UCSB Contracts & Grants STAR Program

Class #5: Business Contracts

May 12, 2021
who process contracts?
What is a Contract?
Legally enforceable agreement between two or more parties in which each agrees to give and receives something of legal value
Overview
When do we come in?

- **Pre-Award:**
  - Small Business Subcontracting Plan (*Federal Contracts over $700k only*)
  - Service or Subaward determination

- **Post-Award:**
  - Purchase orders for commercial goods/services
  - Contracts for commercial goods/services
Procurement Principles

- We provide equal opportunity for public business.
- We represent the taxpayer’s best interest
- Our records are public information.
- We must prove the price we paid is reasonable
Procurement does NOT cover:

- Research/Subawards
- Construction/Facilities Management
- Gift processing
- Travel & Entertainment/Form 5 advice
- Reimbursements
- Honoraria
- Relocations (personnel moving)
- Real Estate
Policy & Law

UC Policies:
- BFB-BUS-43 – Materiel Management & Conflict of Interest

State Law:
- Public Contract Code

Federal Government:
- Federal Acquisitions Regulations (contracts)
- OMB Uniform Guidance (grants & cooperative agreements)
Delegation of Authority
Delegation:

Who Can Sign/Approve a Contract or Quote/Proposal?

- A contract signed by anyone without delegation of authority is void, but the signatory might also be personally liable for the contract obligations.

Contracts include: hotel room blocks, catering, facility rentals, etc.
Delegation

The Board of Regents delegates to each Chancellor the authority to execute business contracts, who then provides delegation to:

- Jim Corkill
- Calli Price
- Karen Jeffers
- TJ Bloominger
- Jacob Godfrey
- Becky Steiger
- Leila Thomas
- Patrick Anglin
Pre-Award:
Small Business Subcontracting Plan
Federal Contract Funding: Proposal over $700k

Contact Heather Perry

Heather.Perry@ucsb.edu
x3528
Pre-Award: Services vs. Subaward
Services (Vendor) vs. Research (Subaward)

If dept./PI determines a budget line service is NOT a subaward:

Please send the SOW to contracts@bfs.ucsb.edu at the time of (or before) Proposal submission to SPO
WHY?
Services (Vendor) vs. Research (Subaward)

This helps to ensure you will NOT experience a delay when submitting a service request in Gateway
Services (Vendor) vs. Research (Subaward)

Subrecipient vs. Contractor Determination Sheet
&
Subaward Determination Tip Sheet

www.bfs.ucsb.edu/procurement/forms

www.research.ucsb.edu/spo/subawards
Post –Award:

Purchase Orders & Contracts
Not covered in STAR

Conflict of Interest and Federal Purchasing Webinars

Topics
Conflict of Commitment
Price Reasonableness
Sole Sourcing
FAR & OMB (Uniform Guidance)

email calli.price@ucsb.edu
Our Purchase Order is a contract:
- A vendor’s quote is an offer
- Our purchase order is an acceptance
- Together, these create a Contract

Department personnel do not have Delegation of Authority to sign contracts, quotes, proposals, etc.

If your vendor is asking for a signature, please ask them to accept a Purchase Order instead. It will be faster!
Purchase Order vs. Contract

Purchase Order

- Goods
- Routine Services
- Preventative Maintenance
- Off the Shelf Software

Contract

- Facilities Use Permit
- Hotel, Restaurant Group Reservation
- Confidentiality Agreement
- Property/Lease Agreements
- Any vendor agreement REQUIRING a signature
Contracts

Two types of contracts:

**Expenditure**
UC buys goods/services from Supplier

**Revenue**
External entity buys from UC
Contracts: Expenditure

- I have a supplier-provided contract.
  - Attach it to the Contract Request Form using the “Internal Attachments” field

- Before sending us a contract on supplier or client paper:
  - be sure your end user(s) have reviewed, understand, and can agree to the contract.
Contracts: Expenditure

- **I do not** have supplier-provided contract.
  - Complete the [UCSB Form I: Request For Contract](#)
  - Describe the services to be provided. **SCOPE OF WORK**
Contracts

- **Contract work cannot begin** until Procurement has signed on behalf of the Regents. By starting without a signed contract you are taking the risk of:
  - Non-payment to your Provider
  - Misunderstanding in scope of work
  - Financial Losses
  - Liability to the University
Contracts: Why do they take so long?

Frequent issues with Contracts:

- Indemnification written so that University assumes all, or 3rd party liability
- Limitation of Liability
- Automatic renewal/Evergreen
- Confidentiality
- Exclusivity
- Name Use
- Governing Law/Venue
- Equal Opportunity, FAR or OMB clauses
- Fair Work/Fair Wage, Prevailing Wage
- Not enough insurance coverage in GL (General Liability) or Errors/Omissions insurance
Redlines/Edits

Note, if the vendor will not accept a required UC redline, and your dept still requires the goods/services:

we may ask your dept/end user to understand and accept the risk associated with agreeing to the provision(s).
Unrelated to SPO/Office of Research

Revenue (Service) Contracts
Contracts: Revenue

- If your department wishes to contract for UC-provided services (revenue to your department), you will need a Rate and Recharge package or approval through Budget and Planning prior to contract execution.

- Contact Alan Williams in Budget & Planning for information. The approval is required annually, and adheres to policies Academic Personnel Manual APM-020 and BFB Policy A-56.
What’s the difference between a **Service Agreement (Procurement)** & a **Research Contract or Grant**?

<table>
<thead>
<tr>
<th><strong>Research</strong></th>
<th><strong>Procurement</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Potential for patentable, publishable, or copyrightable technology to be developed/created through the project</td>
<td>No potential for patentable or copyrightable technology to be created through project</td>
</tr>
<tr>
<td>The UC’s involvement represents an intellectually significant portion of the overall programmatic effort</td>
<td>The UC’s SOW does not reflect a specific, clearly defined, intellectually significant part of the research and SOW of the client’s work or award.</td>
</tr>
<tr>
<td>The UC has responsibility for programmatic decision making</td>
<td>The UC does not have “programmatic decision-making” responsibilities</td>
</tr>
<tr>
<td>Need for animal and/or human subjects</td>
<td>No animal and/or human subjects</td>
</tr>
<tr>
<td>Collaboration exists with the possibility of the UC creating/developing IP</td>
<td>No collaboration</td>
</tr>
<tr>
<td>The UC has responsibility for adherence to applicable Federal program compliance requirements</td>
<td>The UC will not be an “inventor” because we are working at the direction of the client</td>
</tr>
<tr>
<td>The UC completes work promised and analyzes results found (Services Agreement is no analysis or discretionary judgment)</td>
<td>The UC provides similar goods or services to many purchasers/clients (i.e. performing tests and providing results for client to analyze)</td>
</tr>
<tr>
<td>Publication of results expected, as author or co-author</td>
<td>The contract is with an Individual or sole proprietor</td>
</tr>
<tr>
<td>Provides any cost sharing or matching funds</td>
<td>The goods/services are routine and/or “off-the-shelf”</td>
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Wrap-up and Tips
Contract Consideration Checklist

- www.bfs.ucsb.edu/files/docs/procurement/Contract%20Considerations%20%26%20Checklist%205-2018.docx

UNIVERSITY OF CALIFORNIA, SANTA BARBARA
BUSINESS & FINANCIAL SERVICES
PROCUREMENT SERVICES
SANTA BARBARA, CALIFORNIA 93106-1150

Contract Considerations/Checklist

This document is intended to provide departmental guidance in making preparations required for any contract request. The materials provided below contain a non-exhaustive general checklist of procedures to follow in order to effectively request a contract.

Questions about contracts? E-mail contracts@bfs.ucsb.edu

1. **Supplier Quote or Proposal.** Obtain a quote or proposal from the supplier;
What takes so long?

We have a checklist that includes **over 130 items to consider, and over 50 PO clauses** we hand select for each requisition. Examples include:

<table>
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<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
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<tr>
<td>Can the vendor accept a PO instead of requiring a signature?</td>
<td>Is it a professional service or consultant? Is it a follow-on agreement?</td>
</tr>
<tr>
<td>Will the supplier come onsite?</td>
<td>Do we need to go out for formal bid?</td>
</tr>
<tr>
<td>Do we need to collect insurance?</td>
<td>Is it subject to Prevailing wage or Fair Wage?</td>
</tr>
<tr>
<td>Are the items restricted?</td>
<td>Will the services include protected/confidential info?</td>
</tr>
<tr>
<td>Is the order shipping internationally?</td>
<td>Is the sole source and/or price reasonableness justification valid and legal?</td>
</tr>
<tr>
<td>Can we use a UCOP supplier?</td>
<td>Is there an approved Rate &amp; Recharge package?</td>
</tr>
<tr>
<td>Is this subject to export control?</td>
<td>Does the quote have terms and conditions?</td>
</tr>
<tr>
<td>Are we the correct department?</td>
<td>Will the UC name or logo be used?</td>
</tr>
</tbody>
</table>
Contracts: Tips for Expediting

- Ask the vendor if they will accept a purchase order in lieu of signing a contract

- Please attach a Form A if using federal funds over $9,999.99, or non-federal funds over $99,999.99

- If your department is asking Procurement Services to write a contract, please attach a fully completed Request for Contract form with all the "who, what, where, when, why" information

- Know what the Statement of Work is; if you don’t know what the SOW is then it’s likely we won’t know either!
Procurement Helpdesk:
Email: help@gateway.procurement.ucsb.edu
bfs.ucsb.edu/procurement

Contracts Helpdesk
Email: contracts@bfs.ucsb.edu
bfs.ucsb.edu/procurement/contracts-property
THANK YOU