Fraud, Waste, & Abuse Investigation Results

Office of the Inspector General

April 18, 2024

BART Improperly Embedded a Best-Value Procurement Into a Fixed-Price Construction Contract

Relevant California Law

California's Public Contract Code: Products requiring evaluation must be procured under a process that allows:
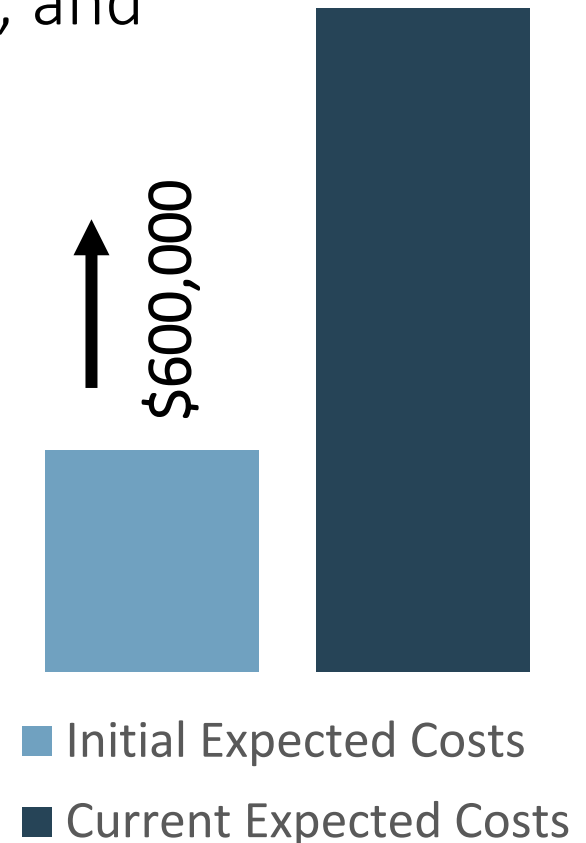
- Flexibility for adjusting scope of work

- Competitive negotiation for new technologies

- Best-value process that considers quality, price, and so on

- Evaluation of prototype equipment

M-Line Tunnel Lighting Project

- Used fixed-price construction contract

- Approved light fixture did not meet contract specifications

- Select performance & safety requirements waived

- RFP not amended to reflect adjustments to requirements

- Gave approved manufacturer unfair advantage

Contract Termination

- Terminated contract in December 2019

- Plans to complete work in-house

- $2.4M settlement, mobilization, and light fixture costs

- Project not yet complete

- Initial expected costs: $7.9M

- Current costs: $8.5M

$600,000

- Initial Expected Costs
- Current Expected Costs

Importance of Proper Procurement Practices

- Fair bidding process for contractors and vendors

- Ensures legal, grant, and safety compliance

- Stimulates competition

- Brings new ideas and perspectives

- Best product at best price

Recommendations

- Establish procedures

- Do separate solicitations

- Provide a timeline and updated costs

Contracting Best Practice

"A properly selected contracting method will work in the interests of the procuring agency to provide a product or service that meets the agency's needs at a reasonable price without undue risks to the contractor and without excessive contract administration costs and contractor claims."

~ Federal Transit Administration

Questions?

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The Office of the Inspector General Holds in High Regard Its Duty to Protect the Public's Interests.

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