $2.3 billion in human services through more than 6,200 contracts. The prior year, 2014, the City contracted for more than $3 billion in human services programs through 5,600 transactions, which followed larger amounts in prior years—nearly $5.5 billion in 2013 and more than $7 billion in 2011. Cumulatively, there were $16 billion in active human services contracts as of June 30, 2014. The numbers and amounts of contracts vary annually, depending on which particular programs are being initiated or renewed and the number that are for multi-year terms. Twenty City
departments finance human services provided through thousands of nonprofit organizations (Mayor’s Office of Contract Services 2014, 2015).

Following changes made in the 1989 City Charter, the Mayor has the primary responsibility for contracting in City government, replacing a legacy Board of Estimate system that required all contracts to be approved by elected officials. A highly structured system of contracting has developed as an executive function that is managed by the Mayor’s Office of Contract Services and the City contracting departments. The City Comptroller, a separately elected official independent of the Mayor, must register contracts before payments can be made. A Procurement Policy Board, which includes representatives appointed by both Mayor and Comptroller, sets the regulations for City contracting.

Planning and contractor performance have become priorities for City government and its nonprofit services providers. Needs assessments provide a basis for allocating resources and establishing program sites that are based on demographic, geographic, utilization, and other pertinent data. Concept papers precede requests for proposals to initiate new or restructured services and generate public discussion among advocates and providers. Extensive reporting is required for all services contracts and providers, and many contracts include specific performance measures as a basis for payments by City departments. Contract officers manage the process in individual City departments, and mayoral control is asserted through the Mayor’s Office of Contract Services.

Reforms in human services contracting

Highly focused initiatives to improve the contracting process that were implemented during the last few years of the Bloomberg administration are continuing under his successor (Krauskopf 2014). Uniform contracts for human services, a document vault for single submission of items required for all contracts, expanded loans for cash flow when contracts are delayed, a capacity building unit with the Mayor’s Office of Contract Services, a pre-qualification process for nonprofit contractors, and an electronic request-for-proposal system are some of the initiatives that have rationalized the contracting process. The Health and Human Services Accelerator was established as the mechanism for many of these changes, following an extensive consultation and advisement process with representatives of the nonprofit provider sector during their development. A rule was adopted by the Procurement Policy Board in 2013 that established Accelerator as an official part of the contracting process for human services.

Launched late that year, Accelerator is now used routinely to issue human services Requests for Proposals (RFPs). A financial module for budgeting and payment to the nonprofit service providers is being implemented, despite some resistance from City departments. There is also attention to further standardization of financial management practices across agencies, importantly including the setting of overhead rates for nonprofits’ administration of programs. Responsibility for managing these initiatives remains in the Mayor’s Office, but has transferred from the Deputy Mayor for Health and Human Services to the Office of Operations in the de Blasio administration (Symon, Jackson).
Utilization of the Accelerator system for a large RFP to expand after school programs for middle school students resulted in substantial savings in procurement time and resources, in addition to achieving a more competitive process with more proposers. Twenty weeks were saved overall in the RFP process in spring 2014, and a larger pool of pre-qualified organizations applied using a reduced and simplified proposal document online. The solicitation for the 2015 round of the universal pre-kindergarten initiative was also managed through Accelerator, although the Department of Education has had a procurement system separate from that governing other mayoral agencies (Symon, Tambar).

In addition to its use for all human services solicitations, Accelerator has potential for application in other areas of City procurement. The pre-qualification process with its streamlined requirements facilitates eligibility and participation by organizations of all sizes. City officials believe that the system does not necessarily favor large agencies with the greatest capacities. Their philosophy is to reach out to proposers and consider them as customers of the system, along with the City departments and the clients who receive the services (Symon).

The City’s Access NYC website provides eligibility information for 35 programs and actual online applications for the Senior Citizens Rent Increase Exemption program and the Supplemental Nutrition Assistance Program, SNAP (Food Stamps), including also recertifications for SNAP. Through its Virtual Client Services, the City’s Human Resources Administration has an ambitious agenda to enhance the functionality of online eligibility procedures for clients of the SNAP and cash assistance programs over the next two years. In addition to applications for assistance, submission of documents, updating by clients of their information, eligibility recertification, and required interviews (scheduled “on demand” by clients) are expected to be available online, and for some functions, such as documentation, via mobile devices. These systems change commitments, which will make New York City’s online capability comparable to other leading jurisdictions, have strong support from City Hall and agency leadership because of the improvements in customer services that they represent (Aaronson).

The City has developed its system for overseeing nonprofit contractors and reviewing their performance essentially on a departmental and programmatic basis. Performance measures are set by program, rather than in response to an overall governmental scheme. In general, goals and measures are often established by the government department first, but in many areas have come to be jointly adjusted and shared by government and nonprofit organizations over time. Overall, performance oversight builds from a micro-level; any macro-level assessments must be made via the judgments and insights of officials and observers who look across the accumulated programmatic data.

New York State government has also developed initiatives to improve its contracting with nonprofit organizations following the creation of a new position in 2012 in the Governor’s Office for an Interagency Coordinator for Nonprofit Services. The State’s Grants Gateway reports to this senior staff person in the Governor’s Office, and the project is managed under the State Division of Budget. It has utilized some of the same processes developed in the City,
including master contracts, a document vault, pre-qualification of contractors, and streamlining of procedures.

These human services contracting reforms are significant with the potential to have even more positive impact on the system over time. Fulfillment of that potential will, however, require concerted effort within City government to assure that contracting staff in the City departments participate more consistently in the central reforms developed under these two Mayors.

Recent events

Attention has shifted recently from these ongoing aspects of contracting reform to other developments affecting human services—first, the bankruptcy of the City’s largest social services agency, and second, looming new policy directions in Medicaid financing from New York State government. Both events, although very different in their natures, illustrate vulnerabilities in human services organizations and in the government systems that finance them.

After suddenly announcing a large deficit late in 2014, FEGS Health and Human Services (previously known as Federation Employment and Guidance Service), a $250 million multipurpose organization declared bankruptcy in 2015. FEGS had large contracts for mental health, disability, home care, vocational and employment, housing, and many other services that were financed by City and State government contracts. Substantial private support, much of it through UJA-Federation of New York, also supported its programs.

The rapid demise of FEGS initially presented major challenges for maintaining client services and employment. Government officials working intensively with leaders of an experienced nonprofit organization were able to transfer $75 New York State Office of Mental Health contracts from FEGS to the Jewish Board of Family and Children’s Services, which thereby became the City’s largest human services organization. FEGS workforce programs under the New York City Human Resources Administration were transferred to another large employment agency, Fedcap Rehabilitation Services; and other contracts for substantial, but lesser amounts, were dealt by other government agencies and by UJA to nonprofits with willingness and capacity for growth. Transferring contracts was the mechanism for government and UJA to preserve services for vulnerable clients and also to continue employment for many former FEGS workers.

There has been much speculation, and some preliminary analysis, about the causes of the collapse of such a large and seemingly capable organization, and official reports are pending. Media coverage, opinion pieces, and documents submitted to the bankruptcy court point to multiple reasons—including weak central financial systems and reporting, contracts that were losing money, subsidiary ventures that drained reserves rather than adding to them as intended, under-utilized leases, multiple capital debt financings from public agencies, large layers of middle and senior management compensated at high levels, and more (Woodlock, Prakash).
For some observers, inadequate payment rates for government-funded services, including both the cost of the services and a reasonable overhead for agency administration, were a primary cause (Nocenti 2015). Indeed, the affidavit submitted to the bankruptcy court by Kristin Woodlock, who assumed the CEO role at FEGS after the 2014 deficit announcement, notes that consultants determined that 74% of its 350 programs were in deficit and that “financial performance on its workforce governmental contracts was among the worst in all its business lines” (Woodlock 2015, page 32-33). However, as indicated above and in the affidavit overall, there were many contributing factors to the demise of FEGS. Contracting issues are part, but by no means all, of the story. FEGS may be a unique case because of its size, range, and extensive problems, but other agency closings and acquisitions designed to appear as mergers indicate there are more organizations that are weak financially and may be vulnerable in the near future.

The implementation of New York State’s Medicaid Redesign program, especially conversion of fee-for-service behavioral care and other services to managed care, has been a less dramatic development, but one with potentially more far-reaching and consequential change for the social services agencies in New York City and elsewhere in the State. As is true nationally, and especially in New York, Medicaid revenue finances substantial amounts of human services in mental health, HIV/AIDS, child welfare, homelessness, and many other program areas.

The State’s Medicaid Redesign is producing large reductions in the rates that social services agencies have been receiving, as well as a major shift in how reimbursement is administered. No longer direct government payments, Medicaid will now be managed through intermediary organizations and insurance companies that do not have a stake in the survival of the pre-existing system of human services. Smaller community based organizations, particularly those providing behavioral care and HIV/AIDS services to low-income residents, are at particular risk for their survival. If nonprofit provision of these human services, especially by community based organizations, are valued, it is not clear what financing mechanism will sustain them in the future.

**Consequences and conclusions for the human services system**

Together with increased pressure from these recent developments, the contracting problems described in this paper have implications for immediate and long-term provision and management of services to people in need in low-income areas of the City. As indicated, the cash flow problems, underfunding of services and overhead costs, reporting and performance measurement issues, and other related problems are viewed seriously by the nonprofits. They have been described anecdotally, but consistently, by senior nonprofit officials and by membership organizations representing the sector, including the Human Services Council, United Neighborhood Houses, Council on Families and Child Caring Agencies, and others (Covenant 2014; Human Services Council 2013, 2015). Official reports of City and State officials previously cited show continuing delays in human services contracts, as well (Mayor’s Office of Contract Services 2014, 2015; DiNapoli 2011; Office of the State Comptroller 2015).
An essential question is why these conditions persist. Their negative effects on the quality and effectiveness of the human services system are generally acknowledged by nonprofits and government, which led to undertaking of the reforms in the two most recent City administrations. They occur against the background of a well-established system of collaborative government-nonprofit services delivery that goes back many decades. As noted, implementation of reforms may still be incomplete and not fully enacted by City department program and contracting staffs.

Another factor stems from New York City’s political structure with its three top officials each separately elected on a city-wide basis. The Mayor, Comptroller, and Public Advocate can all claim that they are independently accountable to citizens of the City. Media attention is coin of the political realm and does not usually result from mutual agreement and unity among elected officials. Rather, attention feeds on conflict and controversy. Recently, for example, the Comptroller held or returned contracts to provide homeless shelters because of his finding of poor conditions in the facilities. Other instances could be cited for similar actions on other contract by this and prior City Comptrollers.

Such delays in contracts can be attributed to the Comptroller’s interpretation of his authority to raise questions before registering contracts for payment, despite a 1989 City Charter provision that gives to the Mayor the contracting authority, unless fraud or corruption is suspected. In any case, there is a structural factor involved in some contractual delays. Finding more satisfactory means to resolve such issues between Mayor and Comptroller would be productive.

A broader concern is how to recognize operationally that human services constitute a single shared system that includes both government agencies and nonprofit provider organizations. Yet it does not function as a system of equals. Despite the need for joint planning and problem-solving, the government is—and perhaps must be—in charge. From a management viewpoint, the system depends on some direct City government program operations, as well as contracted responsibilities to the nonprofits (Krauskopf and Chen 2010). The City sets policy, provides some services directly, and contracts for others.

Given its multiple roles, government should consider what kinds of consultations are needed between government and nonprofit service providers before policy and planning decisions are made. How should such consultations be managed with the nonprofits and government departments in particular circumstances involving new and revised programs? Acknowledgement of the value of jointly conceived objectives could encompass determinations to start new programs, conduct needs assessments for ongoing services, change or terminate programs, or take other pre-solicitation actions. The City’s current use of concept papers to gather of feedback about new initiatives from providers, advocates, and other interested parties might be refined and broadened to better support desired consultations at the front-end of programming.
At the back-end—*i.e.* measuring and reporting—the metrics and means are set by government, often without sufficient joint determination with providers of what the appropriate measures should be and how they should be reported. Multiple measures and reports to meet requirements of different government program managers who have not consulted with one another can also produce a difficult management maze for provider organizations dealing with multiple government departments.

There is no established framework in which this human services system operates. Structural and programmatic solutions have been created as new needs develop. Although this evolutionary process demonstrates strength built on its flexibility and responsiveness to changing conditions and the dynamics of new social problems, a lingering question is whether this creative process should occur within some overall understanding that defines more concretely what the mutual objectives of government and the nonprofit service sector are.

Other jurisdictions both globally and within the United States have developed such frameworks or compacts (Casey 2011, 2015). Would such an arrangement be useful in New York City and/or State? To be workable, there would need to be high level and broad support in government and the nonprofits. As this is written, there is a vacancy in the key City government position, Deputy Mayor for Health and Human Services, but presumably it will be filled soon. There is work to be done.
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