



CONTRACT ADMINISTRATION

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Goal of Contract Administration

Goal of Function:

To ensure that contracts are performed as agreed and the responsibilities of both parties are properly discharged.

Responsibility of Contract Administrator:

Oversee, monitor and provide technical guidance on a continuing basis to minimize or eliminate problems and potential claims and disputes.

Responsibilities

- Governing Board: setting policy, approving expenditures
- Chancellor: resolving disputes, promulgates and implements policies; establishes administrative procedures
- General Services: implements procedures, executes transactions, monitors policies and procedures
- General Counsel: legal issues
- Manager(s): requesting work, judging technical expertise
- Equal Opportunity: judging good faith, documenting compliance, investigating eligibility, judging preference points



Routine Functions

1. Oversight
2. Review of Work
3. Progress Monitoring
4. Invoice Processing
5. Change Management
6. Documentation and Filing
7. Performance Reviews
8. Contract Closeout



Success Factors

- Establishment of goals
- Ongoing monitoring
- Accountability for results



Risks

- Contract not awarded according to policy/procedures
- Contract not subject to open bidding; Bids not conforming to specifications
- Terms of “extras” not clearly stated in contract
- Financial responsibility and insurance requirements not met
- Measurable objectives not in contract



Protections

- Performance and costs conform to contract
- Full value is received for money spent
- District is adequately protected
- Identification of costs preventing over-expenditures
- Liabilities set up based on work measurement
- Protection to staff engaged in acquiring goods and services from third parties
- Adequate audit provisions
- Contractual objectives stated in measurable terms
- Contractual provisions in accordance with laws, regulations, and guidelines



Contract Types

- Formal
- Informal
- Professional Services
- Under \$600



Resolution 99/00-5 Chancellor Authorization

- Authorization to sign documents during month of Board vacation and holiday closures
- Items are of an expedient nature
- Make items available to each Trustees for consideration



Contract Authorization

Board Policy 6.84

- Contracts for personal services
- Up to \$25,000 unrestricted funds
- Not bond funds or other goods and services
- Contracts exceeding \$25,000* in a fiscal year must have Board approval

* By organization, individual, vendor



Responsive and

Lowest ^ Responsible Bidder

- Quality and performance of the supplies or services
- Ability, capacity and skill to perform
- Ability to provide the supplies or services within the time specified
- Character, integrity, reputation, judgment, experience and efficiency
- Quality of performance on previous contracts with the District or other governmental entities
- Validation of good standing with the State of California Contractors State Licensing Board

The background of the slide is a photograph of a tall skyscraper, likely the Empire State Building, viewed from a low angle looking up. The building's facade is a grid of windows, and the sky is a pale, overcast grey. The text is overlaid on this image.

Sole Source

Sole Source is a contract award (without competitive bidding) for a good or service because of its specialized or unique characteristics or performance capability.

If you “Google” a product and you get a list of vendors that supply it, the product is not a sole source.

Sole Source

- Purchasing has no separate tracking for sole source purchases. District should annually account for dollars spent on sole source contracts
- Must be approved by the Board if over current threshold
- Develop specific and consistent criteria to validate a sole source
- Determination is not the role of the user, it is the role of the Buyer
- Establish vendor list for future reference



Contract Splitting

Public Contract Code §20116.

It is unlawful to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the provisions of this article requiring contracting after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California School Accounting Manual for a period of not less than three years after completion of the project.

Contract Splitting

District Practices

- Within same week or month
- One college versus another
- Contract for exactly \$25,000 or \$24,9xx or \$76,400, et. al
- Exceeding \$25,000 and asking for authorization after the fact, or knowingly approving contract that will exceed threshold



Professional Services

- Any work performed by an attorney, doctor, architect, engineer, construction manager, accounting firm, etc. which require special performance criteria, specific experience, training, personal judgment, quality of work or factors other than simply obtaining the service at the lowest cost to the District.
- Professional service contracts are awarded based upon competence. Once it has been determined that a firm has demonstrated an adequate level of experience, competence, staffing and other professional qualifications for more than a satisfactory performance, the cost of the service may be considered. The lowest cost may not be the sole factor in deciding which firm shall be awarded the contract.



Independent Contractors

- Professional Services Contract for an Independent Contractor
- Limited time-frame
- Board approval
- Insurance: Errors/Omissions, Workers' Compensation, General Liability
- IRS Form SS-8 Determination of Worker Status



Contractor Controls

- Contractor Disclosure Affidavit
- Confidentiality and Privileged Information
- Performance Evaluations
- Progress Reports



Progress Reports

- Gives the contract administrator and manager an opportunity to provide feedback to vendors in a more timely and structured manner
- This opens up a line of communication that is valuable to all parties
- PCCD form signed by contractor
- Frequency monthly, no less that with submission of every invoice

IG Recommendations

1. Require employees to annually* sign an affidavit regarding any potential business conflicts of interest
2. Adopt Administrative Procedure for business conflicts of interest
3. Create Board Policy to require professional services contracts that exceed the Chancellor's threshold authority undergo a competitive administrative procedure
4. Revise Board Policy to:
 - a) require employee disclosure business partner(s) for which they have investments that are within the sphere of influence of the District
 - b) more clearly state disclosure of personal investments within two miles of Oakland, Berkeley, Alameda, Piedmont, and parts of Emeryville San Leandro and Albany

IG Recommendations

5. Ratify Board Resolution No. 99/00-5 as Board Policy
 - a) Require that amendments be ratified not later than first scheduled meeting Board returns to session
6. Require all contract fees include the cost of reimbursables
 - a) Not-to-exceed amount of contract
 - b) Not-to-exceed original contract
7. Commission a complete review of the PROMT Vendor History File



IG Recommendations

8. Require utilization and recordation of the Waiver of Competitive Procedures form
9. Develop performance evaluation process for contract vendors
10. Require vendors to submit with their proposal a resume and references. File with contract documents
11. Reflect in Administrative Procedure that invoices are paid according to the contract award amount – no commingling of subsequent contract awards

IG Recommendations

12. Provide a monthly financial ledger of all procurement transactions categorized by activity
13. Make presentation to the Audit and Finance Committee regarding all options to District credit cards
14. Strengthen Board Policy 3.16 Institutional Code of Ethics to make enforceable, or convert the Policy into a Values Statement
15. Provide annual financial report for Board review of status of all projects
16. Require all contract negotiations be finalized through the District contract template



IG Recommendations

17. Adopt Board Policies provisionally until an accompanying Administrative Procedure is complete
18. Adopt Administrative Procedures for the role each Board Committee has in the review of financial transactions
19. Review Administrative Procedure for contracting with the Audit and Finance Committee – includes formal, informal, professional services
20. Ensure Purchasing Manual is consistent with Administrative Procedures and Board Policy
21. Require Purchasing Division to establish Standard Operating Procedure for monitoring and archiving official procurement documents

IG Recommendations

22. Revise Independent Contractor/Consultant Services Contract
 - a) Do away with NCR form
 - b) Place contract form online
 - c) Make instructions the first page of contract
 - d) Include beginning and ending date of service
 - e) Require staff to complete contract, not vendor
 - f) Void all contracts with cross-outs and inaccurate information
 - g) Provide more space for scope of work. Encourage attachments, if necessary
 - h) Require resume or bio and list of references (at least 3)
 - i) "Net 30 Days" from receipt of invoice
 - j) Require errors and omissions insurance for professional services
 - k) Purchase Order is executed PRIOR to start of work
 - l) No increase in amount or scope of work without formal written amendment by Board, if over threshold
 - m) Identify city/county for active business license. Include expiration date
 - n) Not for current District employees



QUESTIONS
AND
ANSWERS