



ALASKAN PURCHASER

www.napmalaska.org



January 2014

Avoiding Contract Pitfalls

By: Stephen Glaros, C.P.M.

While there exists a wide range of contract resources for today's purchasing and supply management professionals, there are certain common pitfalls that the purchaser should be aware of. While a few of the solutions may seem common-sense, investing a little bit of time actively addressing them will ensure solid contracts and relationships between suppliers and the purchaser's organization. The list below is not meant to be all-inclusive, but may help to generate an awareness of these and other pitfalls. They have been arranged into three categories: pre-award, negotiations and post-award.

PRE-AWARD

Pitfall: Poor source selection

Solution: Understand how to match the organization's requirements with a supplier's capabilities, and reconcile those two expectations into a viable contract.

The contracting process should be a strategic one by adding value to the source selection process and identifying how it affects the resulting contract. Integrate the purchasing and supply management group into the other business functions of an organization to allow the group to quickly and accurately convey requirements to the supplier base in the form of standard contracts. Ask senior management to share support

For this integration process. Perform "informational interviews" within the organization and with potential suppliers to build profiles of information that can be used later on in the development of appropriate contracts.

Pitfall: Unfamiliar language and contract templates.

Solution: With some exceptions, purchasers should always insist on negotiating using their own documents.

Building a library of standard contract language and templates gives purchasers a great deal of leverage in setting the tone for the relationship. Start by creating two simple, standard contracts: one for products and one for services. Many organizations have housed such templates on an intranet for ease of access. These standard contracts should be provided to the supplier as early as possible and made a part of any request for proposal (RFP) process. From there, negotiate more advantageously, using terms and conditions that (along with your business and legal functions) are familiar. This may also drive down cycle time to execution, since it won't be necessary to become familiar with a different set of contract terms. If face with using a supplier's contract, use a checklist of terms to add / delete / be aware of to help ensure the organization's contractual requirements are addressed.

THURSDAY 9 JANUARY 2014

**NAPM-ALASKA
PRO D MEETING**

See Page 4 For More Information

TIME: 5:30 p.m. Networking / 6:00 p.m.

Cost \$28.00* Includes Dinner.

VISA and MasterCard Accepted

No-Shows Billed

**Location: Coast International Inn,
3450 Aviation Avenue. Anchorage Alaska**

RESERVATIONS REQUIRED

Contact- Pam Chenier

email: Pamela.chenier@alyska-pipeline.com

**no later than
5 P.M. on Tuesday, 7 January 2014**

Avoiding Contract Pitfalls*(continued from Page 1)*

Pitfall: Unclear expectations and unclear objectives.

Solution: Take the role of relationship manager to make sure that both contracting parties understand the agreement.

The challenge for the purchaser at this point is to become an effective communication conduit in order to relay the organization's requirements to the supplier, and the supplier's capabilities to the organization. Having standard contract templates allows the purchaser to focus more on exhibits and attachments, where important service-level requirements, milestones, and statements of work can be addressed and agreed upon by the parties. When the contract is executed, all parts are clear of the intent, objectives, and obligations in the relationship.

NEGOTIATIONS

Pitfall: Ambiguous language and terms open to interpretation

Solution: Be clear and specific.

Throughout the contract iteration process, definitions and contract language, which speak to obligations of either party, must be detailed so that what is said and agreed upon matches what actually appears in the contract. For example, take the procurement of a capital asset. If a remedy has been negotiated for the return and refund of the asset in the event of a failure, negotiate a specific depreciation schedule, rather than relying on terms such as "reasonable wear and tear". In the event a return and refund becomes a reality, both parties can quickly calculate a refund amount.

Pitfall: Attempting to fulfill overly optimistic or unrealistic expectations.

Solution: Constantly assess the pre-award objectives against supplier capabilities, ensuring realistic expectations.

The process of negotiation implies some "give and take" that the objectives set in the pre-award state may change. Remain sensitive to this, using the exhibits or attachments created in the pre-award phase as guides, ensuring that, as the negotiations continue, the expectations do not become overly optimistic or unrealistic. If at any point, the expectations and capabilities appear to be in misalignment, this should be

Immediately communicated to the appropriate party for resolution.

Pitfall: Failing to plan for termination

Solution: Develop a termination strategy which identifies what rights can be exercised to avoid liability in cases of convenience.

There is always the possibility that a purchasing organization's requirements or a supplier's capabilities will change, possibly to the point where a relationship may no longer be appropriate. Should a contract ever need to be terminated, ensure that it is done fairly and with as little legal and/or economic liability as possible. Make certain that termination for material breach is enforceable and unambiguous, and that termination for convenience provides indemnification and protection from liability for a supplier's future profits or losses. For example, "To the full extent allowed by any applicable law except as expressly provided in this agreement, the Supplier agrees that it shall have no rights to damages or indemnification of any nature due to the expiration or termination of this Agreement by the Customer pursuant to its terms."

POST AWARD

Pitfall: Assuming the negotiations are over.

Solution: Take a proactive approach to managing amendments and revisions to the contract as needed.

Just because a contract is executed does not mean that the work is over. While the contract details the formal relationship between the parties, some business is, realistically, conducted informally with activities undocumented. Scheduling formal, regular reviews (quarterly or biannually, depending on the commodity or relationship) with suppliers can help maintain the communication links. Facilitate end-user participation, either through regularly scheduled surveys or meetings, or by including end users in the supplier review process. Memorializing even minor changes to the relationship in the form of amendments will, in the long term, serve to keep expectations realistic, avoid surprises, and provide for clear communication and trust.

2013/2014 Officers

President

Tony Lazenby
Anchorage Neighborhood Health Center
Phone (907)-743-7340
Email: tlazenby@anhc.org

Past President

Marlys Hagen, C.P.M.
State of Alaska, Department of Natural Resources
Phone (907) 269-8666
Email: marlys.hagen@alaska.gov

Vice President

Marianne Beckham
Alyeska Pipeline Service Company
Phone (907) 787-8015
E-Mail: Marianne.beckham@alyeska-pipeline.com

Secretary

Jared Rennie
Alyeska Pipeline Service Company
Phone (907) 787-8796
Email: Jared.Rennie@alyeska-pipeline.com

Treasurer

Pamela K. Chenier, CPPO, CPSM
Alyeska Pipeline Service Company
Phone (907) 787-8852
Email: Pamela.chenier@alyeska-pipeline.com

Director of Education

Ben Milam, CPPM, C.P.M.
Alaska Native Tribal Health Consortium
Phone (907) 729-2972
Email: whiskers@mtaonline.net

Director of Membership

Ward Wells, C.P.M.
University of Alaska Anchorage
Phone (907) 786-6504
email: flatheadward@yahoo.com

Director of Communications

Angie Middleton
Arctic Slope Regional Corp.
Phone (907) 339-6862
Email: amiddleton@asrc.com

Director at Large

Suzanne M. Collier
Alaska Native Tribal Health Consortium
(907) 729-2967
E-Mail: smcollier@anhc.org
Carol Geiger C.P.M.
Providence Health & Services
Phone (907) 212-6339
E-Mail: Carol.geiger@providence.org
Mary Beth Overturf
University of Alaska Anchorage
(907) 786-6508
E-Mail: overturf@uaa.alaska.edu
Jule Magee
Alyeska Pipeline Service Company
E-Mail: jule.magee@alyeska-pipeline.com

PRESIDENT TONY LAZENBY

Happy New Year Everyone!

It's hard to believe another year has passed so quickly. I may have to break down and admit my Dad is right when he says the years go by faster as we get older.

If 2013 is any indication, 2014 is going to fly by especially with all the work that needs to be done on the 71st Annual Pacific Northwest Purchasing Conference being hosted by us in October. Keep an eye on the newsletter and e-mail messages on opportunities to volunteer your talents as many hands make lighter work.

I also want to send special thanks to the other 11 members of your Board of Directors for all of the work done this year on the by-laws, P&P's, budget and early leg work on preparing for the conference. They are a very dedicated and dynamic group of supply chain professionals who give almost tirelessly of their time.

Wishing you and yours all the best in 2014 and many years to come,

Tony

Tony Lazenby

President

**DIRECTOR OF EDUCATION
BEN MILAM, CPPM, C.P.M.**

By the time that you read this, Christmas 2013 will be a distant memory, except for the reminder sitting on the bathroom floor called a scale. Congress can ban everything else, why can't they ban those things? With a little extra effort, hopefully that extra weight will soon become a distant memory as well. Hopefully Santa was good to you and you had a great Christmas. And here's wishing you a Happy and Prosperous New Year.

**NOTE: PRO-D MEETING AND DINNER,
January 9, 2014.**

We will be at the Coast International Inn (near the airport) this month. We are looking for an alternate speaker as our scheduled speaker may not be available.

**REPEAT SEMINAR, JANUARY 9 & 10 in
ANCHORAGE**

"Best Practices for Construction and for Service Contracts". This is a repeat of the October seminar that sold out one week after it was announced leaving several on a standby list. While Mike Purdy, our speaker, has a strong public procurement background, his presentation is applicable for anyone looking for best practice ideas. Our attendance at this October seminar was 90% public sector. Based on their comments I expect this session to also sell out so register early. See the enclosed application.

TIME IS PASSING FAST! MARK YOUR CALENDAR!! 71st Annual Pacific Northwest Purchasing Conference, October 6-8, 2014, Anchorage Alaska. NAPM-Alaska has been selected to host this important conference again in 2014. Hopefully you had as much fun as we did at the conference in 2009. That one will be a hard act to follow, but your Affiliate Officers are striving to improve on that great performance. Our theme for this conference is **"Prospecting for Golden Nuggets of Knowledge."** We will build on that theme to bring fantastic speakers and fantastic entertainment.



About our speaker **Mike Purdy** for the "Best Practices for Construction and for Services Contracts Seminar":

Mike Purdy has more than 33 years of experience in public procurement and contracting in the State of Washington.

Employment History

Mike was the Contracts Manager for the University of Washington's Capital Projects Office prior to his retirement in February of 2010. At the UW, he was responsible for managing design and construction contracts for more than \$1 billion work of projects at the University.

Before joining the UW in 2005, he spent 5 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 consulting contracts as the City's Contracting Manager.

Consulting Services

In his "retirement" Mike currently works as a consultant through his firm, Michael E. Purdy Associates LLC where he assist public agencies and business in managing the complexities of public contracting, and in providing training. He is a member of a number of industry wide committees and task forces.

Mike Purdy's Public Contracting Blog

Mike also maintains the popular Public Contracting Blog at <http://publiccontracting.blogspot.com>, designed to keep public agencies, contractors and consultants up to date on key developments in public procurement and contracting.

Educational Background

Mike has a bachelor's degree in business and public administration and an MBA, both from the University of Puget Sound.

**PAST PRESIDENT
MARLYS HAGEN, C.P.M., CPPB, CPPO**

I hope everyone had a very Merry Christmas and a safe New Year’s Eve! If you weren’t at the December meeting, you missed a great holiday party!

I don’t have a lot to report this month.

Northwest Purchasing Education Council
There haven’t been any NPEC meetings since last month. The only news I have is that the Board of Directors of NAPM-Western Washington (Seattle area) has voted to rejoin NPEC. We are so glad to have them as NPEC members again!

Just as a refresher, NPEC is an association of the ISM affiliates in the Pacific and Northwest region (including Hawaii). The mission of NPEC is to ensure the continuation of the Pacific Northwest Purchasing Conference.

Those of you that have attended one of these conferences in the past can vouch for the fact that it is a very cost-effective, valuable educational opportunity.

Don’t forget that it will be held in Anchorage in October of 2014!

Marlys

**DIRECTOR OF MEMBERSHIP
WARD W. WELLS, C.P.M.**

Happy Holidays and Happy New Year! By the time you get this to read we will have started 2014. I want to take a moment to reflect on 2013 and some of the great and truly wonderful experiences it has brought us. I guess last year was the final presentation of Neil Fried as he has now moved into retirement. We truly enjoyed his presence at our meetings. Neil you will be missed. We have developed a new web page for the affiliate and are now working on its continued improvement, the tour at the Midnight Sun Brewery was definitely a hit. Then there was the Pacific Northwest conference and Mike Purdy’s training at the Coast International Inn. NAPM Alaska has provided scholarships this year to UAA students pursuing degrees in procurement. We are very fortunate to have such good leadership to organize the events that we have enjoyed.

I would like to ask each member to speak to your other procurement associations and invite them to NAPM Alaska’s Monthly Pro-D meetings. We have plans to make this year even better so its going to be a great year!

The membership renewal notices are out. The new NAPM Alaska website makes renewal even easier. Payments made by credit card can be made online through the website

Please help us welcome our newest NAPM Alaska Member:

Dawn McQuay, Contracting Officer for Alyeska Pipeline Service Company.

Notice of NAPM-Alaska Bylaws Revision (Update)

Every few years your Board of Directors carves out time to review and update the Chapter’s Bylaws. Recently your Board finished its review and is in the process of completing the update.

A final draft of the revision is pending ISM review and approval. Upon completion of that review, the NAPM-Alaska chapter membership will be asked to vote to adopt the revised Bylaws proposed by the Board. A copy of the revised Bylaws will be available for review on the NAPM-Alaska website in advance of the February Pro-D meeting when the vote has been scheduled. Please feel free to contact Chapter President Tony Lazenby or Secretary Jerod Rennie with questions.

January 2014



**National Association of Purchasing
Management - Alaska Inc.
PO Box 93047
Anchorage, AK 99509-3047
www.napmalaska.org**

WHAT'S HAPPENING!

**THURSDAY,
9 JANUARY 2014**

**PRO-D MEETING
TOPIC: TO BE ANNOUNCED**

**COAST INTERNATIONAL INN
ANCHORAGE, ALASKA**

WHAT'S INSIDE

***PAGE 1/2 AVOIDING CONTRACT
PITFALLS***

PAGE 3 PRESIDENT'S MESSAGE

PAGE 4 EDUCATION NEWS

PAGE 5 PAST PRESIDENT

PAGE 5 DIRECTOR OF MEMBERSHIP

The Alaskan Purchaser is published monthly (September to May) by NAPM-Alaska, Inc., an educational organization committed to providing purchasing and material management practitioners the opportunity to enhance their professional skills and knowledge. If you have an item you would like to contribute to the newsletter, please contact:

Angie Middleton, Director of Communications
Phone (907) 339-6862
email: amiddleton@asrc.com