



Provider of Choice Workshop

April 9 -10, 2024

PROVIDER OF CHOICE

**POST
2028**

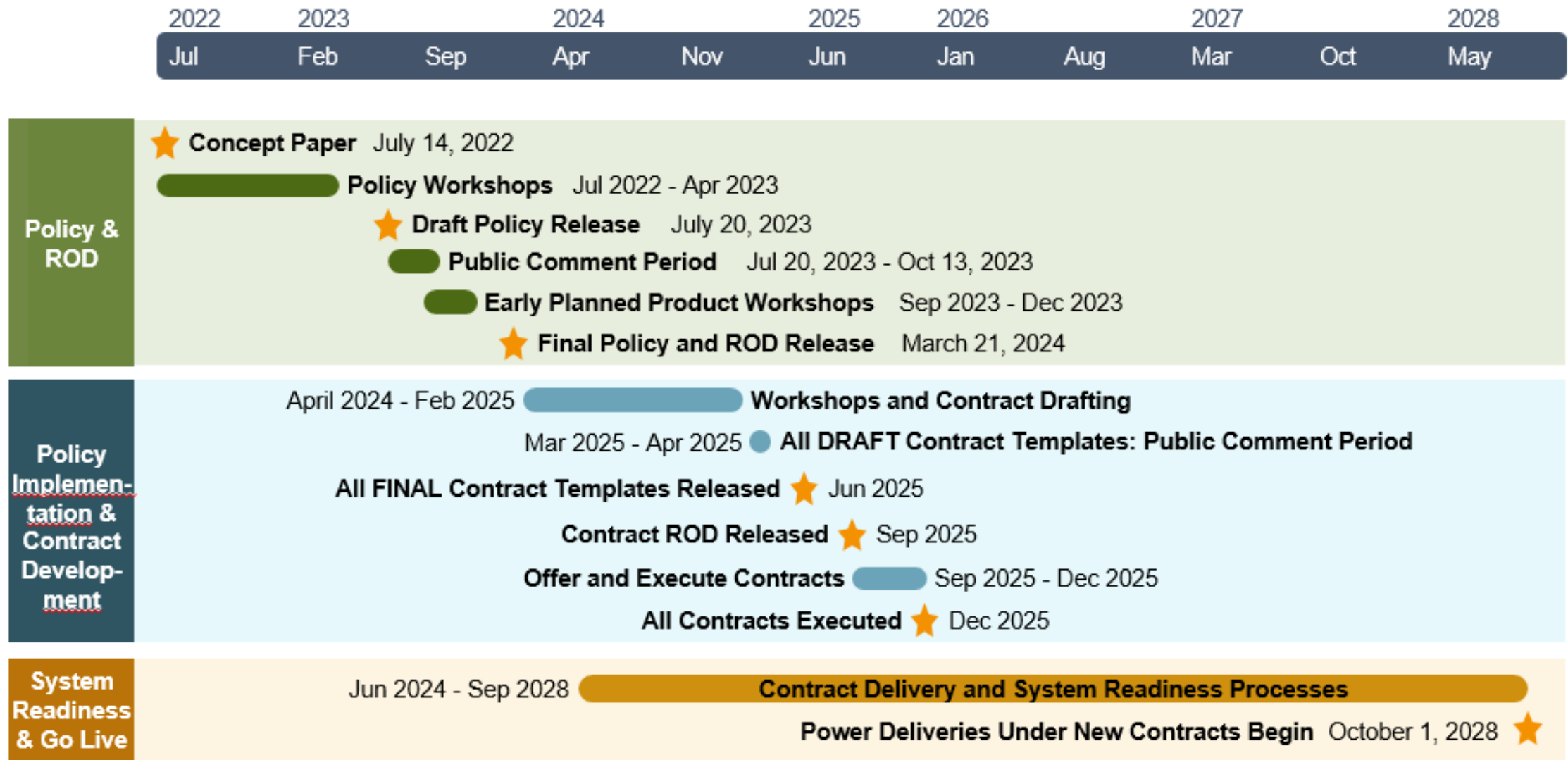




Timelines (April 9)

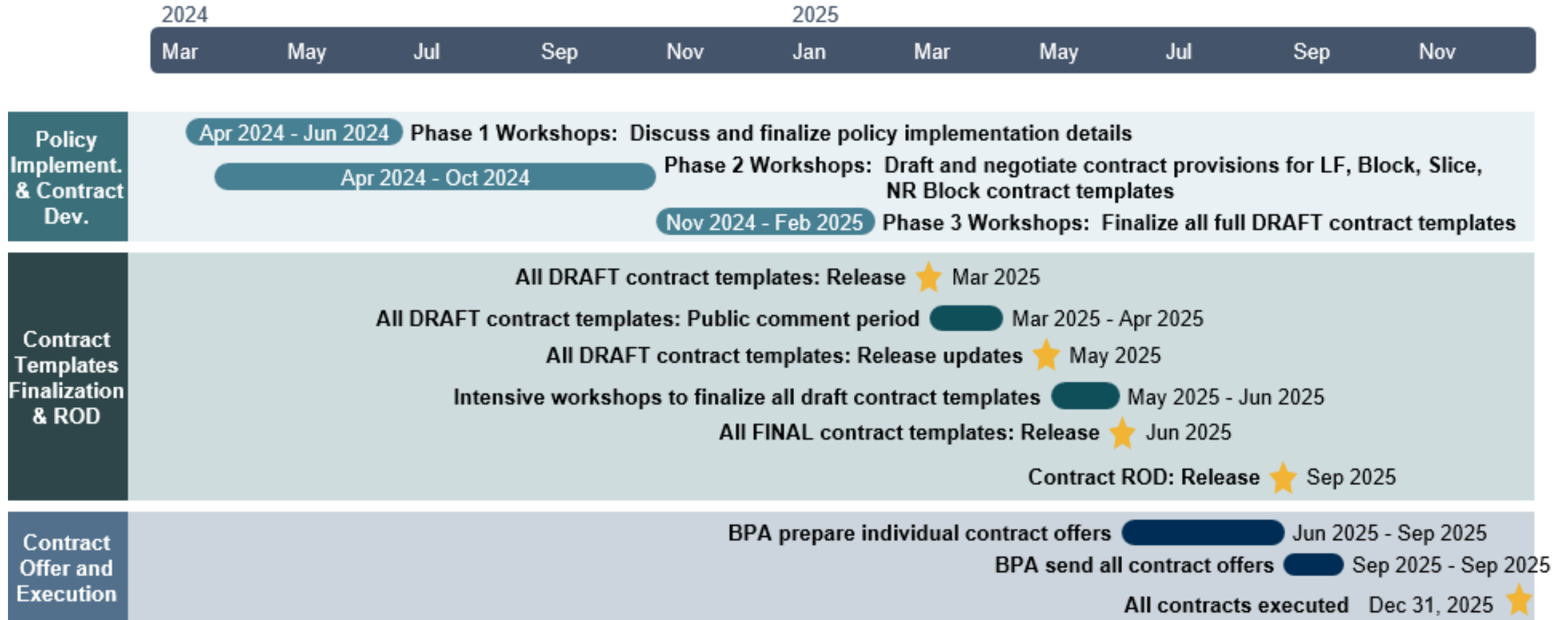
Provider of Choice Timeline

Updated March 2024



Detailed Contract Phase Timeline

Last updated 12/8/2023



2024

2025

Mar May Jul Sep Nov Jan Mar May Jul Sep Nov

Policy Implement. & Contract Dev.

Apr 2024 - Jun 2024 Phase 1 Workshops: Discuss and finalize policy implementation details

Apr 2024 - Oct 2024

Phase 2 Workshops: Draft and negotiate contract provisions for LF, Block, Slice, NR Block contract templates

Nov 2024 - Feb 2025 Phase 3 Workshops: Finalize all full DRAFT contract templates

Phase 1 objectives:
Discuss and finalize policy implementation details

- Discuss outstanding policy implementation details that were not included or detailed in the Final Policy.
- Develop and discuss the details on certain topics necessary prior to developing redlines (see Contract Drafting Strategy slides for more detail).
- This phase must be complete by the end of June 2024 in order to have sufficient drafting time.

Phase 2 objectives:
Share contract drafts; redlines and original drafting

- Negotiate both heart-of-the-deal provisions and 'boilerplate' provisions
- Informed by Phase 1 discussions; process starts before Phase 1 is complete.

Schedule & Issue Inventory

- **Policy Implementation workshop schedule:**
 - Will be updated as topics and needs evolve.
 - We expect to have topics “on deck” if topics end early (similar to PRDM process).
- **The Provider of Choice Issue Inventory (PI) will be used to track topics that are brought to workshops and to track parking lot items.**
 - The PI will be published as part of future workshop materials.



Contract Development Approach (April 9)

Contract Drafting Strategy and Approach

- Make effective use of everyone's time.
- Regional Dialogue as baseline, will ground edits in policy direction.
- Education on status quo only as needed; upon request.
 - Education materials are [on the BPA website](#).
 - Ask your AEs questions and for background materials.
- “Redlines first” approach during Phase 2.

Approach (Cont'd)

- Will tee up 'boilerplate' provisions, without significant deviation from policy, first. Will share 'heart of the deal' drafts and redlines as we, and language, are ready.
 - Have reserved time 2x/month for short Monday workshops to share contract drafts.
 - Will also feather contract drafts into Phase 1 workshops.
- Seek out administrative efficiencies in all provisions, but strive to focus on/leave enough time for heart of the deal.
- BPA will plan to share templates informally for comment during Phases 2 and 3 and will provide a formal opportunity to comment when final draft templates are released.

Contract Phase Risks

Risks to completing contract drafting:

- Extension of Phase 1 Policy Implementation workshops beyond current timeline.
- Timeline contraction or expansion.
- Workshop fatigue/customers' and interested parties' availability.
- Day-ahead market timeline.

Mitigation Strategies

- Shared expectations; communicate candidly, and focus on the contract, common goals.
- Establish priorities and stick to deadlines.
- BPA will not write the contract to anticipate every future scenario.
- BPA will attempt to avoid ‘punting’ the drafting of significant contract provisions until after execution, but may choose to do so as necessary (i.e., RSS and TSSA drafted after contract execution).
- Will look for opportunities to populate data after contract execution.
- Will ensure contract will be administrable on October 1, 2028, regardless of DAM ‘go-live’ status.

Contracting Norms and Expectations

Both customers and BPA:

- Focus on the contract, common goals.
- Establish priorities and stick to deadlines.
- Shared expectations, responsibility for communications.
- Conversation, questions, and feedback on language/editing must happen in workshops.

BPA:

- Post contract redlines at least 1 week before workshop.
- Provide right-sized comment windows: One-week comment window post-workshop as a general rule, but can extend if needed.
- Revisit language/comments at start of subsequent workshops.

Contracting Norms (Cont'd)

Customers:

- Review materials ahead of time and come to workshop prepared to discuss the material.
- Comfortable being represented by trade organization in terms of the negotiation of template contract language or dedicated to attend to represent self.
- Attendees authorized to represent their organization in the negotiation.

Consensus: How and what does it look like?

- Successful negotiations result in contract language that is desirable and understood by all parties.
- To advance drafting, we'll look for majority consensus on as many draft provisions as possible; leaving ample time for 'heart of the deal' provisions.
 - There are often multiple ways to write an enforceable contract provision.
 - It is difficult to achieve unanimous agreement of language with 130 customers.
- Does silence in workshops communicate consensus?
- Desire to avoid customers staying silent in workshops and then providing extensive rewrites during template releases, informal or formal.

Contract Drafting Tools

- Regional Dialogue Load Following template section-by-section descriptions.
- ‘Living’ spreadsheet with contract definitions.



Contract Redlines (April 10)

Contract Sections

(See Workshop Materials for Documents)

- Section 1 – Term
- Section 16 – Billing and Payment
- Section 21 – Uncontrollable Forces*
- Section 22 – Governing Law and Dispute Resolution
- Section 23 – Statutory Provisions
 - 23.1, Retail Rate Schedules, 23.2, Insufficiency and Allocations, 23.7, BPA Appropriations Financing
- Section 24 – Standard Provisions
 - 24.1, Amendments; 24.2, Entire Agreement and Order of Precedence; 24.4, No Third Party Beneficiaries; 24.5, Waivers; 24.6, BPA Policies; 24.7, Rate Covenant and Payment Assurance.
- Section 26 – Signatures
- Exhibit I (previously known as Section 20) – Notices and Contact Information

*Added to slides 4/4/2024