



BUT, I'M FINANCE – WHAT DOES CONTRACT ADMINISTRATION HAVE TO DO WITH ME?

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PRESENTATION AGENDA

- Contract Administration (CA), Defined
- Finance Serving Two Roles: CA in practice and as advisor
- Contract Risks and Your Role
- Contract Administration Plan (CAP) and Performance Assessment Plan (PAP)
- Contract Administration Team: Your Role(s)
- Ethics in Contract Administration
- Monitoring within CA



PRESENTATION AGENDA

- Contract Inspection
- Contract Acceptance
- Contract Examples
- Contract Payment
- Contract Termination for Non-Performance
- Contract Close-out
- Finance as Referee
- Reminders



CONTRACT ADMINISTRATION, DEFINED

“Contract administration” is defined as the functions that are performed after the parties have signed the contract.

(Sherman 1996)



CONTRACT ADMINISTRATION, DEFINED

- Good contract administrators:
 - Reinforce contract terms through goal-oriented activities
 - Focus on goals/outcomes



CONTRACT ADMINISTRATION, DEFINED

- Develop and implement Contract Administration Plan (CAP)
- Monitor performance
- Address performance issues
- Provide closeout and contract analysis



FINANCE SERVING TWO ROLES

Finance as designated Contract Administrator

- *Represent the Contracting Officer / the end-user of the contract*
- *Oversee day-to-day activities, scheduling; review and approve resulting work performed*
- *Enforce contract terms*



FINANCE SERVING TWO ROLES

Finance as advisor or Subject Matter Expert may:

- *Review financial statements or agreements*
- *Assist the Contracting Officer or Representative with payment issues, project fund tracking or reconciliation*
- *Provide invaluable financial expertise*



CONTRACT RISKS AND YOUR ROLE

- During procurement planning, consider the contract risks and how they can be managed;
- As Contract Administrator or Financial Advisor, you can help with risk assessment;
- Analyze risk potential in advance of contract formation to alleviate issues that may occur during the administration of the resulting contract.



SIX COMMON RISKS TO CONSIDER

1. Proposal Risk: are legal documentation and specifications clear, or ambiguous?
2. Surety and Liability Risks: Finance's involvement is key in this assessment of the end-user's financial interests
3. Contractual Risk: what are your obligations to effect changes?



SIX COMMON RISKS TO CONSIDER

4. Price Risk: what kind of pricing and payment offer the best solution?
5. Schedule Risk: what is the desired deliverable schedule? What are the penalties, if any, for delay?
6. Performance Risk: how is acceptance of the contract performance defined?

(Abi-Karam, 2001)



CAP AND PAP

Contract Administration Plan (CAP):
focuses on the who, what, when, where, and how to administer the contract

- Your involvement? Both as a CA and Financial Advisor, your involvement is dependent on complexity of purchase or project.



CAP AND PAP

Performance Assessment Plan (PAP):
focuses on output, outcomes, and evaluation of contract performance

- Your involvement? Assist with metrics to assess risk, and expectations from technical specifications.

(Wright, Davison, 2011)



THE CONTRACT ADMINISTRATION TEAM: YOUR ROLE(S)

- As Contract Administrator, you may serve as the key Contracting Officer's Representative or named CA within the resulting contract.

Contract examples: Audit, Actuarial & Financial
Advisory Services



THE CONTRACT ADMINISTRATION TEAM: YOUR ROLE(S)

- As Financial Advisor, you may serve as a key subject matter expert providing professional review of financial statements, recommendations for financing that serves in the best interest of the jurisdiction – or, you may be the bearer of bad news ☹️



ETHICS IN CONTRACT ADMINISTRATION

- Ethical standards are critical to uphold while expending or committing public funds, to ensure maintaining public trust in your jurisdiction!



ETHICS IN CONTRACT ADMINISTRATION

- Most common ethical issues in Contract Administration:
 - ✓ *Conflict of Interest, actual, potential, or appearance thereof*
 - ✓ *The application of ethical standards to non-jurisdictional personnel*
 - ✓ *The Contract Administration Team's ethical responsibilities*



MONITORING WITHIN CONTRACT ADMINISTRATION

- What areas of the contract could you be required to monitor?
 - *Contractor performance: if this is your contract to administer, is the Contractor meeting your expectations as outlined in the final contract?*
 - *Data: your expertise and analytical skills may be required*



MONITORING WITHIN CONTRACT ADMINISTRATION

- *Budget and payment: Are we making the most of our budgeted project funds? Are we prepared with a contingency plan for those unforeseen occurrences?*
- *Contract performance to date: are WE meeting OUR obligations in this two-party contract?*



CONTRACT INSPECTION

- In your Contract Administrator role, take ownership of your inspection and acceptance responsibilities which can include:
 - *Exception inspection: everything is fine until someone complains*
 - *After-delivery inspection: after delivery but prior to use*



CONTRACT INSPECTION

- *In-process inspection: inspecting on Contractor's site (unusual for Finance)*
- *Final inspection: confirming conformity prior to final payment, i.e. for construction, technology & software purchases*

Important reminder to us all – if we don't inspect thoroughly, we're not being a pro-active partner in this two-party contract!



CONTRACT ACCEPTANCE

One of the most critical duties in contract administration

- It's important to establish who is authorized to accept contract goods/services; when and where acceptance occurs; and the method of acceptance.



CONTRACT ACCEPTANCE

As Contract Administrator are you fully aware of your remedies for contract defects?

- *Common law limitation of your right to reject includes adequate description & measurement, substantial completion, correctable defects, and previous action.*



PROJECT EXAMPLE:
NORTHERN FAUQUIER COMMUNITY PARK

- Project span covered nine years, starting in 2002
- Project span covered two changes of key Board of Supervisors (BOS) members and other County personnel
- Project funded by large donation from Mellon Estate, requiring a BOS-signed agreement



PROJECT EXAMPLE: NORTHERN FAUQUIER COMMUNITY PARK

- Project oversight was complex, involving multiple parties outside County personnel as a condition of donated funding
- Inspection responsibilities were not clearly delineated due to complexity of this three-party arrangement
- Result: several inspection, acceptance, and dispute issues



PROJECT EXAMPLE: 800MHZ PUBLIC SAFETY RADIO SYSTEM

- Large capital project, competitive proposal process, BOS approved and over three years in duration
- Professional guidance provided by a radio consulting firm



PROJECT EXAMPLE: 800MHZ PUBLIC SAFETY RADIO SYSTEM

- Structured oversight, clear project deliverables, clearly delineated project outcomes and testing metrics, weekly teleconferences with all parties included
- Remedies for defects or non-acceptance clearly outlined from onset and within contract
- Project success!



CONTRACT PAYMENT

- Your role as Financial Advisor is most critical in this phase of any contract, but especially with complex payments and complex funding
- *Important reminder: while Finance may strongly believe that all invoices received must be paid, they might not be paid by the jurisdiction...I'll explain why!*



CONTRACT PAYMENT

- Finance professionals lend incredible assistance to those of us not well-versed in complex payment processes, documentation required for long-term payments, or other financial quirks.



CONTRACT TERMINATION FOR NON-PERFORMANCE

- This action may involve key Finance personnel involvement
 - *As a Contract Administrator: have you demonstrated due-diligence according to contract terms? Have you given Contractor sufficient opportunity to cure or remedy their defects? Have you documented everything properly for legal backup?*



CONTRACT TERMINATION FOR NON-PERFORMANCE

- *As a Financial Advisor:* are you ready to assist the end-user and/or Contract Officer with careful attention to final resolution and payment of any outstanding balances due this Contractor?
- *In both roles:* can you advise the Contract Administration Team on lessons learned from this termination?



CONTRACT CLOSE-OUT

- **Once again, both roles have an effect.**
- *As Contract Administrator:* *have you completed and documented activities within the project folder and any notes for future reference, including a performance report on the project or Contractor?*



CONTRACT CLOSE-OUT

- *As Financial Advisor:* *have you clearly communicated any suggestions for better contract administration or project management while this project and contract is fresh on your mind?*



FINANCE PROFESSIONALS AS THE REFEREE

Phil Rosenberg, from the HR Doctor, uses the analogy of a football referee when describing our duties as public officials relative to presiding over infractions that can be perceived as quite ugly by the general public:



FINANCE PROFESSIONALS AS THE REFEREE

“Whoever the referee may be in real life, it is better to avoid penalties in the first place by practicing honorable, respectful conduct than to lose points, allow a penalty to hit a sensitive part of the career body, or to be looked upon as an evil bureaucrat by those around you, whether you realize it or not.”

NACO article, 2/13/12



FINANCE PROFESSIONALS AS THE REFEREE

By paying close attention to our duties, even in dual roles, using good contract administration practices we can be the very best referees!



CONTRACT ADMINISTRATION REMINDERS

- Lend your valuable expertise as a Financial Advisor when asked, but understand contract expectations first;
- Remember the six most common contract risks and assist in addressing them pro-actively;



CONTRACT ADMINISTRATION REMINDERS

- Be a valuable team player in the development of the Contract Administration Plan and, if applicable, the Performance Assessment Plan;
- Lend your expertise as a subject matter expert on the Contract Administration Team;
- Understand the critical connection ethics play in good contract administration;



CONTRACT ADMINISTRATION REMINDERS

- Lend your skills in monitoring contract performance;
- As a Contract Administrator, be aware of your inspection and acceptance responsibilities;



CONTRACT ADMINISTRATION REMINDERS

- Know your legal remedies relative to claiming contract defects;
- Wrap up contracts effectively at close-out by either documenting issues or giving professional, financial advice to the end-user;
- Be the very best referee you can, using your professional skill and expertise!



THANK YOU!

Interested in more information on Contract Administration?

- Consider attending a three-day professional development National Institute of Governmental Purchasing class, *Contract Administration in the Public Sector*.

<http://www.nigp.org/eweb/>



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