

EFFECTIVE SERVICE CONTRACTING IN A RURAL ENVIRONMENT

National Conference on Rural and Intercity
Bus Transportation
October 2, 2016

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Workshop Objectives

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- To become familiar with the legal requirements around contracting
- To describe a process for successfully managing a procurement
- To be able to develop a more effective contract
- Identify processes and techniques to better manage a contracted service

Workshop Outline

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The Contracting Process

- ✧ Procurement Fundamentals
- ✧ Elements in the Contracting Process
- ✧ Developing your Timeline

Developing the RFP and Contract

- ✧ Structuring the RFP and Work Scope
- ✧ Payment Structures
- ✧ Scoring and Evaluation

Managing the Procurement and Contract

- ✧ Administering the Evaluation and Award Process
- ✧ Managing the Transition
- ✧ Managing the Contract

Administrative Items

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- Break
- Cell Phones
- Emergency exits/rally point
- Course Evaluation

Why Contract

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Advantages

- *To achieve cost savings and efficiency*
- *To obtain skills without long-term commitments*
- *To overcome agency limitations*
- *To meet special needs and circumstances*

Disadvantages

- *Less control*
- *Potentially less quality*
- *Lack of continuity (Transitions can be disruptive)*

Issues in Rural Contracting

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- Not enough qualified contractors available, contract is too small to generate sufficient competition
- Contractors performance falls short of expectations
- Contractors do not have the resources to perform adequately
- Your issues _____?

Legal Requirements That Apply...

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- ❑ Source of funds
- ❑ Size of the purchase
- ❑ Type product or service
- ❑ Local laws, regulations and policies

Basic Procurement Infrastructure

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- Written procurement policies that comply with governing regulations (i.e. FTA C 4420.1 f)
 - ✓ Types of procurements and applicable thresholds
 - ✓ Procurement responsibilities and documentation
- Written standards of conduct
 - ▣ Conflicts of interest
- Contract compliance system
 - ▣ Assures compliance with applicable federal, state and local regulations

Types of Procurements*

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- Micro-Purchase [$< \$3,000$]
- Small Purchase [$\$3,000$ to $\$100,000$]
- Professional Services Agreement
- Architectural/Engineering
- **Sealed Bid**
- **Competitive Procurement**
- Noncompetitive Procurement [Sole Source]

*Limits may vary based on local regulations

Sealed Bid vs. Competitive Procurement

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- ▣ Bid requires very clear specifications
 - Buyer specifies what will be provided in detail
- ▣ Competitive Procurement is intended to permit competition on quality and other factors, as well as on price

Sealed Bids versus Competitive Procurement

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Sealed Bid

- A complete, adequate and reasonable specification purchase description is available.
- Two or more responsible bidders willing and able to compete effectively.
- Procurement lends itself to firm fixed-price contract and selection can be made primarily on the basis of price.
- No discussion with bidders is needed after receipt of offers
 - Award will go to lowest responsible bidder

Competitive Procurement

- A complete, adequate and realistic specification or purchase description may not be available.
- The contract award amount can only be determined from a negotiation process.
- Discussions or negotiations may be needed to address technical requirements as well as proposed cost or price aspects of the offeror's proposal. May be opportunity to revise proposals and to submit a final proposal.
 - Award should go to firm that best meets evaluation criteria – may not be lowest price

Competitive Procurement-FTA Requirements

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- ▣ Must be conducted in a manner providing full and open competition.
- ▣ Must be publicly advertised.
- ▣ Proposals shall be solicited from an adequate number of known sources [i.e. bidders list].
- ▣ RFP must be issued with sufficient time to prepare proposal prior to due date.
- ▣ RFP must contain specifications, attachments and description of services in order for the proposer to properly respond.
- ▣ RFP must identify all evaluation criteria along with their relative importance.
- ▣ **Awards will be made to the responsible firm whose proposal is most advantageous to the grantee's program with price and other factors considered.**

Competitive Procurement

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“Most advantageous” may be defined as either

- Best value - requires tradeoffs between price and non-price factors to select the best overall value to the grantee.
- Lowest price technically acceptable proposal - requires selection of the lowest price proposal meeting the minimum RFP requirements.

“Scores, without substantive explanations of the relative strengths and weaknesses of the competitive proposals, including the perceived benefits to the agency, are an insufficient basis for paying a higher price. The file must explain why company X represents the best value to the agency.” [BPPM p.91]

Elements in the Contracting Process

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- Establish Goals for Your Service
- Conduct Market Analysis
- Determine Service Design
- RFP Development
- Conduct the Procurement
- Manage the Transition
- Monitoring and Managing the Contract

Getting Started

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- Before starting the procurement process
 - *Conduct local market analysis*
 - *Identify key (scarce) resources*
 - *Develop your contract design*
 - *Build your timeline*

Conduct Local Market Analysis

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- National firms
- Local providers
- Cabs, Limos, Others
- Non-Profits
- TNCs?

Identify Key (Scarce) Resources

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- Talk to the Players
- Circulate Your Work Scope
 - ▣ *Would you bid on this work?*
 - ▣ *What part is costing more money than it is worth?*
 - ▣ *What is missing or is a deal breaker?*

Determine Service Design

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- Fit the design to the market's resources
 - *Type of service/payment structure*
 - *Facility*
 - *Insurance*
 - *Maintenance*
 - *Fuel*
- PVTA's service design dilemma

Contract Service Design

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**“Risk should be borne by the party
controlling the variable”**

- Insurance (Can be a hurdle for a small firm)
 - ▣ Do you have a resource?
 - ▣ Who pays for a poor safety record?
- Maintenance
- Vehicles, site, equipment
- Scheduling software
- Are you specifying the process or the end result?
- What is the cost of control?

Contractor Development

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- Facilities or Vehicles
 - ▣ Does it take a barrier to competition
- Partnerships
 - ▣ Example—share facilities, vehicles, riders
 - Non-profit and rural agency in rural California
- Training
 - ▣ Agency supplied resource
- Coaching
 - ▣ Sometimes the best manager works for the agency

Steps in the Procurement Process

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- RFP development
- RFP release/publication
- Pre-proposal conference & question period
- Addenda/clarifications
- Proposal submission
- Evaluation
- Interviews
- BAFO/negotiations
- Selection/staff report
- Award
- Contract finalization
- Transition
- Start of Service
- Month One
- Monitoring & management
- Repeat as needed

When to Get Started

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- Develop a “Reverse Timeline”
 - ▣ Determine Start of Service date and work backwards with time requirements for each phase of procurement process
 - ▣ Group Exercise:
 - Present contract ends on January 1, 2018.
 - When should you begin your procurement process

Develop a Timeline

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- ▶ Market Analysis and Contract Design
- ▶ Internal RFP Drafting & Approval
- ▶ Required Outside Approvals
- ▶ Request for Proposals Issued
- ▶ Voluntary Pre-proposal Conference
- ▶ Deadline for Submission of Questions
- ▶ Addenda and Answers Distributed
- ▶ PROPOSALS DUE
- ▶ Evaluation and Interviews
- ▶ Best and Final Offers
- ▶ Contract Award
- ▶ **START OF SERVICE**

January 1, 2018

Develop a Timeline

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START OF SERVICE

Contract Award

Best and Final Offers

Evaluation and Interviews

PROPOSALS DUE

Addenda and Answers Distributed

Deadline for Submission of Questions

Voluntary Pre-proposal Conference

Request for Proposals Issued

Required Outside Approvals

Internal Approvals

RFP Drafting

Contract Design and Market Analysis

January 1, 2018

October 2, 2017

August 31, 2017

August 22, 2017

August 10, 2017

July 31, 2017

July 20, 2017

July 11, 2017

June 20, 2017

June 10, 2017

March 10, 2017

January 2, 2017

July 1, 2016

Request for Proposal Elements

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- Introduction and General Information
- Rules for the Process
- Schedule
- Evaluation Process
- Protest Procedure
- Required Proposal Content
- Scope of Work
- Sample Contract

Request for Proposal Tips

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- Identify/Specify Key Performance Factors
 - *Wages?*
 - *Staffing?*
 - *Software?*
 - *Vehicles?*

Developing the RFP and Contract

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- ✧ Structuring the RFP and Work Scope
- ✧ Payment Structures
- ✧ Scoring and Evaluation

Request for Proposals-Process

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- Clearly outline the procurement process
 - ▣ *Follow the process you outlined*
 - ▣ *Consider coaching governing board members on the process and securing their approval*
 - ▣ *Consider having a board member or advisory body representative on the evaluation panel*
 - ▣ *Have at least one panel member from outside your evaluation panel*

Request for Proposals-Evaluation

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- Establish clear evaluation criteria, design the weighting of criteria carefully
 - ▣ *Design evaluation criteria to fit your specific needs*
 - ▣ *Consider using an ordinal ranking of evaluator scores*

Evaluation

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- A Detail Cost Proposal Reveals Contractor Priorities, Strengths and Weaknesses
- Quality of On Site Personnel are a Key Factor in Project Success—*Make award contingent on providing the key personnel proposed*

Interviews

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- Optional at agency's discretion
- Schedule well ahead [best in RFP]
- No requirement to interview all proposing firms
 - ▣ Define criteria for competitive range
- Determine interview timing and content
- Designate time-keeper and question reader
- Require Project Manager to participate and limit number on proposer teams
 - ▣ Consider interviewing the project manager separately

Best and Final Offer

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□ Uses

- *Can improve all offers*
- *Put in a piece missed by proposer or agency*
- *Questions about what is being provided*
- *Specifications need to be clarified*
- *Clarify selection*
- Agency Option-May be requested of all proposers or only those in competitive range

Protests

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Types of Protests:

- Pre-Bid or Solicitation Phase
- Pre-award Protest
- Post-award Protest

Based on FTA requirements:

- Agencies must have written protest procedures;
- Protesters must exhaust administrative remedies before appealing to FTA;
- FTA review is limited:
 - ▣ Does agency fail to have or to follow its protest procedures?
 - ▣ Does agency fail to review a complaint or protest?
 - ▣ Is there a violation of Federal law or regulation?

[FTA Circular 4220.1F]

Document your process

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- Minimum Records shall include:
 - ▣ Rationale for method of procurement
 - ▣ Selection of contract type
 - ▣ Reasons for contractor selection/rejection
 - ▣ Basis for contract price.

Document Your Process

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- Most common problems:
 - No independent cost analysis
 - No cost/price analysis of proposed costs
 - No documented rationale for contract type
 - No documentation for selection decision
 - No documentation for how price was set.

Transition Tips

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- ❑ Include transition requirements in Scope of Work
- ❑ Initiate transition meetings immediately after of award of contract
- ❑ Require participation of on-site managers and responsible senior manager for both incoming and outgoing contractors
- ❑ Document agreements reached in meetings
- ❑ If vehicle maintenance/condition involved, consider independent maintenance expert
- ❑ Specify vehicle turnover procedure in RFP and contract
- ❑ Critical issues: vehicle maintenance and physical condition, transfer of phone lines, access to current employees for information, interviews, training, and access to NTD and other data
- ❑ Take nothing for granted.

Transitions

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- Providing Sufficient Time for Transition Can Determine Its Chances for Success
 - Minneapolis 1993
 - New Software
 - New Service Design
 - New Vehicles
 - From 16 to 2 Contractors
 - Unplanned for Protests
 - The Governor Called Out the National Guard

Transition Timing-Things to Consider

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- Don't Change Everything at Once
- Do Vehicles Need to be Delivered
- Do Facilities Need to Prepared
- Do Drivers Need to be Recruited and Trained
- Software, Phone Lines
- What Do We Do If Something Doesn't Happen?

Managing the Service

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- Periodic reports – choose your 3 or 4 key factors
 - ▣ *The daily report*
- Regular “all hands” meetings/communication
- Open sharing of information
- Establish mutually beneficial goals

Monitoring

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- Field checks, random audits (fares, trip sheets)
- Samples and surveys
- Sample rides, secret shoppers
- Complaints
- Third party audits (maintenance, ADA compliance)

Contract Evaluation and Adjustment

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- Evaluate both contractor and contract performance regularly
- Work with Contractor on mutually beneficial changes or renewal or extension
- Provide contract administrator as much flexibility as possible
 - ▣ PVTAs' payment formula balances productivity and on time
 - ▣ PVTA staff incentive program

Incentive Program

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- Outside the formal contract
- Dispatch incentive, productivity, on-time and cab use standard
- Driver incentive—attendance, complaints, accidents and timely return to service
- Mechanic incentive
- Manager incentive
- Standards reviewed and adjusted regularly

Contract Renewal:

Should you go to out to bid or not?

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- What does your existing contract say about contract term and options?
- What objectives will be achieved by a competitive procurement?
- Could these be achieved through negotiations with existing contractor?
- It is often easier to introduce changes with an existing contractor

Thank You!

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