BUILDING COLLABORATIVE COMMUNITIES
NAVIGATING CHALLENGES, CHARTING INNOVATIONS

2018 CSU FACILITIES MANAGEMENT CONFERENCE
Navigating The Procurement Maze
Navigating the Procurement Maze

Presenters

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Navigating the Procurement Maze

After attending this program, participants will be able to:

1. Describe the different procurement methods and identify the appropriate method for a project.
2. Define public works, prevailing wage and DIR requirements.
3. Identify project risks and apply methods for associated mitigation and contingency planning.
4. Understand the elements of a scope of work and how this impacts procurement strategies.
Learning Objectives

- Public Works vs Maintenance
- Prevailing Wage, Department of Industrial Relations (DIR), Contracting Out
- SBE and DVBE Commitments
- Procurement Methods
- Elements of the Scope of Work
- How to Mitigate Project Risks
- How can I get the things I need done….now….the clock is ticking!
Public Works Projects:
The erection, construction, alteration, painting, repair, or improvement of any state structure, building, road, or other state improvement of any kind.

Maintenance Tasks:
Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.
• The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area (if a majority of such workers are paid at a single rate). If there is no single rate paid to a majority, then the single or modal rate being paid to the greater number of workers is prevailing.

• California's prevailing wage laws ensure that the ability to get a public works contract is not based on paying lower wage rates than a competitor. All bidders are required to use the same wage rates when bidding on a public works project. California law requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a public works project.
Prevailing Wage: Public Works Projects & Maintenance Tasks

• Public works contracts must be awarded to the lowest responsible bidder, and shall be based primarily on plans and specifications for typical work. Payment of prevailing rate wages is required on all public works projects in excess of $1,000
  • Labor Code section 1771, refer to SUAM section 9824.

• Maintenance Tasks also requires Prevailing Wage per the CSU General Provisions for Maintenance Tasks
  • In accordance with Labor Code Section 1720, Service Provider must pay employees the current prevailing rate wages for work on this service.
• Awarding Body Responsibilities
  • Register public works projects with DIR. **Project registration** must be completed within five days of awarding the contract.
  • Obtain **prevailing wage rates** from DIR.
  • Notify potential contractors that they must register with DIR and that the project is subject to enforcement by DIR.
  • Require proof of publics works contractor registration before accepting a bid or awarding a contract. To find actively registered contractors, use: **Public Works Contractor Registration Search**.
  • Post or require contractors to post jobsite notices on public works requirements.
  • Ensure that public works contractors pay **prevailing wages** and are in compliance with **public works laws**.
  • **Report any suspected public works violations** to the Labor Commissioner.
Contracting Out

Meet and Confer Process

• Notification of the Teamsters -Unit 6 Skilled Crafts Union must be performed per the current language in the collective bargaining agreement for Unit 6, whenever the project represents work normally performed by Unit 6.

• Notification to CSUEU-Unit 5 Operations Support Services Long-term contracting out shall mean contracting out work which is more than 180 days. CSU shall notice the Union no later than 120 days prior to commencement of long-term contracting out.
Disabled Veteran Business Enterprise (DVBE)

• DVBE Participation Program was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity. The state established a DVBE contracting participation goal of at least three percent (3%). The goal applies to the total contract dollars expended each year by all campuses.

• Participation and Incentive
Small and Micro Business Enterprise (SBE)

- The CSU supports the spirit of the Legislature's declaration as set forth in the Small Business Procurement and Contracts Act (G.C. 14835 et seq.) and supports those goals established by the Office of Small Business and DVBE Services (OSDS), for the extent of participation of small businesses, including micro-businesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

- 25% goal
Procurement Methods

• Job Order Contract (JOC)
  • The California State University has authority under Section 10710 of the Public Contract Code to award annual contracts that do not exceed $3,000,000 for repair, renovation, modifications and other repetitive work, which is to be done by unit prices.

• What to Consider
  • Can the JOC provide service or should bids/proposals be solicited? Consider the total cost of both options.
  • Remember this is a tool in the tool kit not a solution to every situation.
Procurement Methods

Request for Bids (RFB) / Proposals (RFP)

• Contracts for which are estimated to cost $5,000 or under need not be bid (Public Contract Code section 10705). For these contracts, whenever there is reason to believe a response from a single source is not a fair and reasonable price, the Trustees shall obtain at least two written bids from responsible contractors.

• For contracts for which the estimated cost exceeds $5,000, but does not exceed the value of a minor capital outlay project pursuant to Public Contract Code section 10108, “the Trustees shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids” (Public Contract Code section 10705).
Procurement Methods

• Mandatory Requirements
  • contractor must have appropriate license (Public Contract Code section 3300)
  • subcontractor listing (Public Contract Code section 4100 et seq.)
  • DVBE, unless its application is excused by the awarding authority (Public Contract Code section 10115 et seq.)
  • payment bond requirement (Public Contract Code section 7103)
  • advertisement in California State Contracts Register (Government Code section 14825 et seq.) cannot be ignored, but an exemption to do so may be filed for a project.
  • small business advantage (Government Code section 14835 et seq.)
Elements of the Scope of Work

- Project Description
- Project objectives
- Schedule
- Tasks
- Deliverables
- Payment of the project
- Expected outcomes
- Certain terms, conditions and requirements
Bid/Proposal Evaluation

• How to Evaluate Bids/Proposals
  • Traditional bid (RFB) awards are based on the lowest costs that meets bid specifications from a responsible bidder scenario.
  • Traditional proposal (RFP) evaluations consider multiple criteria in addition to costs.
    • Evaluation criteria should be very well defined with factors relevant to the selection of a contractor most qualified to deliver the scope of work.
  • Common evaluation criteria categories:
    • Approach to SOW (work plan/schedule)
    • Contractor Experience / References
    • Costs
    • Sustainability
    • DVBE/SBE
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Identify and Mitigate Risk

• What is the risk?
• How do we reduce the risk?
• Tools of risk transfer
  • Analysis
  • Indemnity (hold harmless) agreement
  • Insurance requirements
  • Verification of coverage
  • Report claims properly
Identify and Mitigate Risk

• CSU develops/maintains provisions/requirements which mitigate risks. These are basic yet crucial:
  
  • The contract general conditions are an integral part of the contract and they are incorporated by attachment into project/service agreement.
  
  • They set forth the rights, responsibilities, and relationships of the owner and contractor.
Insurance & Indemnification

- Insurance provisions prescribe the minimum insurance requirements necessary to control, mitigate and/or transfer risks.

- Indemnification is a promise that one party will make good on any loss, damage, or liability incurred by another.
Coverage flows from Indemnity

Public Entity

Contractor

Contractor's Insurer

Hold Harmless

“Insured Contract”

Coverage flows direct via Additional Insured Endorsement.
Certificates of Insurance

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Certificates of Insurance

• Endorsements: Additional insured status is an endorsement placed on a pre-existing liability insurance policy. It extends the reach of the endorsed policy to others who do not have the policy, but who may benefit from coverage such as the Trustees and the State of California.
ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.
Sources of Knowledge

See CSURMA.org for the latest version
Resources

- http://www.calstate.edu/cpdc/suam/AppendixADefinitions.pdf
- http://www.calstate.edu/cpdc/CM/CGC.shtml
How can I get the things I need done...now (non-bid)

• Utilize Existing Suppliers
  • Already have 204 on file
  • Have met insurance requirements before
  • Use to doing business with the CSU

• New Suppliers
  • Plan ahead
  • Get 204 information in early
  • Be proactive, share our insurance requirements
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Questions