

ATTACHMENTS

Attachment I

I. PROCUREMENT PROCESS BEST PRACTICES

The logical first step in the purchasing process is the identification of a need. A useful way to organize your thoughts about the specific need and to identify the parameters of a potential purchasing relationship is by creation of a Statement of Work (SOW). The SOW is a document that sets forth in detail the specific responsibilities of each contracting party as well as all tasks, milestones, and/or specifications that must be reached in order for the department to successfully meet its objectives. The SOW will become the basis for the most essential business terms in the contract with a supplier or service provider.

Including the development of the SOW, departments are required to follow other “best practices” involved with the procurement process. All of the steps below are best practices to ensure potential bidders not only receive the appropriate information, but also serve to better ensure efficiency, transparency, and accountability in the award of contracts.

The best practices can be condensed into the following six principles:

1. The pool of contractors solicited should be as expansive as possible;
2. Statements of work should be drafted in clear and unambiguous terms;
3. Proposals should be judged on the basis of predetermined, merit-based evaluative criteria, made known to vendors before proposals are submitted;
4. The evaluative criteria should be judged by a qualified evaluation committee;
5. The evaluation process should be explainable to evaluators and competing vendors, and capable of withstanding scrutiny under a protest challenge; and
6. The scoring process and award recommendations should be well-documented and retained.

1) THE POOL OF CONTRACTORS SOLICITED SHOULD BE AS EXPANSIVE AS POSSIBLE

Eligibility requirements for a vendor seeking to compete for a contract for goods or services should be broad, limited only by concerns related to the vendor’s responsibility. A responsible vendor is one “who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.”

When requesting a competitive solicitation to be issued by the Purchasing department, the documentation provided to the Purchasing Department should include a list of all vendors (with email addresses whenever possible) to whom the RFP/bid should be sent. The Purchasing department will draw from additional sources seeking other vendors, but the department, as the functional experts for the required good/service, usually knows a number of vendors that are capable of providing the good/service.

2) DRAFT CLEAR AND UNAMBIGUOUS STATEMENTS OF WORK

A request for proposals (“RFP”) or similar solicitation should contain a clear and detailed statement of the work to be undertaken, often referred to as a scope of work provision (“SOW”) or specification. The SOW is the first and chief opportunity for a contracting unit to provide an explanatory guide of the goods or services it seeks. A clearly drafted description of the tasks expected of the contractor is more likely to elicit proposals, particularly proposals directly responsive to the needs of the contracting unit. Such greater competition, in turn, frequently yields lower-cost proposals.

In addition to clarity, completeness and specificity are also important in drafting the SOW. Completeness and specificity of the SOW may be enhanced by input from not only the specific department that will work with the contractor but input from the intended beneficiaries of the service at issue.

In addition, when procuring goods or services it is generally advisable that the department draft a SOW that emphasizes the result to be achieved, and is less focused on detailing the process for accomplishing that goal. The focus should be more on “what” the department wishes the vendor to perform and achieve, and less about “how” it requires those services to be performed or goods accomplish said result.

The contracting unit’s SOW should provide a clear understanding of what “end product and functions” the government unit expects from the contractor. To meet this goal, departments should write SOWs as performance specifications, as opposed to technical specifications. Undoubtedly, technical specifications are necessary in some instances, and almost always are necessary when procuring goods. But when a department sets out to procure professional services, or complex technology services, setting forth a SOW in terms of the general performance or function expected of a vendor can lead to greater creativity in how competing vendors propose to perform the services in question, which, in turn, may result in those services being provided at a lower cost.

In all cases no specification/SOW may require 1) a standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; 2) require any resident be a resident of a certain locale unless the physical address is required to the performance of the work; 3) discriminate on the basis of race, religion, sex or national origin; 4) Require a specific brand name without including language to allow for an equivalent brand;

3) JUDGE PROPOSALS ON THE BASIS OF PREDETERMINED, MERIT-BASED EVALUATIVE CRITERIA MADE KNOWN TO VENDORS BEFORE PROPOSALS ARE SUBMITTED

A department’s recommendation for award of a contract for services is oftentimes determined by judging what proposal best meets The College’s overall needs, where price is just one of many factors. In a situation where quality of service is important, a single-minded focus on price may well be unwarranted. Thus, selection of a vendor through competitive proposals can involve many considerations besides price, such as technical capability, management capability, prior experience, and past performance.

When any government unit procures services through such competitive proposals, however, subjectivity and favoritism are more likely to enter the evaluative process than when price is the sole factor used. Thus, in procuring goods and services, selection and application of criteria used to evaluate competing proposals takes on special significance. In order to promote genuine competition when price is not the sole factor for award, and to promote transparency and accountability in the evaluation of competing proposals, departments should: (1) use predetermined, merit-based evaluative criteria to measure the proposals; (2) disclose those criteria in the solicitation materials; and (3) consider whether some criteria are more important than others, which may require assigning different weights to each criterion, with the percentage assigned to each preferably made known to vendors before submission of the proposals.

A. Use Predetermined, Merit-Based Evaluative Criteria

Merit-based evaluation criteria should be used to set the standards for judging competing proposals for the provision of goods and services. The specific criteria to be used varies because the attributes of prospective contractors that the procuring entity looks for will vary depending on the subject of the procurement. Evaluative criteria generally fall into four categories: (1) management criteria, (2) technical criteria, (3) cost, and (4) past experience and performance. Management criteria generally pertain to the contractor's personnel structure, such as its proposed staffing for the service to be procured. Technical criteria analyze the approach proposed by a contractor or their products in providing the requested good or service. Past experience and performance relate to a contractor's product history in performing services similar to those that are the subject of the current procurement, and how responsibly the contractor provided those services, including its adherence to performance deadlines.

B. Disclose Evaluative Criteria Early in the Procurement Process

Almost as important as using merit-based evaluative criteria is disclosing those criteria to prospective vendors as early as possible in the procurement process, such as in the RFP specification. If something more than price will drive the award decision, best practices counsel that a contractor should know precisely those other bases by which its proposal will be evaluated against the competition.

C. Weighing of Individual Evaluative Criteria

Once evaluative criteria are determined, other considerations include (i) whether different weights should be assigned to particular criteria. Simply put, weighing should be used if some criteria are determined to be more important than others. Disclosure of the weighing method before submission of proposals in the SOW provides vendors with advanced insight as to which criteria are most important to the contracting unit, and thereby helps vendors refine their proposals.

4) THE NEED FOR AN EVALUATION COMMITTEE

While evaluation of proposals theoretically can be performed by one person, best practices favor evaluation by a group of evaluators, often referred to as an evaluation or selection committee. A contracting unit that uses an evaluation committee should attempt to have that committee in place before proposals are received. Early selection of the members of the committee can allow members to help develop the evaluation criteria and gain greater familiarity with the procurement, including understanding the contracting unit's goals and needs. The names of members of the evaluation committee should be documented and available to the public at the time of the contract award.

A. Evaluators Must be Qualified to Judge

Members of an evaluation committee must be sufficiently qualified to evaluate the strengths and weaknesses of the proposals submitted.

B. Avoid Conflicts of Interest

In addition to having experience and familiarity with the subject matter of the procurement, evaluators must be truly impartial arbiters. The members of any evaluation committee shall have no personal interest, financial or familial, in any of the contract vendors, or principals thereof, to be evaluated. One such screening method entails signing a certification attesting that the evaluator or consultant knows of no financial, familial, or other potential conflicts that would inappropriately influence his or her review of competing proposals.

The College's General Counsel Office can assist and/or provide more information on conflict of interest.

5. USE A SCORING PROCESS UNDERSTANDABLE TO EVALUATORS AND VENDORS

The process of actually scoring competing proposals should be understandable to those who evaluate the proposals, explainable to vendors before and after the award process, and capable of withstanding scrutiny in the event of any bid protest. A scoring process that is not explainable by, or understandable to, those who evaluate competing proposals can prove embarrassing when a contracting unit finds itself having to defend its decision-making.

When a committee evaluates competing proposals, each member of the committee should score each proposal and provide comments that explain the score assigned to each criterion. Requiring that a comment accompany the score forces an evaluator to articulate his or her rationale in support of that score, and also provides a record for review should the eventual award decision become the subject of a protest.

6. THE SCORING PROCESS AND AWARD RECOMMENDATION SHOULD BE WELL-DOCUMENTED AND RETAINED

Another means to enhance competition, transparency, and accountability in the procurement of services is to ensure that all procurement decisions are documented and that those documents are retained for an appropriate period of time. The less documentary evidence there is to explain each step of the award process, the more susceptible the process will be to claims that the contract was awarded without meaningful or appropriate deliberation.

Departments should submit to the Purchasing department the documentation from every step in the evaluative process: (1) scoring sheets, (2) a written record of what transpired during any permitted negotiations between vendors and procurement officials, (3) a written comparative analysis of competing proposals, and (4) a written award recommendation. The written award recommendation should (a) explain the factors that led to the award decision, (b) offer qualitative discussion of the leading competing proposals, and (c) describe the specific characteristics of the winning vendor's proposal that resulted in its selection over the others. In short, an award memorandum should document how evaluative criteria were taken into consideration and explain the reasons for accepting the winning proposal.