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COMMUNICATIONS AND CONSULTING

INFINITY COMMUNICATIONS AND CONSULTING, INC.
PURCHASING OPTIONS UPDATE

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PURCHASING OPTIONS UPDATE

PURCHASING TRENDS AND HOW TO DRIVE DOWN THE COST OF TECHNOLOGY FOR YOUR DISTRICT

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INFINITY COMMUNICATIONS & CONSULTING, INC

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We do the paperwork and complete the application process for you; relieving your “headache,” and delivering a level of service that will assure results.

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Our Design Team Specialists provide professional and comprehensive design for all your low-voltage and communications needs.

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With 86 attorneys on staff and 10 years experience in Education Law, our commitment to professional excellence in law and personal commitment to education are the right combination to serve today's public school institutions.

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We Envision a state and nation that deliver the promise of excellent education, ensuring that all students are provided the opportunity to realize their individual potential.

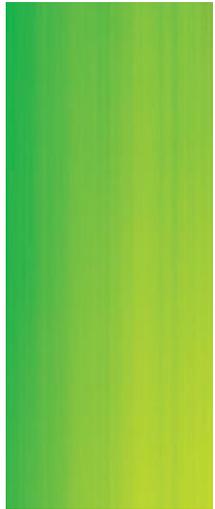
We Strive to redefine education law by complementing the firm's excellent legal counsel with timely, useful, innovative programs that help our clients build continuously improving education services and facilities.

Our Mission is to help every client to achieve their mission.

PURCHASING OPTIONS UPDATE

PRESENTATION AGENDA

- Acquiring Technology
- Basic Tips
- The Old Basic Rule
- Why Would I Want To Bid The Project
- Procurement Methods for Technology
- Tips to Know for 20118.2
- Group Purchase Process
- Negotiating Your Technology Agreement
- E-rate



ACQUIRING TECHNOLOGY

TECHNOLOGY PROCUREMENT

- Technology procurements are not usually like other types of purchases.
- Laws for technology purchases diverged from conventional purchasing some time ago.
- Ironically the procurement of non-technology goods and services is starting to "catch up" with, or mirror, the procurement of technology. And even more ironically, technology is not only leading to a revolution in curriculum but in procurement itself.

BASIC TIPS

TECHNOLOGY PURCHASES

- Technology purchases have more exceptions to classical competitive bidding and more alternate procurement procedures than any other type of acquisition.
- Acquisition of technology now requires an unprecedented amount of coordination between your IT department, Business Department and Curriculum/Student Services.
- Because of consortium purchases, the RFP process and the specialized needs of the district, technology purchases need to be more purposeful and thought out than other kinds of purchases.

THE OLD BASIC RULE

GOODS AND SERVICES ABOVE \$88,300, MUST BE COMPETITIVELY BID
(PUBLIC CONTRACT CODE SECTION 20111.1)

- Issue: What if your original contract was at or below the bid limit, but you need additional quantities based on an unforeseen need? Do you have to separately bid that additional amount?
- Response: No, so long as the additional need was not reasonably foreseeable and is, in some manner, proportional to the underlying original purchase amount.
 - (See also "Growth Clause" mentioned later in this presentation)

WHY WOULD I WANT TO BID THE PROJECT?

- Normally, huge cost savings!
- May be required by local, state or federal guidelines.
- You can define contract terms and conditions via the associated contract.

PROCUREMENT METHODS FOR TECHNOLOGY

THERE ARE A NUMBER OF WAYS TO PROCURE TECHNOLOGY:

1. Public Contract Code section 20111.1 (Basic Bid statute)
2. Public Contractor Code section 20118.1 (One of three)
3. Public Contract Code 20118.2 (RFP Process)
4. Public Contract Code section 20118 (Piggyback)
5. Public Contract Code Sections 10298-10299 (CMAS, Cooperative Agreements, includes WSCA-NASPO).
6. Joint Power Agreements (Government Code section 6500, et seq.)
7. Education Code section 30118 (County Purchasing like CalSave)

PROCUREMENT METHODS FOR TECHNOLOGY

THERE ARE A NUMBER OF WAYS TO PROCURE TECHNOLOGY (CONT.):

- Each method of procurement will have its own issues. The following are examples of problems you may face.
 - Cable only project under \$15,000
 - Cable only project over \$15,000
 - Purchase of Chromebooks + White Glove Service
 - Installation and purchase of networking equipment
 - New data circuits between sites
 - Microsoft services/licenses
 - Apple computers
- Public contract Code section 20118.2.
 - Establishes a competitive process of selections, which can include factors other than price (e.g. performance reliability, life cycle costs, delivery timetables and support logistics).
 - Technology RFP process has had a surprising amount of challenges, given a very competitive vendor environment and experienced vendors, which results in close scores.

PUBLIC CONTRACTING CODE SECTION 20118.2

TIPS TO KNOW

- Requires newspaper ads.
- Assign numerical values to groups of questions, instead of individual questions.
- Make sure to notify disappointed bidders of your initial determination. Put in a note that District reserves the right to award the contract to the disappointed vendor in the event that a contract cannot be reached with the selected vendor (more on that later).
- Have a clearly defined bid protest process.
- Contract negotiation is a HUGE part of the negotiation process unless the district supplied the contract and contractor does not negotiate changes.
- Make sure your RFP language states that the Board will render its own independent judgment on the bid selection. Bid Protest "inoculation."

PUBLIC CONTRACTING CODE SECTION 20118.2

TIPS TO KNOW (CONT.)

- Remember, telecom contracts can involve substantial construction.
 - Installation services, underground cable and wiring, modification of facilities, etc.
- If the contract involved construction, the district must determine whether the contract should include other standard contract provisions.
 - Fingerprinting
 - Bonds
 - Prevailing wage provisions
 - Worker's compensation certification
- If construction is substantial, consider splitting services into a separate construction contract rather than all-in-one telecom contract.

GROUP PURCHASE PROCESS

1. Piggyback Purchase

- a) Perform your due diligence: Obtain a copy of the original resolution, notice for advertisement, and purchase order.
- b) Has piggyback authority been renewed?
 - 1) Make sure your own Board has passed a resolution allowing you to purchase the goods.

2. Joint Power Authority

- a) Districts frequently run afoul of the law when they purchase through national JPAs. JPAs will often tell school districts that they are members of a JPA, when in fact, they are not. Make a check of your own records to see if your district has joined. If your district is not a member, they need to take formal action to join and participate in the buying.

SOLE SOURCE

1. Best practice to make a finding supporting particular product
 - a) IT efficiency: Training, maintenance and parts.
 - b) Compatibility of Systems.
 - c) Common core specifications as sole source supporter?

CONTRACTS

TIPS TO KNOW

- Terms of Agreement: 5 years generally the limit for term of service.
- The Limits of Quantity: Be sure not to straitjacket your contract needs by stating only sum certain quantity. Add a "Growth Clause" that allows for change and growth in your District. Such as:
 - **"Service "Growth Clause"** – Growth Services may or may not be requested by the Owner during the contract term. The intent of having a growth clause is so the district can add new sites at some time in the future, close sites temporarily or permanently if necessary, or add additional bandwidth should the need arise at some or all of the sites. While we are not asking for firm pricing at this time, we do require that we be able to add these sites via an addendum to the current contract. The service provider shall include a "growth clause" in their contract. The "growth clause" shall not require a change in contract terms. At this time, the Owner IS NOT looking for pricing for pricing for "future" sites, just the ability to contact the Service Provider and request pricing for future sites at a future date."

NEGOTIATING YOUR TECHNOLOGY AGREEMENT

TIPS TO KNOW

- You have more leverage than you think! Government contracts are "sure pays" for vendors and can often have "high margins."
- You do not need to accept one-sided vendor form agreements (sometimes called "tariff agreements" in the telecommunications industry).
- Set the stage:
 - Provide yourself enough time to conduct negotiations in a friendly and non-frenzied manner.
 - Have the RFPs conducted well in advance of the E-Rate deadlines.
 - Have language that allows you to switch to another RFP vendor if negotiations are not concluded within a stated or reasonable time.
- Make contract compliance part of the scoring of the individual RFPs.

NEGOTIATING YOUR TECHNOLOGY AGREEMENT

TIPS TO KNOW (CONT.)

- “Making the Elephant Dance”: Many vendor form agreements are for all types of customers, private and public, and are not written with California statutory requirements at all.
 - Does this project involve installation at multiple site?
 - May require schedules, coordination with site administrators, finger printing and possibly bonds and prevailing wages.
- If Contract is for software: Structure payments to the reaching of verifiable milestones, hopefully operational milestones. Don't frontload all payments!

E-RATE

STANDARD PROCESS

- Erate does not replace any state or local procurement regulations.
- On top of following local procurement regulations, to get Erate funding you must:
 - File a Form 470;
 - If a RFP is written it must be available to bidders on the day the Form 470 is posted;
 - Wait 28 days before you receive bids and sign contracts;
 - If the RFP is not available the day the Form 470 is filed, extend the bid date until 28 days after the RFP is provided to bidders;
 - Board action to approve and sign contracts;
 - Both parties to sign and date contract;
 - Once all of the above has been done, file the Form 471 in the Form 471 filing window. Filing window will open on or about February 2, 2016.
 - Be aware of new Erate rules as it relates to acceptance of gifts (FCC 7th Report & Order)

E-RATE

COMPLICATIONS

- As a result of E-rate site audits, USAC has asked for monies back from California school districts:
 - School District #1 \$537,704.82
 - School District #2 \$828,379.13
 - School District #3 \$790,625.98
 - School District #4 \$175,233.90
 - School District #5 \$1,293,089.55
- Reasons:
 1. Failed to have RFPs/Bids for Priority 1 services.
 2. Did not run newspaper ads for Priority 1 bids.
 3. Did not follow local procurement rules.
 4. Failed to file forms in a timely manner.

CONTACT US

WE'RE YOUR TRUSTED CONSULTANT SINCE 2003!

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