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Procurement Protection Practices

Tips on Verifying Vendor Licenses, Bonds, Insurance, and Registrations

A critical step in local government procurement and contracting processes is obtaining proof of required **insurance coverage, applicable licenses, and surety bonds** and ensuring that vendors have appropriate permits, certificates, and/or registrations.

Licenses, insurance, and bonding reduces the public entity's liability risks and protects your financial and legal interests. Bid and contract documents should clearly define all licensing, bonding, and insurance requirements. Furthermore, due diligence involves verifying the legitimacy of the documentation received from vendors.



Tip #1 Qualification of Vendors – Licenses and Registrations

OIG Tips and Trends 2020-0001, **Determining Vendor Responsibility** (November 2019)¹, describes various methods governmental entities can use to determine vendor responsibility, to include, reviewing required certifications and licenses and evaluating the qualifications and/or technical knowledge of management and personnel.

The solicitation document should be specific as to the type of license(s) the vendor must possess in order to be qualified. Do not use general descriptions, such as, “the Vendor should possess the appropriate licenses.” **Specify which licenses are required.** Required license(s) should be appropriate for compliance with the scope of services and/or specifications.

Section 489.131(2), Florida Statutes (F.S.), has prescriptive statutory **requirements that must be followed when selecting a contractor for construction, improvements, remodeling, or repair projects.** The state, county, or municipality shall require that bids submitted for construction, improvement, remodeling, or repair on public projects be accompanied by evidence that the bidder holds an appropriate certificate or registration, unless the work to be performed is exempt under section 489.103, F.S.

¹ Office of Inspector General Palm Beach County website - http://pbcgov.com/oig/docs/advisories/Tips_and_Trends_2020-0001.pdf

“Enhancing Public Trust in Government”

Florida Department of Business & Professional Regulation (DBPR) is charged with licensing and regulating certain businesses and professionals in the State of Florida that may bid on your public project.² Local government should verify license status for those professions and businesses that are regulated by the DBPR using the website, myfloridalicense.com.

What to look for when verifying a construction contractor's license	What is the worst that could happen?
 <p>1 - License Number 2 - License Date 3 - Name of Qualifier 4 - Company Name 5 - Expiration Date 6 - QR Code</p>	<p>In each scenario the public entity is liable and at risk:</p> <ul style="list-style-type: none"> ➤ Submission of fraudulent insurance to win a contract ➤ Unlicensed general contractor performing work ➤ Incorrect bond does not protect entity if a Contractor fails to enter into contract or

Tip # 2 Bonding

The use of bonds mitigates the risk of performance and provide financial protection. Entities may require contractors to furnish a bid bond, a performance bond and a payment bond, or a public construction bond (construction only), as applicable.

A **bid bond** is an insurance agreement in which a surety company agrees to be liable to pay a certain amount of money in the event that the bidder, in whose name the bond is issued, fails to enter into an awarded contract,³ or fails to provide the performance, payment, or construction bonds, as required.

To protect your project from a contractor's inability to complete the project, require a **performance bond⁴ and payment bond.⁵** Section 255.05, F.S., provides that a person entering into a formal contract with a local government for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public

² Department of Business and Professional Regulation, section 20.165, F.S.

³ National Association of State Procurement Officials. State and Local Government Procurement: A practical Guide. Lexington, KY NASPO, 2008. P. 96

⁴ Proactively include clauses in the solicitation documents and contractual documents that protect the public agency from poor contractor performance by including warranties, performance bonds, liquidated damages, termination for convenience, and other legal remedies. (Contract Administration in the Public Sector, 2nd Edition revised 2011, Herndon, VA, P. 137. Wright and Davison)

⁵ Instrument issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract. (Contract Administration in the Public Sector, 2nd Edition revised 2011, Herndon, VA, P. 137. Wright and Davison)

building or public work project greater than \$200,000 in the State of Florida must execute and record a performance and payment bond.⁶

Consider the following when reviewing bonds

1. Is surety verified against U.S. Treasury listing?
2. Is the bond sealed?
3. Does bond match contract amount⁷?
4. Is the correct notary language used?
5. Does the signatory have the proper authority?
6. Does the bond include the proper description of the scope of work?



Tip # 3 Verify Certificates of Insurance



As part of risk management, you should delineate the appropriate insurance requirements based on the scope of work and/or specifications of the contract. Care must be taken to ensure that all types of applicable insurance types are identified (comprehensive, general liability, automobile liability, error and omission, and travel-per-occasion) for the term of the contract.⁸

Verify that the coverage amounts on the certificate to make sure that it meets the specified minimum limits. Are the effective dates within the time frame of the contract or when services will be rendered? Is the date on the certificate current? Be careful not to accept a “stale” certificate of insurance that expired prior to the issuance of the solicitation. **Verifying the current certificate of insurance reduces the risk of accepting canceled, fraudulent, or lapsed policies.**

Require the vendor and/or insurer to notify you in the event that the policy is canceled or there is a lapse in coverage. Whenever possible, consider requiring that the certificates of insurance are sent directly to you from the insurance provider. This will minimize the risk of accepting an insurance certificate that may have been altered.

Recommendation

We recommend that local governments review their procurement ordinances, policies, and practices and take appropriate actions necessary to provide staff guidance on determining vendor qualifications, and verifying bonding and insurance requirements.

⁶ F.S. 255.05 (b) Before commencing the work..., the contractor shall provide to the public entity a certified copy of the recorded bond. ...the public entity may not make a payment to the contractor until the contractor has complied with this paragraph.

⁷ F.S. 255.05 (g)1. The amount of the bond shall equal the contract price, except that for a contract in excess of \$250 million...

⁸ Public Procurement Practice: Risk Management, 2012 CIPS and NIGP. P.4.