

# Keys to Developing Effective Contractor Specifications



A contract that is comprehensive, flexible and equitable is the first step toward developing a solid relationship between a school district and a transportation contractor.

By Mark A. Walsh

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he relationship between a school district and its transportation contractor can be influenced by any number of factors, but the most critical determinant is the quality of the contract that binds them.

This article explains how to develop specifications for pupil transportation under a full-service contract, whether a firm price bid or a more flexible request for proposal (RFP). At the end of this article, a handy checklist has been provided for use in evaluating specifications.

Each state, and some locales, have differing legal and regulatory requirements when it comes to the issuance of specifications. Included in this article are the many elements that should be included in a comprehensive transportation specification.

It is strongly suggested that any contract specifications be thoroughly reviewed by transportation program management, the district's insurance consultant and the district's legal counsel.

## Set clear goals

In the academic world, educators understand the need to define performance expectations, provide realistic guidelines and clarify methods of accountability.

The development of proper transportation contract specifications follows the same pattern. A district must clearly define what services a contractor is expected to provide. To this end, the contractor needs information on the existing program, including number of buses, length of runs, bell times, special services required, destinations, bus capacity requirements and all other information that will allow the bidder to fully understand what will be necessary to meet the district's needs.

Additionally, if any program changes are planned (for example, redistricting or changes in bell times), it is important to provide this information. A contractor should not be held accountable for unmet expectations if adequate detail was not presented beforehand.

Before discussing some of the key elements of a quality specification, it is important to deal with a critical aspect of content development: the philosophy behind the specification. A quality specification must meet the needs of both the district and the contractor. It cannot be loaded with onerous requirements and stipulations that would prevent the contractor from operating a safe, responsive program with the hope of generating a

reasonable financial return. The specification certainly must convey the intention and needs of the district, yet must also recognize the legitimate operating demands of the contractor. A specification with unreasonable demands will limit competition and will place the contractor in a position of eventual failure. That is not beneficial to either party.

### Operational demands

Operating performance is a key element in a contracted relationship. A quality specification should include provisions that offer the ability to enforce performance without resorting to default provisions or legal threats. Consider including

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either financial penalties, performance incentives, or both, for those issues that are key to your program (for example, penalties for missing runs, for not supplying a sufficient number of buses, for operating with non-approved drivers and so on).

Alternatively, consider financial incentives or bonuses for superior

on-time performances, increased ridership, accident reduction efforts, community actions or more. The combination of the "carrot and the stick" approach can be very effective to clarify your expectations and your requirements.

### Requirements of risk

Provide the contractor with specific insurance requirements, including policy limits that match or exceed the district's coverages. Given the complexity of insurance coverages and the importance of protecting all parties, have this language reviewed by the district's insurance consultant. As part of the insurance section, consider the use of bid and

## Essentials of the bid process and the contract

All transportation contracts are not created equally. However, each should be developed with basic components that help to define the binding relationship between the school district and the contractor. Mark Walsh, partner in the consulting firm of Transportation Advisory Services, compiled the following list of requirements in the bid and award process.

- Bidder information (name, address, phone, fax)
- Bidder's initials on each page
- Non-bidder's response survey
- Notice to bidders
- Period of time for bid remaining firm
- Bid bond requirements
- Performance bond requirements
- Proof of bondability requirements
- Clear definition of services being bid
- Requirements for submission of bid
- Pre-bid conference requirements
- Procedures for questions and responses
- Bid opening date, time and location
- Reference requirements
- Historical financial statements from contractor
- Information on bidder's principals
- Operating or inspection reports from state
- Contractor's vehicle list
- Hold harmless agreement
- Non-collusive bidding certification
- Signature requirements
- Alternates to bid
- Stipulations; restrictions in bid
- Business structure and ownership information
- Tax exemption statement
- Timeliness of bids, board rights
- Method of interpreting bid documents
- Award period
- Contract period and renewal terms
- Method of bid calculation and review
- Negotiation procedures (if allowed)
- Basis of award
- Warranties
- Identical bids — award process
- Cash discounts
- Acceptance of contract
- Award notice
- Default provisions
- Assignment restrictions
- Contract documents
- State or regulatory approvals and requirements
- Extra work provisions
- Inspections and tests
- Bidder warrantees — solvency and competency
- Mandatory Standards Act
- Fair Labor Standards Act
- Right to know compliance
- ADA compliance
- Non-discrimination practices
- Bus advertising position
- Prevailing wage or wage guarantee issues
- Compliance with drug and alcohol testing
- Payment terms and procedures
- Final payment
- Adjustments
- Payment hold-backs
- Invoicing requirements
- District representative designation
- Insurance levels
- Certification from insurance carrier
- Insurance company standards
- Additional insureds
- Evidence of insurance
- Cancellation requirements
- District property
- Right to audit books and records
- Term of contract
- Renewal provisions
- General personnel requirements
- Employee qualities
- Preferential hiring and standards
- Routing requirements
- Employee attire
- Regulatory compliance
- Employee training
- Physical exams and tests
- Superintendent's approval
- Stand-by drivers and vehicles
- Driver safety equipment training
- Routing responsibilities
- Intoxicants and smoking prohibited
- Dispatcher requirements
- Terminal staffing and driving restrictions
- Telephone, fax, radio requirements
- Bus monitor requirements
- Vehicle specifications and features
- Video camera requirements
- Facility requirements
- Fuel requirements and responsibilities
- Definition of approved mileage
- Reimbursement for tolls, parking and entrance fees
- School detail and schedules
- Arrival and dismissal requirements
- Trial run requirements
- District operating and board policies
- Driver training
- Emergency bus drills
- Emergency closings
- Monthly management reports
- Driver daily reports
- Rights to property statement
- Title IX regulations
- Non-performance damages
- Performance incentives
- Contract termination
- Detail on current and future program
- Definition of terms

Walsh is a partner in the consulting firm Transportation Advisory Services (TAS). Additional information about this topic can be found at [www.Transportation-Consultants.com](http://www.Transportation-Consultants.com). Walsh can be reached at (800) 233-3251.



performance bonds and consider minimum insurance company qualities to insure that the bonds are being supported by a viable entity that's licensed to do business in your state.

### Flexible pricing helps

Design a pricing structure that will allow the district flexibility as the program changes. You should be able to add or delete vehicles of different sizes, and increase or decrease the required mileage. Spend some time brainstorming potential changes to the program to make sure that the pricing mechanism is flexible enough to handle those changes.

You will certainly want to evaluate the bidder(s); therefore, background information on the following topics should be requested: existing customers, financial stability, terminal locations, management personnel, specialized training programs, accident loss runs, maintenance histories and more. Depending on the regulatory requirements of your state, this information can become critical in your evaluation of the most qualified bid or proposal.

Fuel provision is an issue that should be thoroughly considered. In most cases it will benefit both parties if the fuel is supplied by the district, which accrues tax savings that may not be available to the contractor. In addition, districts often can participate in buying programs that make the fuel available at discounted rates. By eliminating this risky variable from the base bid, the contractor will not be required to add a contingency cost to his price in the event that fuel prices skyrocket. However, audit procedures and allocation methods must be established to ensure that the district is only providing fuel for the legitimate servicing of the contract.

### Finding the best bid

Once the key elements of the specifications are determined, be sure to be very

specific about the basis for the contract award and the methods that you will use to evaluate the bids or proposals. If appropriate, include program level examples that can be used to compare prices so that you can determine which bid or proposal will offer you the lowest cost. Frequently, this type of pricing sample is marked "For Bid Analysis Purposes Only" and is used to make sure that the district eliminates the risk of subjective determinations of the lowest price.

Obviously, along with price you must determine the term of the contract. If you are expecting a contractor to make an investment in your community by developing a maintenance facility, purchasing specialized vehicles, recruiting and training drivers and support personnel and learning your program, you will need to offer a term that allows the contractor to generate a reasonable return on the investment. Some states have term limits on contracts that must be considered. However, in order to generate reasonable competition, terms of at least three years are common.

### Timing is critical

Once you develop the specification, it is important that you consider its proper time of release to the marketplace. Be sure to provide the contractors with suffi-

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cient time to review the specification and your program, while also considering their need to purchase vehicles, find the necessary transportation facility and develop a sufficient driver pool.

The specification that you develop will be the operating criteria for your program for several years, so take your time and be thorough in the development. Once you believe that you have considered all elements, review the specification from the perspective of a contractor: Ask yourself, "Could I bid this program?"