

Insurance, Bonds and Retainage

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Agenda

- Insurance
- Bonds
 - Bid Bond
 - Payment and Performance Bond
 - Retainage Bond
 - Contractor's Registration Bond
- Retainage

Types of Insurance

- Commercial General Liability
- Commercial Automobile Liability
- Contractor's Pollution Liability
- Builder's Risk
- Professional Liability

Occurrence vs. Claims Made

- **Occurrence:**

- Incident must have occurred within the policy period.
- Claim may be filed after the policy period.

- **Claims Made:**

- Incident must have occurred within the policy period.
- Claim must have been filed within the policy period.

Issues to Consider

- Amount of Insurance Coverage
 - Project dependent
- Additional Insured
 - Blanket vs. Specific
- Primary and non-contributory
- Name of Insured
 - Should be same as Contractor's name

Insurance Documentation

- Certificates of Insurance
- Endorsements
- Obtain documentation prior to contract execution
- Keep documentation of coverage current

Payment and Performance Bond

- Purpose:
 - Bonding company (surety) guarantees that:
 - Subcontractors, suppliers, materialmen, and workers will be paid.
 - Contractor will perform and complete the project.

Payment and Performance Bond

- Amount:

- 100% of the contract amount
- Liability for failure to obtain bond: The agency “shall be liable to the persons mentioned in RCW 39.08.010, [laborers, mechanics, subcontractors and materialmen, and all lower tier suppliers and subcontractors] to the full extent and for the full amount of all such debts so contracted by such contractor.”

Payment and Performance Bond

- Exceptions:

1. Cities and towns may, by ordinance, require a lower percentage bond, but not less than 25% of contract amount
2. Contract less than \$35,000 (SHB 1328 effective 7-22-07)
 - No bond required (upon contractor's requests), and
 - Retain 50% of contract amount for
 - 30 days after date of final acceptance, or
 - Until receipt of all releases from Revenue and L&I, and settlement of any claims filed against bond
 - Whichever is later

Payment and Performance Bond

- Exceptions:

- 3. Contract less than \$35,000:

- “Limited public works” process (Small Works Roster)
 - Bond may be waived by agency
 - Agency assumes liability for non-payment of workers, subcontractors, and suppliers.

Retainage

- Purpose:
 - Trust fund for protection of:
 - Subcontractors, suppliers, and workers
 - State Department of Revenue for taxes
- Amount:
 - 5% of each progress payment withheld from the contractor

Retainage

- Exceptions:

1. Contract less than \$35,000:

- “Limited public works” process (Small Works Roster)
- Retainage may be waived by agency
- Agency assumes liability for non-payment of workers, subcontractors, suppliers, and the Department of Revenue for taxes

2. Retainage Bond:

- Release retainage or not withhold retainage if contractor posts a Retainage Bond

Questions



Mike Purdy has more than 27 years of experience as a manager in public contracting and procurement. He is currently the Contracts Manager for the University of Washington's Capital Projects Office and is responsible for managing design and construction contracts for more than \$1 billion worth of projects at the University. Before joining the UW in 2005, he spent five years at the Seattle Housing Authority where he served as Contracting and Procurement Manager, overseeing all of the contracting and purchasing (construction, design consultants, other consultants, goods, supplies, and services) for the largest residential landlord in the state. Prior to that he worked for the City of Seattle for more than 21 years, where he administered the city's construction and consultant contracts as the city's Contracting Manager.

He has a bachelor's degree in business and public administration and an MBA, both from the University of Puget Sound, and a master of divinity degree from Fuller Theological Seminary. Mike is also the principal of Michael E. Purdy Associates (www.mpurdy.com), a consulting firm providing contracting and procurement advice to government agencies in the area.

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