Procurement 101

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Workshop Objectives

• *Raise awareness* and proficiency in procurement, contract standards, policies and procedures

• *Maintain integrity* of procurement and contracting process

• *Understanding Responsibilities* of both the project manager and the purchasing staff during a procurement process
Agenda

• Overview
• Review bid process and key terms
• Contracting goals, terms, conditions
• Responsibilities
What is Procurement?

In its simplest form, procurement is the organized function responsible for obtaining necessary commodities and services required by departments and agencies to carry out their assigned responsibilities.
Procurement:

Benefit

• Specialized knowledge
• Comply with statutes and policies that regulate procurement activity
• Provide direction as to methodology and approach, including tools to mitigate risks
• Facilitation of solicitation process
• Ensure fair and open competition
Procurement Planning is Key

- Fosters better business decision-making
- Opportunity to consolidate requirements
- Facilitates budget process when procurement planning occurs at least annually
- Fosters greater economies and efficiencies
- Enables a decision on what is the best procurement methodology and approach to be utilized for a specific procurement
- Tip: Reach out to Procurement early, when the need is conceived. They can advise on methodology, timelines, and strategy.
CSU Policy Manual for Contracting & Procurement

Section 5401
Delegation of Authority

President is the contracting authority for CSU East Bay, as delegated by the CSU Board of Trustees.

The President has delegated procurement authority to the Director of Procurement & Support Services and the Vice-President of Administration & Finance to enter into contracts and to issue Purchase Orders. Departments are prohibited from entering into contracts and obligating University funds.
Materials, Supplies, Equipment, & Services

$50,000 or more

✓ Formal
✓ Advertised
✓ DBE/SBE outreach
✓ IFB – Lowest responsive and responsible
✓ RFP – Most qualified responsive and responsible
✓ Secured by Written Contract
Services

$0-$50,000
- One informal quote
- Fair and Reasonable determination
- Cost/Price analysis
- Secured by Purchase Order or Written Contract
- The Campus endorses the use of Best Public Procurement Practices
Small Businesses and DVBE’s

• Acquisitions that are estimated to be $5,000.01 to $250,000.00 may be awarded to a certified Small Business or a Certified DVBE, as long as price quotations or proposals have been obtained from two or more small businesses and/or DVBE’s. Advertisement in DGS’s Bid Synch is not required. Source: CSU Policy Manual for Contracting & Procurement; Section 5215.400
Services

$50,000 or more

- Formal
- Advertised
- DVBE/SBE outreach
- IFB – Lowest responsive and responsible
- RFP – Most qualified responsive and responsible
- Secured by Written Contract
- The use of written requests for bids/proposals is required.
Information Technology Resources (ITR) Contracts

- The California State University (CSU) System is committed to ensuring all of its programs and services are accessible and usable by all students, staff, and faculty, including those with disabilities. A critical component of this effort involves ensuring that all electronic and information technology (E&IT) products meet recognized accessibility and usability standards, including Section 508 of the Rehabilitation Act at the time of procurement.
ITR Contracts (con’t)

• The acquisition of Information Technology Resources includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, electronic commerce, simulation, and all related interactions between people and machines.
ITR Acquisitions <$50,000

• May be awarded when the price has been determined to be deemed “fair and reasonable”. The attainment of the standard of “fair and reasonable” may be determined by, but not limited to, one of the following techniques:

• Catalog or Market price – The price offered is supported by an established, verifiable catalog or market pricing medium issued by a responsible supplier
ITR Acquisitions <$50,000 (con’t)

- Price Comparison - A buyer has obtained and documented quotes or offers within the last 18 month period from other responsible suppliers which provides evidence that a price obtained is deemed fair and reasonable.

- Historical Pricing – A buyer is able to demonstrate that other transactions occurring in the past 18 months shows prices for similar acquisitions, which provides evidence that a price obtained is deemed fair and reasonable.
ITR Acquisitions<$50,000 (con’t)

• Controlled Pricing – Law or regulation sets the price offered
• Informal solicitation process (obtaining of quotes)
ITR Acquisitions $50,000-$250,000

• Acquisitions estimated to be equal to or greater than $50,000, and $500,000 or less may be the result of an informal solicitation that includes advertising in the automated Procurement system that has been adopted by the CSU system. An informal solicitation process may provide for submittal of quotes from the vendors.
ITR Acquisitions >$500,000

• Acquisitions estimated to result in contracts greater than $500,000 shall be awarded as the result of a formal solicitation process.
Public Works Projects from $0-$5,000

• Projects for which are estimated to cost $5,000 or under need not be bid. Source: CPDC, Construction Management for Public Works Contract, Section 9720.01
Acquisitions Estimated to be $5,000-$250,000

• Acquisitions that are estimated to be between $5,000-$250,000 may be awarded to a Certified Small Business and/or a Certified DVBE, as long as price quotations or proposals have been obtained from two or more small businesses and/or DVBE’s. Source: CPDC, Construction Management for Public Works Contract, Section 9720.02.02
Public Works Projects from $50,000-$634,000 (Minor Cap)

• Informal bid process is required. Bid packages are provided to those contractors interested in doing business with CSUEB. Written bids are solicited. Ensure that the scope of work, specifications, notice to contractors, bid proposal form, contract general conditions, supplementary general conditions, list of proposed subcontractors, payment and performance bonds, prevailing wage rates, certificate of appropriate contractor’s license,
Public Works Projects from $50,000-$634,000 (con’t)

• (con’t) small business preference and certification request, advertisement in authorized Procurement system that has been adopted by CSU System, certification to bid, non-collusion affidavit, and DVBE solicitation are included. *Source: CPDC, Construction Management for Public Works Contract, Section 9720.02*
Public Works Projects >$634,000

- The use of formal bidding requirements apply; all provisions of CSU Contract Law apply: design, bid, build, *Source: CPDC Construction Management for Public Works Contract, Section 9720.03*
PROCUREMENT PROCESS
Scope of Work – Provide by Requester

• Definite and clear
• Balance between too narrow (restrictive) and too broad (not getting what is needed)
• Defines the obligation of the parties
• Written in plain and precise language
• Establishes minimum requirements
• Ideally it should clearly address the desired end result
• Proposer should explain how they are going from Point A to Point B
• That methodology is often a part of the evaluation process
Design vs. Performance Specification

Traditional/Design
- Tells what you need
- Tells how the vendor is to provide
- Focused on detail
- Very specific - focused on approach

Performance
- Tells what you need
- Does NOT tell how the vendor is to provide
- Focused on big results
Estimated Cost

*What is it?*
- Estimate of cost by one or more entities.

*Why obtain?*
- Used to assist in determining reasonableness or unreasonableness of bid or proposal
- Required for all procurements
Requisition

• Must include:
  – Description of goods or services to be procured
  – Scope of Work
  – All support documentation
Solicitation Types
Common Solicitation Types

- Invitation for Bid (IFB)
- Request for Information (RFI)
- Request for Proposal (RFP)
- Request for Quotations (RFQ)
- Request for Qualifications (RFQ)
- Sole/Single Source
- Emergency Procurement
IFB vs. RFP

IFB
• Clearly defined specifications
• No qualitative factors
• No discussions or negotiations needed
• Award to lowest responsive and responsible bidder

RFP
• Consideration of factors other than price
• Discussions/negotiations anticipated
• Award to most qualified responsive and responsible proposer
Request for Qualifications

• Used for architect/engineering services, as well project management/construction management services
• Cost not a factor
• Qualifications of vendor – primary selection criteria
• Price negotiated with top ranked vendors
Sole/Single Source Procurements

Single Source
Business reason exists that warrants going to only one contractor/vendor for required work.

Sole Source
Contractor/vendor is the only one that can provide product or service.
Sole/Single Source Procurements

Justification:

- Written
- Must be submitted by the using department prior to purchase
- Must be approved by the Director of Procurement prior to purchase.
Emergency Procurement

Used where there exists:

- a threat to public health, welfare, property or safety, or

- if a situation exists which makes compliance with Invitations for Bids or Request for Proposals impracticable, unnecessary or contrary to the public interest.
Emergency Procurement

• Example of emergency situations include, but are not limited to:
  • Floods
  • Epidemics
  • Riots
  • Equipment failure
  • Serious threat to the functioning of CSUEB
Evaluation
Responsiveness and Responsibility

Responsive
- Supplied requested information
- Did not modify bid
- Meets technical specifications

Responsible
- Not on Excluded Parties Listing (Debarred)
- Financial Capacity
- Operational Capacity
- Reference checks
- Public Works Contract – Registered with Dept. of Labor
Fair and Reasonable Determination (Major Purchase)

Required in the contract file with every procurement action, regardless of cost.
  – Must include the basis (reasons) why the price is deemed fair and reasonable.

• Two methods of determination
  – Cost analysis
  – Price analysis
Price Analysis

• Examination of price without consideration of individual components
  – Historical prices
  – Market prices
  – Parametric prices
  – Independent estimates
  – Catalog or market price lists
  – Comparison to received bids/proposals
Cost Analysis

• Examination of each element of price and profit or fee separately
  – Requesting cost data
  – Labor, materials, other direct charges, overhead, profit
  – Evaluation techniques
  – Weighted guidelines profit approach
  – Construction change orders
Types of Contracts
What is a Contract?

An agreement enforceable by law between two or more competent parties to do or not to do something not prohibited by law, for a legal consideration.
Legal Elements of a Contract

• An Offer
• An Acceptance in strict compliance with the terms of the offer
• Legal Purpose/Objective
• Mutuality of Obligation – also known as the “meeting of the minds”
• Consideration
• Competent Parties
Types of Contracts

- Written contract
- One time purchase order
- Blanket purchase order
- MOU
- Student Placement
Blanket Purchase Orders

• Used for recurring purchase of the same or like items or services from the same vendor
• Allows multiple purchases under one purchase order
• Packing list
• Purchase order dollar amount may be adjusted, if required, with minimal paperwork
Responsibilities
Purchasing Department Responsibilities

1. Conduct and oversee the solicitation process
2. Process requisitions
3. Contract awards and approvals
4. Contract tracking
5. Procurement oversight—contract administration
6. Contract dispute resolution
7. Procurement advice and guidance
8. Procurement training
9. Procurement and contract policies and procedures development and maintenance
Requesting Department/Project Manager Responsibilities

- Cooperation/collaboration
- Supporting documentation
- Comply with all applicable policies, procedures and statutes.
- Communication
  - With Contract Administrator/Buyer
  - Regarding performance, issues, concerns
Requesting Department/Project Manager Responsibilities

• Actively participate in enterprise and customer specific process improvement initiatives.
• Provide honest, frank, and constructive annual assessment of satisfaction with procurement services provided to your department by the Purchasing Department.
Monitoring Contracts
How to Monitor Contracts

- What are we paying for?
- Are the deliverables in accordance with what the contract indicates (quality)?
- Insurance certificates in place
- Are the deliverables timely per the contract?
- Are performance bonds on file?
- Is there a liquidated damages clause?
- Document performance problems to the contractor in the file
- Retention
- Acceptance Process
- Incentives
- End-user approval
Food for Thought
Talk through the “What ifs”

- What if the contractor fails to perform? There may be a performance bond or liquidated damages to hold them to.
- What if we are dissatisfied with the contractor? We can choose not to renew the contract, have the contract provide a plan for our review indicating how they will begin to perform satisfactorily per the contract, or issue a termination for default or convenience.
- What if the contractor does not meet schedules? Hold back payment, exercise performance bond or liquidated damages.
Wrap Up

• What questions do you still have?
• What topics would you like to see explored in the future?
Thank you

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