

# Solid Waste and Recycling Specifications: Real World Issues

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48<sup>th</sup> Annual Rutgers University Public Purchasing  
Educational Forum and Pre-Forum Seminar



DeFeo Associates

# Contracting Overview

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**How do I create a smart contract?**



# From the bid to the contract



# Service Parameters

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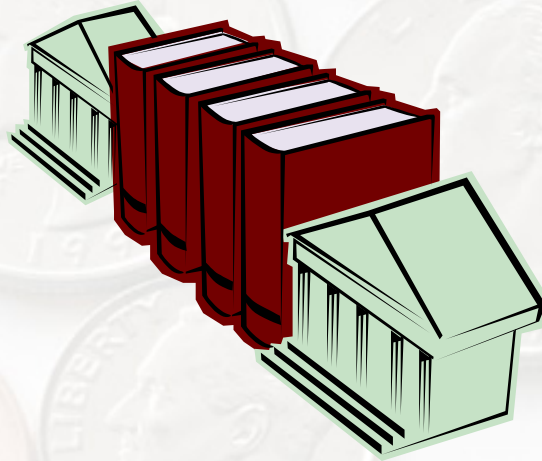


- What do you want to accomplish?
- If you don't know what you want to do... don't bother!!!!



# Don't Trust Specification Drafting to Lawyers

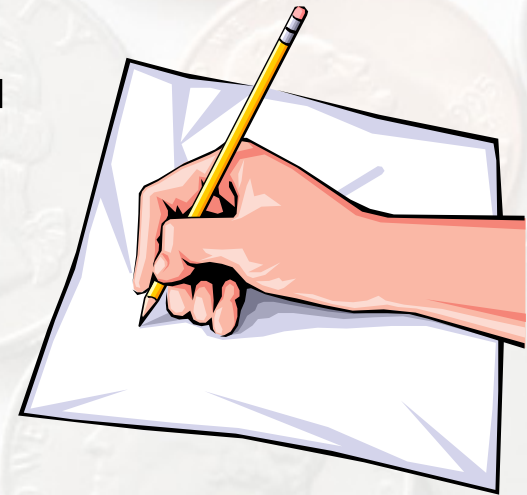
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# Service Parameters

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- Materials to be collected
- Municipal demographic data
- Collection parameters
  - (be careful what you ask for, you may get it)
- Collection specifics
- Containers
- Collection schedules
- Ownership of recyclables
- Payment of solid waste disposal
- Vehicle requirements



# Protective Measures

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- Insurance
- Indemnification
- Specification violations
- Failure to collect or perform
- Performance bonds
- Corporate guarantee
- Letter of credit
- Liquidated Damages

# Liquidated Damages

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- **Are Not Penalties**
- Liquidated damages are reasonable estimation of the damages that are likely to actually result from a breach of contract.
- The precise amount is predetermined by the parties to the contract as compensation for breach of the contract.





# The Bidding or RFP Process

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Timing is everything!!!!!!!!!!!!!!  
You must give yourself enough time



- At least 2 months to write specifications
- One month to deal with questions and to prepare addenda
- One month to deal with the award
- One month to deal with contingencies
- One month for the successful bidder to prepare

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# Bid or RFP?

## Advantages/Disadvantages



# And Finally

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Keep the lawyers away  
from your specifications  
until you need them.

