

Construction Contract Documents

Michael E. Purdy

Contracts Manager

University of Washington

(206) 221-4235

mpurdy@u.washington.edu

Procurement Models

- Models of construction contracting:
 - Design/Bid/Build
 - Small Works Roster
 - Limited Public Works process
 - GC/CM
 - Design/Build
 - Job Order Contracting

Managing Your Contracts

- Review boilerplate annually
- Know your contract documents
 - Provide training for administrative & technical staff
- Use appropriate contract format
 - APWA / WSDOT
 - AIA (subscription fee)
 - Custom specification
 - CSI (organizational structure only)
 - Other

Contract Content

- Scope
- Time
- Cost
- Terms and Conditions

Contract Components

- Bidding Documents
- General Conditions
 - Changes to General Conditions
- Specifications
 - Forms
 - Prevailing Wage rates
- Drawings
- Reports: investigations of physical conditions
 - Survey of Hazardous Materials
 - Soil boring logs

Contract Formation

- Review Specs: Review consultant's work for consistency with boilerplate and your processes
- Definitions: Use definitions consistently throughout
 - Capitalization of defined terms
- Dates: Maintain consistency of dates of components of the contract documents
- Project Name: Keep project name project consistent on all components of the contract documents

Contract Formation

- Formatting: Format documents for clarity:
 - Last revision date
 - Reference project name and number on each page
 - Number of pages (page x of y)
 - “End of Section” reference
- Make Changes as Necessary: Identify issues that should be considered and addressed on a project-by-project basis.
- Maintain Integrity of Boilerplate: Establish document control standard to maintain integrity of boilerplate

Contract Formation

- Say it Once: Address subject matter once in documents
 - Avoids conflicts and need to change in multiple locations
- Make the Contractor Responsible: Assign responsibility to contractor only
 - Contractor is responsible for the work of subcontractors
- Limit Submissions with Bid: Require minimum information to be submitted with the bid (bid price, subcontractors list, bid guaranty)

Contract Formation

- Word vs. Numbers: If bid price is required in both words and numbers, have precedence statement. Better yet, only ask for numbers.
- Disputes: Write language with potential disputes in mind
- Incorporation by Reference:
 - If critical for bidding, include in bidding documents
 - Provide information where document may be obtained
 - Must be easily accessible by all bidders (website)
 - Specify exact name and version of document

Contract Interpretation

- Complementary components of documents
 - The contract documents are complementary. What is required by one part of the contract documents shall be binding as if required by all. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both.

Contract Interpretation

- Interpret documents as a whole
 - An interpretation that gives a lawful and reasonable meaning to all other provisions of the contract will prevail over an interpretation that does not.

Contract Interpretation

- Industry Reference Standards:
 - Except where the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.

Contract Interpretation

- Order of Precedence
 - Contract should include this provision
 - Used in the event of conflict or inconsistency in contract documents
 - Project-specific components generally take precedence over standard provisions
 - More recent changes (such as change orders) take precedence over original provisions

Contract Interpretation

- Small Group Exercise:
 - Evaluate the Order of Precedence from different agencies on the handout.
 - What are the strengths and weaknesses of each?
 - What questions do you need answered to be able to fully evaluate each one?

Specific Contract Provisions

Bidding
Contracting
Construction

Bidding – Advertisement

- Bid Submittal deadline and location
- Description of work
- Contact information for questions
- Cost Estimate
- Pre-Bid Meeting
- Availability of Bidding Documents
- Bid Guaranty
- Right to reject bids

Bidding – Instructions to Bidders

Examination of site / documents	Bid tabulation
Addenda	Claim of error
Withdrawal of bid	Bidder responsibility
Modification of bid	Contract award
Bid delivery	Return of bid guaranty
Bid guaranty	Contract execution
Bid opening	Payment / Performance Bond
Bid protest	Insurance

Bidding – Bid Form

- Subcontractor List
- Trench excavation
- Bid guaranty
- Prices
 - Lump Sum bid
 - Unit Price bid
 - Additives, Deductives, Alternates
 - Unit Prices for change order work

Contracting

- Payment and Performance Bond
- Insurance
- Liquidated Damages
- Prevailing Wages
- MWBE and DBE
- Funding source requirements

Construction

- Scope of Work
 - Plans
 - Specifications
- Payments
- Changes
- Claims and dispute resolution process

Questions



Mike Purdy has more than 27 years of experience as a manager in public contracting and procurement. He is currently the Contracts Manager for the University of Washington's Capital Projects Office and is responsible for managing design and construction contracts for more than \$1 billion worth of projects at the University. Before joining the UW in 2005, he spent five years at the Seattle Housing Authority where he served as Contracting and Procurement Manager, overseeing all of the contracting and purchasing (construction, design consultants, other consultants, goods, supplies, and services) for the largest residential landlord in the state. Prior to that he worked for the City of Seattle for more than 21 years, where he administered the city's construction and consultant contracts as the city's Contracting Manager.

He has a bachelor's degree in business and public administration and an MBA, both from the University of Puget Sound, and a master of divinity degree from Fuller Theological Seminary. Mike is also the principal of Michael E. Purdy Associates (www.mpurdy.com), a consulting firm providing contracting and procurement advice to government agencies in the area.

Michael E. Purdy

Contracts Manager

University of Washington

Capital Projects Office

(206) 221-4235

mpurdy@u.washington.edu

