Welcome to the 5310/5311 Program Managers’ Forum
March 20, 2018

Today’s Topic:
3rd Party Contracting – Making It Work
Webinar Agenda

- Instructions and Introduction
- Topic Explanation & Background – Caltrans
- Poll Questions
- Setting the Stage – The Challenges with 3rd Party Contracting – Idaho Transportation Dept.
- Poll Questions
- Refresher on Revenue/Operations Contracting and 3rd Party Contracting
  - Federal Transit Administration
- Conducting Sub-recipient Oversight - Caltrans
- Overview of Procurement Pro – National RTAP
- Q&A and Wrap Up
Topic Overview & Background

Discussion Lead: Mark Codey

Caltrans®
Setting the Stage – The Challenges

Kim McGourty
MTAP 3rd Party Contracting

Kim McGourty, Public Transportation Manager
March 20th, 2018
Setting The Stage

<table>
<thead>
<tr>
<th>Revenue Contract Best Practices</th>
<th>Regulations</th>
<th>State oversight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Challenges with Third Party Contracting</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This slide highlights the challenges in third-party contracting, focusing on revenue contract best practices, regulations, and state oversight.
Revenue Contracts

Types of contracts

5310
- Human Service Agency
- Use as Local Match

5311
- General Agencies
- Deducted from Total Project Cost

Best Practices
Regulations

- Fast Act
- Circular 4220.1F
- Piggy Backing
- Joint Procurements
State Oversight

- SAM.Gov
- Subrecipient Award
- Third Party Award

Compliance
Refresher on Revenue/Operations Contracting and 3rd Party Contracting

Stephen Pereira
Kirk Benson

Federal Transit Administration
FEDERAL TRANSIT ADMINISTRATION

THIRD PARTY PROCUREMENT

Kirk Benson
Contract Specialist
March 20, 2018
What is the FAST Act?

On December 4, 2015, President Obama signed into law the Fixing America’s Surface Transportation Act, or “FAST Act.” It is the first law enacted (at the time) in over ten years that provides long-term funding certainty for surface transportation, meaning States and local governments can move forward with critical transportation projects, like new highways and transit lines, with the confidence that they will have a Federal partner over the long term.
FAST ACT
The Fixing America's Surface Transportation Act or "FAST Act"
Overall, the FAST Act largely maintains current program structures and funding shares between highways and transit. It is a down-payment for building a 21st century transportation system. The law also makes changes and reforms many Federal transportation programs, including streamlining the approval processes for new transportation projects, providing new safety tools, and establishing new programs to advance critical freight projects.
The FAST Act includes a number of positive provisions, including reinstating the popular bus discretionary grant program and strengthening the Buy America requirements that promote domestic manufacturing through vehicle and track purchases.
PIGGY BACKING
 Discouraged

JOINT PROCUREMENTS
 Encouraged

INNOVATIVE PROCUREMENTS
 Encouraged
Joint procurements are encouraged, however, piggy backing is something that the FTA is dissuading our customers from using. Reviews discovered that entities were not adhering to requirements of the FTA Circular 4220.1F, “Third Party Contracting Guidelines.” For instance, the Circular requires the owner of the contract to include an assignability clause, many did not. It also requires the “piggy backer” to verify that the clause was in the original contract and they were not. “Piggy backers were required to submit price and cost certification analysis to determine fair and reasonableness of their purchase, again may did not. What the FTA is encouraging is collaborative efforts of recipients to do joint procurements and work on the specifications that satisfy all parties. To that end, we introduced the Joint Procurement Clearinghouse in January. This application allows various jurisdictions to populate their inventory and share needs with each other.
Cooperative Procurement Contracts

Per Section 3019 of the FAST Act

- Allows grantees to purchase rolling stock and related equipment from cooperative procurement contracts
- Term: No more than 5 years with an initial term of no more than 2
- Lead entity may charge a service fee for this method of no more than 1% of the total value of the contract
- Not limited to intrastate participants
States may create state purchasing schedules

- There have been certain states that had restrictions on purchasing and only entities within the state could participate, however, there are options within Section 3019 for other participants.

- Under this format the state is the lead entity.
Pilot Program
Non-Profit Cooperative Procurements

- FTA was mandated to develop a program to demonstrate the effectiveness of cooperative procurement contracts
- In this endeavor we have received three letters of interest
- A committee is currently reviewing the applicants status and qualifications and will determine the eligibility of the pilot program participants
Conducting Sub-Recipient Oversight

Frank Nevitt
Branch Chief
Federal Procurement Management
Brief Overview of Caltrans Subrecipient Third Party Contracting Oversight
Caltrans Subrecipient
Third Party Contracting Oversight Review

- Elements of an RFP/IFB
- RFP/IFB Selection Process
- Review of Third Party Contracts
- Common Findings
Basic Review Elements of a RFP/IFB

- Period of performance
- Option periods
- Procurement schedule
- Protest procedures
- Evaluation criteria
- Scope of work/ specification
- Modification provision
- Pricing
- Price adjustments
- Options pricing
- Best value
- Inclusion of federal third party contracting clauses
- No Geographic preference
- Independent cost estimate
Additional Items for Vehicle Contracting Projects

- Buy America certification
- FMVSS certification
- TVM certification
- Altoona certification
- Lobbying restriction certification
- Federal debarment certification
- Procurement quantities justified
Basic Review of a RFP/IFB Selection

- Approval of all solicitation addenda
- Staff report (if available)
- Name of successful offeror
- Debarment and suspension verification (awards >$25,000)
- Advertisement verification

- Best and Final Offer
- Evaluation scores corresponds to RFP/IFB scoring criteria
- Price reasonableness determination
Basic Review of a Third Party Contract

- Inclusion of federal third party contracting clauses
- Contract parties
- Period of performance
- Contract amount
- Compensation structure
- Scope of work
- Modification provision

- Economic price adjustments (CPI/PPI)
- Option periods-compensation structure
- Option periods- unilateral right of procuring agency
Common Findings

• **Inadequate time allowed to conduct procurement**
• Federal clause(s) missing
• Inadequate ICE
• Option period pricing is not evaluated prior to award
• Option periods are not unilateral
• Flaws in the BAFO process
• Price reasonableness not determined
• **Unjustified Non-competitive awards**
Subrecipient Technical Assistance

- Electronic grants management web portal
- Caltrans DRMT web page:
  - General information
  - Guidance
  - Policy information
  - Links to useful websites: FTA, BLS, Partner Organization, etc.
DRMT web page: http://www.dot.ca.gov/drmt/

Mark Codey: Office of Federal Transit Programs mark.codey@dot.ca.gov

Frank Nevitt: Procurement Branch Chief frank.nevitt@dot.ca.gov
Overview of Procurement Pro

Rob Tassinari

National RTAP
Rural Transit Assistance Program
ProcurementPRO

MTAP 5310-5311 Program Manager Forum – 3rd Party Contracting
ProcurementPRO Demonstration
March 20, 2018

National RTAP
Rural Transit Assistance Program

FTA
U.S. Department of Transportation
Federal Transit Administration
Agenda

- National RTAP in the Cloud - www.nationalrtap.org
- Register in the Cloud
- ProcurementPRO Demonstration
- Questions and Answers
National RTAP in the Cloud

- Easy way for rural and Tribal transit providers to incorporate technology into their operations
- First step toward building an online community of users and data shared by all
- Free of charge
- Hosted on National RTAP’s website
- Help available
  - Videos
  - Documents
  - E-mail/phone/chat

- Access – www.nationalrtap.org
Welcome to National RTAP

National RTAP is a program of the Federal Transit Administration dedicated to creating rural transit solutions through technical assistance, partner collaboration and FREE training and other transit industry products.

Find Information and Resources

The National RTAP Resource Library is a comprehensive collection of rural transit-related materials, including training modules, reports, technical briefs, and articles that you can view, order, or download.

Visit our Resource Library
Download our Resource Catalog
Sign up for eNews
National RTAP FAQ
The Cloud – Creating Your Portal

- Every Organization must create its own Cloud account
- Each user must create an account in the organization’s Cloud account
- Each user has their own Username and Password
- Forgot Username/Password retrieval
ProcurementPRO

- First National RTAP in the Cloud web app to be released – February 2011
- Helpful Web-based tool
- Guides rural and Tribal grantees and state DOTs through FTA procurement procedures
  - Basic project information entered by user
  - System generates required clauses and certifications,
  - Provides documentation and procurement guidance
- Review by James Harper, FTA Director of Office of Procurement
- State and Local element – February 2012
- Maintain Federal element
ProcurementPRO – Baby Aspirin for the Procurement Headache
The Cloud – The Portal - Homepage

- Access the web apps Dashboard
- Access the Getting Started guides for the web apps (pdf, html or video based)
- As we release new web apps, you will be able to access them from the Cloud homepage
ProcurementPRO – Dashboard
ProcurementPRO – Dashboard
ProcurementPRO – Independent Cost Estimate

An Independent Cost Estimate is performed before receiving bids or proposals. It improves the accuracy of forecasting cost and can range from a simple budget estimate to a complex estimate based on product inspection and review. This process is particularly significant whenever there is no price competition, or when goods or services are disordered, and where prices seem unrealistically high. Fill in all the cost elements applicable on the cost analysis form below and retain a comprehensive collection of all supporting documentation in the procurement project file at all times.

<table>
<thead>
<tr>
<th>COST ELEMENTS</th>
<th>Purchase Price</th>
<th>Total Priced</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Equipment Description</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Startup, Overhead, Prof/K</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Other Expenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Shipping Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E. Taxes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F. Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G. Training</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H. Handling Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I. Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J. Other Expenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>K. Insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L. Shipping Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M. Taxes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL ESTIMATED COST:
ProcurementPRO – Dashboard
ProcurementPRO – Create a New Project
ProcurementPRO – Select Procurement Type
ProcurementPRO – Input Estimated Cost

Procurement is the acquisition of appropriate goods and/or services that meet the needs of the purchaser at the best possible value. Begin below by entering the cost estimated for the acquisition of a particular item or service. You may utilize two methods to arrive at a total cost (By Unit or Lump Sum).

If "By Units" method, enter "# of Units" and "Cost per Unit," click calculate, then click next. If by "Lump Sum" method, enter total "Estimated Budget," then click next.

- # of Units?
- Cost Per Unit
- Total Cost
- Estimated Budget: $150,000

A Federal Procurement will fall under one of three cost thresholds: Micro-Purchase (Up to $3,000), Small Purchase ($3001-$100,000), and Sealed BID or Competitive Proposal (Above Small Purchase Threshold).
ProcurementPRO – Procurement Threshold
ProcurementPRO – Procurement Method
ProcurementPRO – Document Structure

Tab Structure

This is your complete procurement file based on all your prior entries into ProcurementPRO. It can be modified through the editing process contained within the software, and allows for ongoing management and review of this procurement. It provides an organized set of tabs suitable for download to your local network and printout for file retention.

When you are satisfied with the results, please click the preview or save choices at the bottom of your screen to complete the process.

- Tab 1 – Introduction and Instructions to ProcurementPRO
  - Introduction and Instructions
    - ProcurementPRO_Document_-_NRTAP_Intro.pdf
    - Tab1.pdf
  - Tab 2 – Procurement Management Master Checklist
    - Master Checklist
      - Master Checklist-Solicitation
    - Notes
    - Tab2.pdf
  - Tab 3 – Project Information
    - Project Information
      - Project Detail
      - Project Grantee Information
      - Federal Transit Administration Information
      - State Agency Information
      - Other Contact
      - Milestone
    - Notes
    - Tab3.pdf
  - Tab 4 – Solicitation Development Checklist
    - Solicitation Development Checklist
      - Solicitation Development Checklist - Competitive Solicitation
    - Required Federal Clauses

Quick Tip
Did you know you can manage the documentation that the program prints by un-checking any Tab or Sub-Tab Section you do not wish to print? You may also click the “Preview” button to see how the project will appear prior to print.

Help Video

Related Links

Live Support

Support hours are Monday-Friday
9:00am - 5:00pm EST
E-mail: support@nationalrtap.org
www.nationalrtap.org
ProcurementPRO – Document Structure

- Required Federal Clauses
  - Federal Clauses
    - Buy America Requirements
    - Cargo Preference
    - Energy Conservation
    - Clean Water
    - Bus Testing
    - Pre-Award & Post Delivery Audit Requirements
    - Lobbying
    - Access to Records and Reports
    - Federal Changes
    - Clean Air
    - Contract Work Hours & Safety Standards Act
    - No Government Obligation to Third Parties
    - Program Fraud and False or Fraudulent Statements or Related Acts
    - Termination
    - Government Wide Debarment and Suspension (Non Procurement)
    - Contracts Involving Federal Privacy Act Requirements
    - Civil Rights Requirements
    - Breaches and Dispute Resolution
    - Disadvantaged Business Enterprise
    - Prompt payment
    - Incorporation of Federal Transit Administration (FTA) Terms
    - Other Federal Requirements
    - Full and Open Competition
    - Prohibition Against Exclusory or Discriminatory Specifications
    - Conformance with ITS National Architecture
    - Access Requirements for Persons with Disabilities
    - Notification of Federal Participation
    - Interest of Members or Delegates to Congress
    - Ineligible Contractors and Subcontractors
    - Other Contract Requirements
    - Compliance with Federal Regulations
    - Real Property
    - Access to Services for Persons with Limited English Proficiency
    - Environmental Justice
    - Environmental Protection
    - Discriminatory Information and Related Social Data
ProcurementPRO – Document Structure
ProcurementPRO – Document Structure
NationalRTAP

Vehicles 9/14
Estimated Project Cost: $150,000.00

Rob Tassinari
rtassinari@nationalrtap.org

NationalRTAP
5 Wheeling Ave
Woburn, MA 01801

781-404-5024 (office)
www.nationalrtap.org
Welcome to the National RTAP Support Center

Get support for National RTAP in the Cloud Web Apps, including Getting Started Guides, videos, other documentation, and forums. If you have a question about a particular web app, click one of the links below for the support information for that product. If you can't find the answer to your question in our database, please contact us below, and we will be happy to assist you.

Getting Started with National RTAP in the Cloud

National RTAP in the Cloud hosts all of National RTAP's web-based applications (web apps), making them easily available and free of cost to users across the country. All of the applications and data are hosted on the National RTAP server, and users can access the information and functionality without having to download the applications to their computers. It also allows users to access the web apps from any computer or device with internet service. National RTAP in the Cloud lives anywhere you can connect to the Internet!

Get Support for:
- **Contact Builder** - Enables you to create, manage, and send messages to contact lists.
- **Event Share** - Enables you to share and search for events.
- **GTFs Builder** - Creates General Transit Feed Specification (GTFS) files to be used by trip planning software such as Google Transit, BnkMaps, MapQuest, and Yahoo Maps.
- **ProcurementPRO** - Six easy steps to determine federal clauses and certifications when using Federal funds.
- **Resource Share** - Hosts a collection of resources that can be shared locally or globally.
- **Website Builder** - Build and manage a great-looking website that is hosted for free on the National RTAP server.

Still need help?
We are available Monday through Friday from 9:00 AM to 5:00 PM Eastern Time, and we do our best to respond within 24 hours (excluding weekends and holidays).

Support Center Home | Admin
Copyright 2014 by National RTAP

U.S. Department of Transportation
Federal Transit Administration
Getting Started

As with all National RTAP web apps, you must be logged into the Cloud in order to access ProcurementPRO. If you do not have a Cloud Account, create one by clicking the "Cloud Signup" button in the top right corner of this page. If you already have a Cloud Account, log in using the "Cloud Login" button also in the top right corner. To learn more, please see the What is the Cloud? page on the main National RTAP website, or return to the Support Center homepage to watch the Cloud Overview video.

Once logged into the Cloud, if you do not see ProcurementPRO as one of the web apps on the left side of your dashboard, contact your Cloud Admin (the first person in your organization to sign up for the Cloud) to request authorization. If you do not know who your Cloud Admin is, or if that individual no longer works at your organization, email support@nationalrtap.org for assistance.

Before you get started with ProcurementPRO there are some tasks to complete and questions to consider:

- Determine what you want to procure.
- Perform an independent cost estimate before receiving any bids or proposals. This will improve the reliability of forecasting cost and can range from a simple to complex budget estimate based on product inspection and review. This process is particularly significant when there is no price competition, or when goods or services are dissimilar, and when prices seem unreasonably high. You can use the Independent Cost Estimate Worksheet to assist you.
- Determine if you want to generate a procurement document (full ProcurementPRO version) or just get the federal clauses and certifications (QuickPRO version).
- Test out different procurement scenarios using ProcurementPRO to see how the program works. You can delete any test projects.
- Find out if your state, local, or tribal government has cost thresholds, procurement methods, or clauses and certifications that are different from those of the federal government. If so, you will want to make sure to follow those requirements. If you are a state, local or tribal government and would like to create a portal with your specific procurement regulations, download the Administrator's Manual below for instructions.
- Review the Getting Started Guide, which gives an overview of all functions available through ProcurementPRO, provides details about creating a Cloud Account, and gives step-by-step instructions for how to use the web app. You can download it below or view it online by clicking on the link in the left toolbar.

Instructional Videos

- Overview Webinar
- State & Local Portal Demonstration
Contact Information

National RTAP
5 Wheeling Avenue, Unit B
Woburn, MA 01801
888-589-6821

Rob Tassinari – rtassinari@nationalrtap.org

www.nationalrtap.org
Thank you for Participating in Today’s 5310/5311 Program Managers’ Forum

For more information, please contact Richard Price, Program Specialist, MTAP
Phone: (202) 624-5813
E-mail: RPrice@aashto.org