

Public Procurement Practice

REQUEST FOR PROPOSALS (RFP)

Application of guidance in public procurement practices will depend on the laws, procurement codes, ordinances, and policies of each entity.

The guidance in this practice is offered to clarify terminology, identify factors favorable to issuing an RFP, and conduct a procurement from development of the RFP through contract award.

NIGP recommends that this practice be read in conjunction with “The Evaluation Process for a Request for Proposals” and “Developing Evaluation Criteria” NIGP Global Best Practices, located at <https://www.nigp.org/home/find-procurement-resources/guidance/global-best-practices>.

STANDARD

A Request for Proposals (RFP) is a solicitation document issued through a competitive procurement method. An RFP is used when the requirements are not clearly known, are qualitative rather than quantitative, or when the entity is looking for a solution to a problem. An RFP tends to be utilized for technical and complex procurements as proposers are encouraged to offer creative solutions that are customized to the entity’s need. A key characteristic of an RFP is the evaluation of proposals using pre-established criteria to select a proposer(s) for contract award. When an RFP is used to solicit a proposal, a proposer is selected based on a combination of price and non-price evaluation criteria.

To optimize the strategic value of Procurement, an entity should involve Procurement early for the best outcome.

Definition

Request for Proposals (RFP): The document used to solicit proposals from suppliers for commodities, i.e., goods and services. Selection is based on evaluation of criteria and may include price.

Variations of RFPs include:

- RFPs with Consecutive Negotiations
- RFPs with Dialogue
- RFPs without Negotiation



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Element 1: Policies and procedures should be established for soliciting proposals using an RFP.

Procurement policies and procedures are the foundation for a consistent, ethical, and transparent process for selecting a proposer for contract award. Entities should dedicate a section of their procurement policies and procedures to describe the use of a competitive process from development of the RFP through contract award.

Policies and procedures should:

- State the responsible position in the entity for determining which competitive method is used.
- State the authority for a legislative body or individual to award the contract.
- Define the conditions for using an RFP, for example:
 - Entity seeks the best solution from potential proposers
 - Use of a competitive sealed bid is not practicable or advantageous to the entity
 - Entity knows general requirements, outcomes, and desired results, but not the solution
 - Construction project delivery method, e.g., design-build, construction manager at risk
 - A complex procurement
 - Use of criteria in addition to price
- Define the strategic entity goals that should be considered or incorporated into the evaluation of proposals, e.g., socio-economic, environmental goals.
- Define procedures to resolve protests, errors, controversies, or anomalies encountered during the competitive process.

Element 2: The RFP should describe the evaluation criteria and scoring method and methodology.

Evaluation criteria must be stated in the RFP. Evaluators must consider only the evaluation criteria stated in the RFP during the evaluation process. Sufficient detail should be provided for the proposer to know what information to include in their proposal. Examples of criteria include:

- Qualifications and Experience
- Technical Approach and Methods
- Schedule
- Price

Evaluation methodologies should utilize numeric scoring or rating such as fixed or variable weight. However, there are many evaluation methodologies that may be considered and should be explored.

The entity's plan to conduct presentations or interviews, seek clarification, and solicit Best and Final Offers (BAFO) should be noted in the RFP and should include how the information will be considered in the evaluation process.

Information about evaluation criteria and the evaluation process can also be found in the Global Best Practices on "Developing Evaluation Criteria" and "The Evaluation Process," and in the "Developing and Managing Requests for Proposals" textbook. (NIGP)

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Conveying the importance of criteria to achieve successful outcomes

An entity's applicable legislation may provide specific guidance on the weighting or scoring of price when using a competitive procurement method.

Price may be an important element in proposals submitted in response to an RFP. Award is made by considering all factors, including price, but never made on price alone. Based on the entity's goal or expected outcome for the solicitation, the entity must determine how price will be evaluated and select the appropriate weighting and method. Methods to factor price into the evaluation and scoring process include:

- The best solution within budget.
- Price as an equally-weighted evaluation criterion.
- Calculation of quality-price ratio.

Care must be taken when defining the evaluation criteria and associated weights, specifically when assigning a weight to price relative to non-price criteria. The reader is encouraged to review the Global Best Practice document "Developing Evaluation Criteria" for guidance on defining and weighting criteria. Assigning weights incorrectly may lead to an undesirable outcome.

Element 3: An RFP should detail in a clear and organized manner the conditions, procedures, evaluation criteria, and requirements.

The entity should develop a standard RFP format or template grouping like information into sections. Entities will determine specific section headings and content.

An Introduction section would include, for example:

- Instructions to Proposers.
 - Due date and time for proposals
 - Submission details, e.g., method and location
 - Proposal format and content requirements, i.e., sections corresponding to the proposal evaluation criteria or requirements laid out in the scope of work
 - Process for clarifications and addenda
 - Page limits
 - Mandatory requirements
 - Entity provided response form(s)
 - Electronic submission requirements, e.g., file format and functionality such as a searchable PDF versus a scanned document to PDF, size limits, image quality
- Schedule of solicitation activities, timelines, and milestones.
- How proposals will be treated with respect to confidentiality, public record laws, and entity policies.
- Designated procurement representative for all communications.
- Background: History and context for the desired outcome.

A Scope of Work and Specifications section, for example, should clearly state the:

- Overview of the project, including background information.
- Entity's problem, challenge or issue, and desired outcome(s), i.e., the RFP requests proposers to propose solutions.
- Design and technical requirements.
- Performance requirements.

The "Specifications" Global Best Practice, available on the NIGP website, includes tips for writing specifications.





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An Evaluation section, for example, should clearly state:

- Evaluation methodology.
- Evaluation criteria.
 - Weighting of each criterion
 - Formulas or calculations used for scoring and ranking
- Selection method.
- Method of contract award.
- Single or multiple awards.
- Negotiation terms and process.
- Details for interviews or presentations.

A General Terms and Conditions section governs the RFP solicitation and may include:

- Definitions.
- Governing law.
- Rights, e.g., cancellation, addenda.
- Protest policy.
- Clauses that apply to the solicitation process.
- Public Records and release of proposal information and results.
- Entity preference programs.

A Special Terms and Conditions section applies to the contract performance, are specific to each RFP, and may include:

- Definitions.
- Governing law.
- Delivery location.
- Warranty requirements.
- Insurance.
- Indemnification.
- Payment terms.
- Performance requirements.
- Public Records and release of RFP information and results.
- Performance bond.
- Entity preference programs applicable to the RFP.
- Minimum qualification requirements.
- Contract term.

An RFP should include required forms for the proposer to complete and submit with their proposal. Forms provided in the RFP may be useful to help structure the proposal and guide the proposer's response.

The RFP should include or reference a sample contract for review. Depending on the negotiation terms, proposers should be instructed to declare in their proposals any terms to which they take exception. In addition to the sample contract, this section may include:

- Sections of the RFP to become part of the contract.
- Addenda.
- Proposer's response.

Negotiation

A well-crafted and executed negotiation strategy can contribute to the best outcome for the project. Provisions for negotiations must be included in the RFP.

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When developing an RFP, a determination must be made regarding:

- Whether negotiations are permitted and for what, e.g., scope, terms and conditions.
- The negotiation process, e.g., short listing, concurrent, simultaneous, Best and Final Offer (BAFO).
- The mechanism for the proposer to identify proposed changes.
- Steps to take when negotiations fail.

If allowed, each RFP should state what may be negotiated, including:

- Contract terms, such as insurance, liability, indemnification, delivery, and payment terms.
- Proposed solution, value added, options or alternate proposals.
- Warranty.
- Scope of Work.
- Pricing, both amount and structure.
- Price escalation clause.
- Timelines.

Items affecting the decision to negotiate and the negotiation strategy include:

- Type of RFP.
- Entity policies.
- Market conditions.
- Risks.
- Level of negotiation expertise and skills of the staff.
- The entity's Best Alternative to a Negotiated Agreement (BATNA).

In general, negotiating teams should be limited to those members with essential skills or knowledge necessary to reach a sound agreement. The procurement professional is an integral part of the negotiating team and should take the lead role.

Element 4: The procurement professional must use sound judgment throughout the solicitation process.

The procurement professional applies judgment, experience, professional knowledge, training, and ethics to respond to questions, provide clarification or additional information, manage pre-proposal communications, adjust the procurement timeline, and manage the proposal evaluation process.

Once the RFP is issued, the procurement professional:

- Records the activities related to the solicitation process.
 - A repository of the RFP documents may be paper and/or electronic
 - The process for record-keeping should be documented and consistent for all RFPs
- Designates a sole point of contact for proposers and management of pre-proposal communications.
 - All potential proposer questions and other communications regarding the RFP are to be directed to the procurement professional managing the solicitation process to decrease the likelihood of:
 - ◆ Inappropriate sharing of information
 - ◆ The appearance of impropriety
 - ◆ The potential for a protest
 - The designated procurement professional may consult with the project manager or subject matter expert to gain information to respond to a proposer's technical questions
- Issues addenda in response to questions, changes in the specifications or solicitation, or to extend the timeline for proposal responses.





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- Adjust the solicitation timeline, as needed, to ensure the proposers have adequate time to review and respond to the information provided
- Provide public notice of all answers to questions, clarifications, and changes to provide equal, transparent, and timely access, e.g., posting to the entity's website
- Manages, guides, and facilitates the evaluation process and should not be a voting member of the evaluation committee.

Element 5: Once the proposals are opened, the procurement professional must review the proposals received against the mandatory requirements stated in the RFP to determine if each proposal is responsive/compliant¹.

Responsiveness refers to a proposal that meets all mandatory criteria stated in the RFP. A responsive proposal fulfills the requirements stated in the RFP. A proposal that does not meet all mandatory criteria would be deemed non-responsive.

Determination of responsiveness of a proposal is typically a straightforward process, often done as pass/fail, and should be conducted by the procurement professional. The procurement professional may collaborate with a relevant subject matter expert. Ultimately, Procurement should be responsible for determining responsiveness. A record of the determination and rationale should be kept in the procurement file.

Some entities choose to include language in their RFP to allow for revising or correcting immaterial deficiencies and errors of omission related to the mandatory criteria, i.e., rectification, minor informality. A minor informality, for example, a proposal lacking a signature, would not give a proposer an unfair advantage. If the RFP includes rectification language, the proposer would be permitted to provide the signature.

Element 6: The Evaluation Committee should be formed early in the planning process for using an RFP and should play an integral role in the development of evaluation criteria and weights.

Advance planning is necessary for the timely and proper execution of the evaluation process. Prospective members, e.g., end users, the project manager, and other stakeholders serving on the evaluation committee should be notified well in advance of their involvement and given a schedule of activities.

Resources

- Asner, Michael. *The Request for Proposal Handbook*, 2014.
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¹ Responsiveness is also known as compliance to mandatory requirements

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