

THIRD EDITION

The REQUEST FOR PROPOSAL HANDBOOK

THE BEST RFP PRACTICES, CHECKLISTS,
GUIDELINES, EXAMPLES AND
REGULATIONS FROM
STATE AND LOCAL GOVERNMENTS
AND THEIR AGENCIES



SECRETS OF
SUCCESSFUL
RFPs

Michael Asner



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INTRODUCTION

Some purchasers want to provide suppliers with as little information as possible. They'll begrudgingly identify the major selection criteria (usually price, proposed solution, quality of the proposal). They do not want to give the suppliers a lot of detail. Their argument is that the suppliers should know how to prepare a proposal. In fact, for many of these people, often senior purchasing officials, detailing the evaluation process or specific criteria is impractical - they don't know enough about the problem, the selection process, or the alternative solutions. Their logic is that they will somehow "know" the best solution when they see it. In fact, what they are saying is that provision of detailed selection criteria would restrict their choices or simply require too much effort on their part. They want to be arbitrary and able to select whomever they wish.

Some purchasers want to provide suppliers with all of the selection details. For example, "in evaluating your company's capabilities, we will assign one point for each year in business up to a maximum of seven." Provision of the detailed points ensures that each supplier understands the process, but invariably then, the process comes under severe attack.

The best practice is to define the evaluation process, in summary form, in the RFP. Identify the major categories on which the proposal will be evaluated, and the weight assigned to each factor.

Unfortunately, some organizations do not publish the weights. They offer little guidance to suppliers. They believe that the suppliers should somehow know and propose the particular combination of their products, services, and solutions which fits their requirements best. They simply do not recognize that suppliers prepare very different proposals when the quality of the solution is worth 70% and cost 30% rather than cost being worth 70% and quality of the solution the remaining 30%. Suppliers look to the RFP for guidance. If the requirements indicate that the organization wants a (bare-bones) solution, suppliers will propose a (KIA or Hyundai solution) rather than the (Hummer solution).

It is a good practice to ensure that the RFP explains the criteria that can or will result in the rejection of an offer, states that the evaluation will include both the purchase price and all one-time and ongoing costs that will be incurred, and states the relative importance of each major selection criterion

It is important that each of the evaluators deals with the process, the RFPs and the suppliers in a consistent and defensible manner. Often evaluators are inexperienced and welcome some direction on their role.

Some projects have a Procurement Officer or a Fairness Consultant who provides the Project Manager and Evaluators with on-going advice, information about the evaluation process and scoring mechanisms,

worksheets for conducting the evaluation, and guidance concerning “best practices”, policies and legal requirements, such as access to information statutes and policies.

Having a standard approach eliminates some of the personal bias and takes some of the arbitrariness out of scoring. A good working definition of when to assign a 5 versus an 8, for example, will ensure that evaluators can agree on a score rather than simply averaging the different scores. For example, “a score of 5 should be assigned only if the majority of the factors meet standards, the requirement is not overly difficult to meet, and the factors which are deficient are of a very minor nature.”

Suppliers may complain that they do not understand how their offers will be evaluated and how the winner will be chosen.

In many organizations which frequently use the RFP process, there is an unending debate over the evaluation process. At one extreme are those who want to make a choice without having to justify it. (Often, the Information Technology people.) At the other extreme are those who want the decision to be an almost mechanical calculation of a score.

THE NEED FOR AN EVALUATION PROCESS

While the need for an evaluation process is clearly established by public policy, it is worth stating the reasons. Here is the explanation offered by Nova Scotia:¹

What is an Evaluation Process and Why is One Required?

The evaluation process begins with the establishment of evaluation criteria. These criteria are a series of standards and measures used to determine how satisfactorily a proposal has addressed the requirements identified in a bidding opportunity. They also play a major role in identifying the best overall cost effective solution to the proposal requirement.

The complete evaluation process consists of:

- *establishing appropriate criteria,*
- *placing the criteria in the proposal document,*
- *selecting an evaluation jury,*
- *evaluating the proposal using the criteria, and*
- *preparing the evaluation report, including a recommendation for vendor of choice.*

The need for the evaluation process is two fold. First, it offers all potential bidders a fair and equitable method of having their proposal reviewed and considered as a potential solution in a consistent and similar manner as their competitors. Secondly, it provides the proposal evaluator with a clear and concise method of identifying the competent tenders and ultimately the best overall bid.

Defining the Evaluation Process

The evaluation process can be defined by the answers to a series of questions:

1. What is the composition and organization of the evaluation team?

How many people are on it? What are the skills required? What time and effort is required from each team member? What do we do about confidentiality issues or conflicts of interest? Does the team select the winner or only recommend the winner? Is the evaluation to be done by each person separately or based on consensus?

Are the technical and financial proposals evaluated by separate teams?

How is the team to obtain policy direction and guidance? Is there a procurement officer as a member of the team? Is legal represented on the team? Is there a fairness officer to ensure that the evaluation process is properly executed?

2. How is the technical evaluation to be performed?

Often the “technical” evaluation includes assessment of the corporate characteristics of the proponents. Are some requirements mandatory and, if so, will proponents failing to comply be eliminated from the competition? Can mandatory conditions be waived under certain circumstances? Is each mandatory requirement truly essential to the solution? Are the evaluation criteria appropriate? Will their application truly differentiate the Proposals? Are all important criteria stated in the RFP? Is there a process for determining the relative importance or weight of each criterion? Is there a procedure for evaluating each proposal using the stated criteria? (Measures can be either quantitative, based on a numerical scoring system, or qualitative, based on a narrative description of the quality of the proposal for that criterion.) Is there a procedure for applying the evaluation methodology uniformly to all proposals? Is the evaluation process to include presentations or interviews with Proponents? Is there a procedure for disqualifying proposals if one component (for example, the quality of the technical solution) fails to meet a minimum standard?

3. How is the financial evaluation to be performed?

How is the financial health of the proponent to be established? What level of information do you require in each proposal? Are there minimum standards to be met? How are costs to be established? Will life cycle costing be used? Will cost simply be converted to a weighted score?

4. How are technical and financial evaluation results to be combined?

There are many different ways of combining these measures. Will you

simply select the lowest responsible offer meeting the minimum technical requirements? Or will you select the best technical solution regardless of cost? Or the least cost solution that has attained a “very good” technical score? Will Best and Final Offers be permitted?

5. How will you ensure the quality of the process?

Does the project team contain a Procurement Officer and a Fairness Officer? Is the RFP based on similar RFPs developed by other agencies? Has the Project Team discussed the process with other agencies that have previously done similar work? Has the RFP been reviewed by management before its release? Has the Statement of Work been developed in-house without input from industry? Has management agreed with the evaluation process? Has the evaluation process been tested using simulated data? Has a realistic budget been established for the project? Is the procurement timetable reasonable, taking into account the schedules of the evaluators and providing sufficient time for vendors to respond? Has the procurement process been formally planned and documented? Has an Evaluators Guide been prepared?

There are three critical components in any evaluation:

- The methodology used
- The structure of the Evaluation Committee
- The evaluation process

In the remainder of this chapter, we discuss each of these components, provide examples of actual procedures, and identify some of the problems that can occur.

AN EXPLANATION OF ‘BEST VALUE’

In an RFP process, evaluations are determined by more factors than simply cost. Often, the merits of the technical solution or the characteristics of the vendor’s project team are factors in the evaluation. “Best value” is the term used for a solution selected not solely on the basis of cost, but on other factors as well. Because cost is only one factor, sometimes a minor consideration, it is likely that the winner will not be the least cost solution.

Many elected officials have difficulty understanding that “least cost” is not “best value” and many procurement people spend much time educating their officials about this distinction. It is always easier to justify a lower cost solution if you neglect other considerations such as risk or the five year life cycle costs.

“Best value” is different for each RFP since it is defined by the particular combination of evaluation factors used in the specific RFP. However,

there are some general definitions of “best value”. Here’s how it’s explained in Massachusetts:²

The Operational Services Division follows a best value procurement philosophy. This means it is in the best interest of the Commonwealth for solicitation evaluation criteria to measure factors beyond cost. No one wants to save money on unit cost while encountering higher costs due to factors such as inferior quality, poor reliability, or complex administrative processes.

Their formal definition of Best Value is based on published principles:

A procurement is considered in the best interest of the Commonwealth (providing the best value) when it balances the nine guiding principles of procurement. A best value procurement:

- *Supports the achievement of required performance outcomes;*
- *Generates the best quality and economic value;*
- *Is timely;*
 - *Minimizes the burden on administrative resources;*
 - *Expedites simple purchases;*
 - *Allows flexibility in developing alternative procurement and business relationships;*
 - *Encourages competition;*
 - *Encourages the participation of quality vendors; and*
 - *Supports Commonwealth and department procurement planning.*

John Adler, the senior procurement official in the State of Arizona, has developed some guidelines for attaining a Best Value Procurement:³

What Is Best Value?

Too often we award contracts based on the lowest price or some point scoring formula, without seeking best value.

In 2002 a large technology company developed a huge financial management system for a Philadelphia school district. After award, the cost soared from \$15.6 million to \$36 million. That must be one heck of a system! Chances are the district did not negotiate a best value contract. Maybe they hardly negotiated at all. Probably every government can cite similar contract nightmares.

How does this happen? How did the price of a technology solution more than double? Better yet, how can we avoid such a disaster? Try thinking Best Value Procurement.

- *Be involved. A purchasing clerk takes a customer’s scope of work, fits it in the middle of a canned RFP (Solicitation Sandwich), receives the proposals and gives them to a committee to evaluate. A procurement officer is involved tactically and strategically in the*

entire procurement process from concept through award to contract close-out.

- *Request proposals rather than bids. Complex purchases demand considerable procurement innovation. Technology cannot be bought low bid.*

The heart and soul of any procurement is the scope of work or specifications. Too often we attempt to design the product or service with very detailed specifications. If we design it, we suffer the consequences if it doesn't work. Instead, state your goals and objectives and give detailed performance requirements in your scope of work. Let the contractor design the system to meet your stated needs and let the contractor assume the risks. You may pay a little more up front but you will pay much less in the end.

- *Pay for performance. Time and material technology contracts are prone to problems and failure. If the incentive is to work many hours, the contractor will work many hours. If the incentive is based on building a working system, the contractor will build a working system.*
- *Build performance measures and incentives into your solicitation. View profit as the cost of risk and base a portion of profit on meeting and exceeding performance factors. Some like to use liquidated damages, which amounts to taking government money back from the contractor. Think in terms of incentives, which is essentially paying the contractor for quality and cost savings.*
- *Don't get hung up on scoring proposals. An RFP is not an Invitation for Bids with a scoring system. You are seeking best value! State your evaluation criteria and its relative importance in the solicitation. If you are buying technology, give offerors a spreadsheet, with every required and desired feature, to complete and return. They either provide the feature or they don't. Use the spreadsheet for negotiations and rate them on the percentage of features offered.*
- *Pay attention to the contract details. We don't use "boilerplate". There is a purpose for every term, condition and instruction. Each contract should be tailored to the specific procurement.*
- *Evaluate the true cost, not the acquisition cost. With technology, the acquisition cost is but a small portion of the total cost. What about long term license and maintenance costs? What about upgrades? What is the cost of external and internal staff support? Will you need to buy hardware? How about a guaranteed maximum cost?*
- *Use relevant evaluation criteria. Should you value a PhD. over an MBA? Is 35 years of experience more valuable than 28 years? Do you give more points to a 100 year old firm than a new "up*

and come”? In many cases, these factors should not be scored at all. Either they have experience or they don't. Either they are responsible or they aren't. Either they are capable or they are not. Set reasonable minimum requirements and assign evaluation values to the factors that matter.

- *Develop a negotiation plan and go after the features or value that are important. Negotiations are one of our most overlooked procurement tools. Look for deficiencies and opportunities for cost savings and negotiate, face to face! Don't request the Best and Final Offer until you are reasonably certain that every issue is addressed.*
- *A contract is only a stack of paper unless it is properly administered. Don't wander outside the confines of the contract. Never, ever make oral modifications and always negotiate every detail before issuing a contract modification.*

Best value procurement is also known as competitive negotiations, competitive sealed proposals and RFP's. Our laws have allowed us to do best value contracts in Arizona since 1983. Want to learn more about best value? Check out the Federal Acquisition Regulation, FAR Part 15. The Arizona State Procurement Office and NIGP offer excellent workshops on best value procurement. See you in class!

There are many different and acceptable types of evaluation processes. The minimum standard for any process is defined in New York State's RFP Manual:⁴

1. *The evaluation criteria and methodology must be completed and secured prior to the initial receipt of proposals;*
2. *The overall evaluation criteria must not be altered after opening the proposals, with the exception of minor changes and only if the modifications are justified and evidence presented to ensure that the changes would not materially benefit or disadvantage an offerer;*
3. *The evaluation criteria must be applied equally and uniformly in the evaluation of proposals.*

Smaller or less complex procurements can employ simple methods which may not work for larger projects.

Typically, evaluations comprise a comparative analysis of the Technical Proposals, a separate comparative analysis of the Financial Proposals and a method for combining the results of the Technical and Financial Proposal evaluations to arrive at the selection of the proposal judged most advantageous to the State.⁵

THE METHODOLOGY USED

... Effective RFP evaluations typically embody two qualities. First, they are simple and easy for vendors and the evaluation team members to understand. Second, they are structured around logical and defensible business requirements and agency priorities.⁶

There are a lot of different ways that you can evaluate a group of proposals to decide which one provides “best value”. These different methodologies must produce results which are fair and can survive scrutiny by the public and the courts. Whichever method is used, it must clearly illuminate the strengths, differences, and risks of each proposal.

Fundamental Choices

In designing an evaluation system, we have to make some decisions:

- Do we only compare proposals with the defined requirements or do we compare them with each other?
- Which rating method do we use?

There are two major approaches to evaluating a group of proposals. In the first approach, each proposal is evaluated using a pre-defined set of requirements. In the second approach, the proposals are compared with each other.

The first approach: a comparison with requirements. Most purchasing texts will inform you that evaluation is the process of comparing each vendor’s proposal to your requirements. Proposals are compared using the process and criteria identified prior to issuing the RFP. Each proposal is evaluated using the same criteria.

Most texts emphasize that proposals are not directly compared with each other. Each proposal is compared with the buyer’s stated requirements. In this way, procurement people and public officials believe that it is easier to defend the process as being objective. Using this approach, we never say “We compared the two project plans, that of Company A and Company B and A’s had more details about the specific tasks and was more realistic in the schedule and was therefore a lot more convincing.” What we say is “We evaluated each Company’s plans against our requirements using the evaluation criteria and Company A scored higher because of the information they provided about the tasks and schedule.” We never say “we selected A’s proposal because it was better than B’s - it had a better solution, at less risk.”

Most RFPs employ this technique. It is relatively simple to use and It has proven to be effective for a wide range of proposals. However, for complex procurements it may not work well.

The Second Approach: Comparing Proposals Directly. The reality is

that evaluators cannot help but compare proposals. We are all human and are influenced by our emotions. Suppose one particular proposal has the best project management section you have ever read. It deals with all the issues and all the problems you anticipate, and it's easy to read and understand. You are impressed! If this is the case, then when you read the next proposal, you will likely use this one as the standard, regardless of your specific pre-defined requirements. In your mind, you will compare the new proposal with the one that set the standard.

This second approach, often called a structured evaluation, recognizes the value in directly comparing proposals. However, if you only compare the proposals, a mediocre proposal can "win" since it will be the best of a bad lot. To eliminate this problem, this second approach also uses the pre-defined requirements. This gives you a comparative evaluation that reflects the merits of each proposal AND the pre-defined specifications.

This method is used in New Mexico - a leading light in procurement reform and RFPs:⁷

The solution is the use of the Structured Evaluation Methodology (SEM) which was developed and proven on information systems procurements for the State since late 1980's. . . It not only produces a uniform evaluation result identifying the most responsive proposal but also scores the proposal against the evaluation criteria in a way that identifies relative risk. In this procedures each proposal is compared on each requirement and evaluated against the requirement itself.

Which Rating Method do we Use?

There are lots of different rating methods:

- Color coding a chart of proposal features (e.g., Construct a table in which the different proposals occupy the columns and each feature is a different row. Color-code each cell to visually identify the "best value".)
- Adjectival ratings (e.g., Describe each feature in terms of "excellent", "good" or "poor".)⁸
- Ranking each factor in each proposal (e.g., For the project management plan, Proposals A, B, and C are ranked 3, 1, 2 respectively.)
- Numerical ratings and weights (e.g., Proposal A received a score of 8 out of 10 for Project Management Plan. This factor was worth 30% of the total points available.)

People like numbers. They are easy to understand. We all know that a score of 78 is better than a score of 65. Numbers seem to add legitimacy to what is sometimes a subjective evaluation. In an adjectival scheme, the 78 may be "very good" and the 65, "adequate". These terms may not be

as easy to defend or explain as their numerical equivalents.

Most RFPs employ numerical ratings and weights. This technique, while not without some inherent problems, has proven to be effective for a wide range of proposals and easier to “sell” to senior management and the public.

THE EVALUATION COMMITTEE

The composition and mandate of the evaluation committee is critical to an effective procurement process. Some RFPs (for example, for information technology) are often too sophisticated and too complex for one person to handle. A single person, no matter how experienced, does not possess all of the skills demanded: knowledge of the organization, the application, the law, the procurement process, and the in-house technology. Experience in each of these areas is often required to create an effective RFP and to understand and evaluate the proposals.

Typically, the committee is composed of three to six people depending on the organization, the mix of skills required and the number of departments involved. During the RFP process, restrictions are often placed on the behavior of these members. When this is not done, evaluators may behave inappropriately. For example, they may meet a proponent at a conference and have dinner together. Or one of the evaluators might respond to the incumbent’s questions about the RFP.

Committees work in a variety of ways. Some work by consensus; some by averaging scores from independent evaluators. It is increasingly common for specialists to be used. For example, a qualified financial analyst would work on the costs; a data base expert on the data base design; a manager with business experience on the corporate part of the proposal. On some committees, each member is independent and the chair only tallies the scores. On others, the evaluators are only empowered to advise the chair who determines the actual score. Some committees achieve consensus through discussion and analysis. Whatever method is used, it must be seen to be fair and easily justified.

In some organizations, the Evaluation Committee is formed after the RFP has been prepared. A better practice is to form the evaluation committee when the project is initiated and a project manager has been assigned. In this case, the evaluation committee can make a much greater contribution in assisting the project manager with critical activities:

- Develop the procurement plan.
- Review requirements and contribute to the creation of the RFP.
- Assist in establishing the evaluation criteria and the points structure.
- Evaluating proposals.

In the remainder of this section, we examine how several organizations view the role of the evaluation committee. We examine the composition of the Evaluation Committee and the rules of engagement.

Composition of the Evaluation Committee

Alaska defines the use of the committee in its Policy and Procedures manual:⁹

Proposal Evaluation Committee (PEC)

Proposals may be evaluated by a PEC consisting of the procurement officer and at least two state employees or public officials. Include State personnel who are knowledgeable in the subject area of the work to be accomplished on the committee. A nonresident of the state, other than State employees or officials, may not serve in a voting capacity on a PEC without prior written approval by the Commissioner. Explain the value of the nonresident evaluator's participation in the request. There is no limit to the number of persons on the committee as long as you have a workable number of members. Selecting an odd number of members may be helpful depending on the evaluation situation and method you are using.

A representative from the Information Technology Group must be on every PEC involving software development which will interact with the state's mainframe computer.

The Evaluation Guidelines for British Columbia are not as formal as Alaska's (they are "guidelines" and not established by statute) but contain much valuable information:¹⁰

Structure of the Committee

The committee might be composed of some or all of following people:


- *program manager*
- *technical person*
- *financial person*
- *client representative*
- *Purchasing Services representative*
- *Wildcard*

The number of people will depend on the requirement but if the committee is too large it becomes awkward; three to six as a core group is usually comfortable. These people should all be present for the entire evaluation period and should all be involved in reviewing all proposals. It is not unusual for the evaluation committee to ask for help from other areas of the ministry, e.g., asking the financial services group to run a spread sheet to make pricing easier to assess, but where feasible the evaluation committee will usually be responsible for assigning a score to the proposals based on the recommendation of the advisor.

The Rules of Engagement

Members of the evaluation committee are usually selected because of their knowledge or expertise related to the specifics of that procurement. In some organizations, members of the evaluation committee may have pre-existing, informal relationships with contractors. It is important that each person on the evaluation committee understand their role and the critical nature of their activities and behavior during the process. In many jurisdictions, care is taken to ensure that there are no conflicts of interest and the proposals and deliberations are kept confidential. Committee members are often provided written instructions and are increasingly being required to sign agreements on how they will behave. In some jurisdictions, these matters are dealt with by statute.¹¹

In Arizona, there is a State law requiring a declaration from each committee member. Often these laws or regulations are combined with other requirements on a single form to be signed by each Evaluator. Here is a good example of this form:¹²

 NORTHERN ARIZONA UNIVERSITY	Evaluation Committee Form		
	REQUIREMENTS FOR EVALUATION COMMITTEES		
	PURCHASING SERVICES	File Name: BP Evaluation Committee Form-66.doc	Rev: 3

Project: _____ RFP: _____

Name of Committee Member: _____

In order to protect the integrity of a formal procurement process, it is essential participants in the evaluation meet their responsibilities in order that the team may function effectively. Adherence to these requirements shall protect individual members from any personal liability and protect the University.

1. You may not participate as a member of this committee if you have a substantial interest in any firm that may submit a Offer. If a relative of yours has a conflict of interest, you shall be considered as having the same conflict of interest. Relatives shall be defined to include spouse; all children; grandchildren; parents; grandparents; brothers and sisters, including half brothers and half sisters; brothers- and sisters-in-law; children of the spouse of the employee; and spouses of brothers, sisters, half brothers and half sisters. Using these criteria, if you have a conflict of interest, you shall submit a Disclosure of Substantial Interest and remove yourself from the committee. Any remote interest shall be brought to the attention of the Interim Assistant Director of Purchasing.
2. Each member of the evaluation committee shall fully understand the objective of the procurement.
3. Committee members shall be familiar with the requirements and specifications contained in the Request For Proposal (RFP).
4. Evaluation criteria and methods shall be established. A numerical weighting system may be used. Site visits may be helpful and, unless approved by the Interim Assistant Director of Purchasing, shall be at University expense. The need for interviews with Offerors shall be determined prior to Offer submission, when possible.
5. Committee members shall attend any scheduled pre-proposal meetings.
6. Committee members shall not speak to Offerors about the procurement without the

knowledge and approval of the procurement officer.

7. **The confidentiality of the process shall be maintained.** Therefore, committee members shall not give individual opinions to Offerors, comment on committee deliberations to people outside of the process, or share information provided by one Offeror with another.
8. A Purchasing Services representative shall participate in all negotiations. Requests For Proposal revisions shall be made by the Purchasing Services representative and submitted to the Interim Assistant Director of Purchasing.
9. The committee shall seek consensus on an award when possible. Any recommendation shall be justified and documented. If the committee cannot reach consensus, any differences of opinion with supporting documentation shall be forwarded to the Interim Assistant Director of Purchasing. The Interim Assistant Director of Purchasing shall be responsible for the final award decision in any procurement action.
10. Purchasing Services shall make notification of award.

The following was passed into Arizona law in 1996:

A person who serves on an evaluation committee for a procurement shall sign a statement before reviewing bids or proposals that the person has no interest in the procurement other than that disclosed and will have no contract with any representative of a competing vendor related to the particular procurement during the course of evaluation of bids or proposals, except those contacts specifically authorized by sections 41-2534, 41-2537, 41-2538, and 41-2578. The person shall disclose on the statement any contact unrelated to the pending procurement that the person may need to have with a representative of a competing vendor and any contact with a representative of a competing vendor during evaluation of bids or proposals except those contacts specifically authorized by Sections 4-2534, 41-2537, 41-2538 and 41-2578. A person who serves on an evaluation committee and who fails to disclose contact with a representative of a competing vendor or who fails to provide accurate information on the statement is subject to a civil penalty of at least one thousand dollars, but no more than ten thousand dollars.

The full text of this law is available from Purchasing Services. Each member of an Evaluation committee must adhere to this law. Use the following space to make the required disclosures.

I understand and agree to adhere to the guidelines for Request For Proposal evaluations. I do not have a conflict of interest which would prevent my participation in this process.

Signature: _____ Date: _____

THE STEPS IN AN EVALUATION

An Overview

Most evaluation processes are similar. They use a committee to do the work. Often very specialized skills are needed to understand and evaluate specific technical issues. When the proposals are received, copies are produced, if required; then the proposals (or sections of the proposals) are distributed to the evaluators.

The most common evaluation methods employ weighted criteria and differ only in the handling of cost. Here is an example of how they work.

The first determination, by the project manager or RFP Officer is

whether the proposal has complied with each of the mandatory terms and conditions. If it has not, it may be eliminated from further consideration. In some jurisdictions, proposals that do not comply with each of the mandatory terms and conditions stated in the RFP must be eliminated from further considerations; in other jurisdictions, they may be eliminated at the discretion of the Procurement Officer. In a few jurisdictions, a mandatory condition may be waived if all proponents fail to comply with the specific term. In rare cases, proponents are advised of the deficiency and given time to correct it. When the RFP officer has the discretionary power to eliminate a proposal or accept a deficient proposal, or permit a proposal to be corrected, great care must be exercised to ensure that all suppliers and all proposals are treated fairly.

If the organization is handling cost as a separate issue (and most do), then the cost proposal is separated from the technical proposal. If technical experts are being used to evaluate certain features, they are given only those sections of the proposals which deal with their issues.

The proposals are then evaluated and a score computed for each of the pre-defined criteria. In almost every jurisdiction, the RFP document must specify the evaluation criteria and only these criteria can be used in the evaluation. Proposals may be ranked and only those capable of providing an acceptable solution evaluated further.

Often, detailed evaluations incorporate demonstrations or presentations, site visits, and reference checks. Once the evaluators have determined the best proposal, contract negotiation is started. Failure to negotiate an acceptable contract within a predefined time is reason to reject a proposal and consider the next best. In some jurisdictions, "best and final offer" is used to permit those few suppliers judged capable of satisfying the requirements the opportunity to revise their original proposal. In this way, deficiencies can be corrected and better solutions provided.

The main objective of this often cumbersome process is to determine the winner, not to rank all the proposals in order. While careful attention must be given to the top two or three, it matters little whether a given proposal ends up fifth or seventh in ranking. Knowing this, some organizations only evaluate the most difficult areas of each proposal to see which suppliers' proposals are to be evaluated fully.

Methods of evaluating the proposals differ based on the goods and services involved, the number of proposals received, and the complexity of the project. Some organizations have standardized the evaluation process.

Each proposal is formally evaluated using selection criteria related to the users' specific business and technical requirements. The "best" proposal is determined. The final selection depends both on the evaluation criteria and the cost of the proposed solution.

Montana has defined a nine-step evaluation process.¹³ The material which follows constitutes a simple, short answer to the question: What are the steps in an evaluation process?

DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
STATE PROCUREMENT BUREAU
REQUEST FOR PROPOSAL (RFP)
EVALUATION PROCESS - INSTRUCTIONS

Please refer to your copy of the RFP as a guide to the scoring process for each proposal.

NON-CONFLICT OF INTEREST: *Once the proposals have been received and it is clear which companies are involved in the RFP, each member of the evaluation committee must sign a "Non-Conflict of Interest" form. This will be provided by the evaluation committee chairperson or the State Procurement Bureau (SPB) contracts officer. These forms must be signed before any committee members begin their initial evaluation of the RFPs. The committee chairperson will collect and return them to SPB.*

CONFIDENTIALITY: *Certain documents received as part of an RFP may be protected from public view under the provisions of section 18-4-304, MCA. The SPB contracts officer will inform evaluation committee members if any documents received meet the criteria set out in the statute. If such documents are present, each member of the RFP evaluation committee will be asked to sign a "Confidentiality Statement" form which sets out their responsibility to maintain the confidentiality of these documents during and after the RFP evaluation process. The committee chairperson will collect and return the forms and the confidential materials to SPB at the conclusion of the evaluation process.*

INDIVIDUAL SCORING: *Evaluation committee members are provided with copies of each RFP to begin their individual review of the proposals.*

Step One: *Review all proposals. Take notes, make comments or prepare questions for discussion. Do not score at this point.*

Step Two: *Determine status. Determine whether each proposal is "responsive" or "non-responsive." A "responsive" proposal conforms in all material respects to the RFP. A proposal may be deemed "nonresponsive" if any of the required information is not provided, the submitted price is found to be excessive or inadequate as measured by criteria stated in the RFP, or the proposal is clearly not within the scope of the project described and required in the RFP. Extreme care should be used when making this decision because of the time and cost that a potential offeror has put into submitting a proposal. If a proposal is determined to be "non-responsive," provide a written justification for this conclusion.*

Step Three: *Score proposals. Score proposals based on the criteria established in the RFP. Proposals must be evaluated solely on the stated*

criteria listed in the RFP. Only material presented in the written proposals and vendor demonstrations can be considered in the evaluation. Prior experience with the product and/or offeror cannot be considered in scoring the proposals. Include a written justification for each scoring category. A scoring sheet, drafted by the evaluation committee and/or chairperson, will be provided to assist you in the process of awarding and totaling points.

EVALUATION COMMITTEE MEETINGS: Once the proposals have been evaluated and scored by individual committee members, the entire committee may meet to discuss the proposals and arrive at the final scoring. All meetings involving the evaluation of RFPs are open to the public and subject to the open meeting laws. These meetings must be posted electronically on the General Services Division website, www.discoveringmontana.com/doa/ppd, 72 hours in advance. The meetings must take place in an ADA accessible location and members of the public are welcome to attend. However, the public may not participate in the evaluation process or offer any comments. When sections of the proposals involving trade secrets are discussed, the meeting must be temporarily closed to the public. Pursuant to state law, Mont. Code Ann. § 2-3-212, the committee chairperson, or assigned designee, must take minutes of each meeting. These minutes must include the date, time, place of meeting, a list of the evaluation committee members in attendance, as well as the substance of all matters discussed or decided and, at the request of any evaluation committee member, a record by individual members of any votes taken. These minutes will become part of the permanent record kept by the SPB. In addition, a quorum of the committee must be present to take any official action.

***Step Four:** Discuss proposals. The full evaluation committee should discuss all aspects of the proposals so that there is a “unified understanding” of the criteria and corresponding responses. Individual scores may be adjusted at this point based upon discussion. The committee may tally the final point assignments by the following methods: (1) consensus score, (2) a total of all of the points given by individual committee members, or (3) an average of the individual scores. Any method or combination thereof is acceptable.*

***Step Five:** Interview. This step is optional. If interviews are deemed necessary, the SPB will issue a letter asking the offeror to attend the interview or give a presentation. This is an opportunity for both sides to explain their viewpoints. If an oral interview is pursued as an option, it must be so stated in the RFP and scored according to stated criteria.*

***Step Six:** Discussion/Negotiation. This step is also optional. If the committee is unsure of certain items or issues included in an RFP response, it may request further clarification from the offeror. The SPB will distribute clarification questions. Responses will be returned to the SPB and submitted to the evaluation committee.*

***Step Seven:** Best and Final Offer. This is optional. A letter asking the*

offeror to submit a “Best and Final Offer” may be issued by the SPB at the request of the evaluation committee. Once a “Best and Final Offer” is received, the committee will evaluate it in the same manner as the original proposal. Unless the RFP so states, a “Best and Final Offer” may not be requested from the offeror on price alone.

Step Eight: Recommendation. The full evaluation committee makes a written recommendation as to whom the contract should be awarded. This written recommendation should contain scores, justification and rationale for the decision, along with any other variables that may have been considered. If scoring methods (2) or (3) are used, as noted in above in Step 4, individual scoring sheets must be provided to SPB at the end of the evaluation process. If consensus scoring is used, the consensus score sheets and any other material relating to the evaluation process must be turned in to SPB.

Step Nine: Review. The SPB will review the committee scoring and justification. If in agreement with the committee decision, the SPB will: (1) issue a Request for Documents Notice and rejection letters, (2) obtain the required insurance documents and contract security, and (3) issue a purchase order or vendor contract, as appropriate. If a formal contract is required by the agency, a signed copy must be forwarded to the SPB for final review and signature. A copy of the fully executed contract will be returned to the agency and one copy will be retained for the SPB’s RFP file. This completes the RFP process.

In Alaska, the key constituents of the evaluation process are specified, not by policy, but by law:¹⁴

2 AAC 12.260. EVALUATION OF PROPOSALS

- (a) The procurement officer, or a procurement evaluation committee consisting of at least three state employees or public officials, shall evaluate proposals. The procurement officer may be one of the members on a procurement evaluation committee.
- (b) The evaluation must be based only on the evaluation factors set out in the request for proposals. The relative importance or weighting value of each evaluation factor shall be set out in the request for proposals. Numerical rating systems may be used, but are not required. If a numerical rating system is not used, the procurement officer, or each member of the evaluation committee, as applicable, shall explain his or her ranking determination in writing.
- (c) Price must be an evaluation factor unless the services or supplies sought are selected in accordance with AS 36.30.270(a) and (b). The proposal with the lowest price must receive the highest available rating allocated to price. A proposal that has a higher price than the next lowest must receive a lower rating for price.
- (d) For the purposes of evaluating price, the proposed price of an offeror who qualifies as an Alaska bidder under AS 36.30.170(b)

shall be reduced by five percent. All other applicable preferences must be applied.

- (e) If a numerical rating system is used, an Alaska offeror's preference of at least 10 percent of the total possible value of the rating system must be assigned to a proposal of an offeror who qualifies as an Alaska bidder under AS 36.30.170(b).*
- (f) The following are some additional evaluation factors that may be considered:*
 - (1) the offeror's experience in Alaska performing work similar to that sought in the request for proposals;*
 - (2) the percentage of work that will be performed in Alaska;*
 - (3) the location of the office of the offeror where the work will be performed;*
 - (4) the offeror's past performance, including conformance to specifications and standards of good workmanship, forecasting and containment of costs or prices, history of reasonable and cooperative behavior and overall concern for the interests of the customer, and adherence to contract schedules.*
- (g) A proposal from an offeror debarred or suspended under AS 36.30.635 - 36.30.655 must be rejected.*
- (h) Meetings may be held by a procurement evaluation committee to discuss the request for proposals, the evaluation process, the weighting of evaluation factors, and proposals received.*
- (i) If the evaluation is performed by a procurement evaluation committee, each member shall exercise independent judgment and the vote of one member may not be weighted more than the vote of any other member.*
- (j) An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror. A proposal shall be evaluated to determine whether the offeror responds to the provisions, including goals and financial incentives, established in the request for proposals in order to eliminate and prevent discrimination in state contracting because of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror*

Here are some of the ways in which organizations formally describe their evaluation process. The first example is from Massachusetts. They do a good job of defining the necessary process:¹⁵

The Commonwealth of Massachusetts

PROCUREMENT POLICIES AND PROCEDURES HANDBOOK

Evaluation of Responses

Departments should review all responses to determine whether minimum submission requirements have been met and forward for evaluation only those responses meeting those requirements.

The evaluation process used by Departments is a critical aspect of the RFR process. Departments have great flexibility to develop evaluation procedures that are most appropriate to the RFR being issued, taking into consideration the type of commodity or service, available funding, cross agency and intra-agency participation and other factors that might determine whether a Department conducts an abbreviated or more comprehensive evaluation process.

Internal evaluation procedures should include:

- the process to be used for determining compliance with minimum submission requirements.*
- the process to be used in scoring and evaluating responses.*
- the composition of the evaluation committee (single person vs. multiple reviewers) based on the total dollar value, complexity, type of goods and services requested in the RFR or other factors.*
- definition of the composition, roles and responsibilities of the individual(s) participating in the evaluation process.*
- the process for training the individual(s) participating in the evaluation process.*
- the process to be used to ensure that the individual(s) participating in the evaluation process are free from conflict of interest and have no financial or personal interest with Bidders.*
- requirements for documentation of the evaluation process including scoring sheets, listings of all responses by reviewers, any written comments, written reports or recommendations summarizing the evaluation process, rankings of responses and selection recommendations to the Department Head.*

All Responses received within the required deadline should be evaluated by the PMT in a logical order, as follows:

- Determine if the Response is in conformance with the requirements of the RFR or requires disqualification*
- Consider any requests for a Correction of Responses*
- Evaluate Responses pursuant to the evaluation criteria*
- Conduct oral presentations or demonstrations if required by the RFR, or if desired to evaluate Bidders or clarify Responses*
- Confirm and verify references and conduct any additional reference or performance checks*
- Consider whether Bidders should be afforded a Best and Final Offer option*

The Massachusetts Handbook emphasizes the critical role of evaluation criteria and the impact of these criteria on fairness:¹⁶ It incorporates any best practices; e.g., it cautions the reader that evaluation criteria be drafted “PRIOR to the distribution of an RFP”, that the evaluation criteria “set standard for disqualifying unresponsive bidders”, that the criteria not be “unduly restrictive”, and that only the criteria identified in the RFP can be used in the selection process.

Draft Evaluation Criteria

The Procurement Management Team (PMT) must, at a minimum, develop evaluation criteria prior to evaluating Bidder responses. This criteria will be used to evaluate Responses, to rank Bidders and to select a qualified and cost effective Contractor.

It is advisable that the PMT draft evaluation criteria PRIOR to the distribution of an RFR. This is good practice, since the RFR should clearly reflect the (best value) requirements to be evaluated. A PMT may elect to include a copy of the evaluation criteria in the RFR if it determines that additional guidance to prospective bidders is in the best interests of the procurement and could result in enhanced or higher quality responses.

The evaluation criteria should be drafted to enable the Procurement Management Team to fairly evaluate Bidders and determine which Bidder should be selected based upon a best value determination and to prioritize the key parts of an RFR response in order of importance, which may include but are not limited to, cost, qualifications of Bidders and Responses to solution-based issues.

The evaluation criteria may take a variety of sources of information into consideration including but not limited to:

- *the written response*
- *the oral presentation*
- *past performance of the Bidder*
- *references or recommendations*
- *individual satisfaction surveys*
- *quality assurance, evaluations, reports or enhancement reviews conducted by the Procuring Department or other Departments*
- *reviews of current services provided by the Bidder*
- *other information referenced by Departments*

The evaluation criteria may also set standards for disqualifying unresponsive Bidders. Whenever practicable, the RFR should identify the relevant evaluation criteria or considerations.

In order to ensure fairness in evaluations, the evaluation criteria or considerations used to select or disqualify a Bidder must reflect requirements or considerations that are specified in the RFR. The

language of the RFR will determine the scope of the evaluation criteria and the flexibility the PMT will have when evaluating Responses, so the PMT should be careful not to draft the RFR and evaluation criteria to be unduly restrictive. Bidders must have notice in the RFR document of any mandatory requirements or preferences for responding to certain criteria. Using mandatory language in the RFR could, in some cases, be more restrictive than a PMT may ultimately want, particularly if there is the possibility of acceptable alternatives. Depending on how the RFR is drafted, PMTs may have little if any discretion to waive an RFR requirement that is deemed (mandatory) in the RFR. As a more flexible alternative, a deficiency in the Response might be penalized by a reduced rank or score, rather than automatic disqualification based on a restrictive mandatory requirement.

Considerations that are not included in the RFR may not be used in the selection or ranking of a Bidder. For example, if Bidders will receive additional credit or will be ranked higher for offering a Boston Regional office location or other statewide coverage, or for providing discounts or for providing more than the required level of performance, these criteria should be included as part of the RFR so that Bidders know that they have the opportunity for additional points or a higher rank if they offer these options. Conversely, if this information was not contained in the RFR, Bidders who failed to offer these options may not be penalized.

A Procurement Management Team should use caution when restricting consideration of prior performance, as a criteria for selection, to (government) or previous contracts with another State Department. This limitation should only be used as a basis for selection if government experience is necessary for Contract performance. (Similar experience) is a fairer basis for selection and gives qualified Bidders an equal chance to compete for the Commonwealth's business. This is also true when a Department is conducting a procurement and one of the Bidders is currently under Contract for the same Commodities or Services.

Familiarity with Department operations and the lack of time needed for start up should only be one set of considerations and should not be used to effectively exclude new qualified Bidders from competing for the Contract.

If necessary, the evaluation criteria may be modified based upon modifications to the RFR as the procurement progresses through its various stages. However, any amendments should be completed prior to the date the Responses are due for submission and must be finalized prior to the review of any Responses. Reasons for amendments to an RFR should be documented and included in the RFR procurement file.

The Nova Scotia Handbook also emphasizes the importance of including evaluation criteria in the RFP document, and the role of the Evaluation Jury in the process in the early procurement activities including developing the plan:¹⁷

Evaluation Criteria in the RFP Document

At this point in the evaluation process, the evaluation criteria have been established with the appropriate requirements listed, ranked and weighted for selection purposes. The next step is to ensure that these criteria are included in the proposal call document. They must be well documented and appear in a location that is visible and clearly explained. It is mandatory that all RFP and tender document submissions have appropriate evaluation criteria included and clearly explained. Evaluation criteria must relate to requirements identified in the body of the RFP. It is not reasonable nor defensible to use criteria which do not clearly relate back to the requirements identified or the problem to be resolved by the proposal.

The preliminary selection of the Evaluation Jury should be done when the RFP is first prepared, and the Jury list finalized once the proponents' identities are known, but before the evaluation process begins. The final jury should consist of a group of three or more individuals assigned the responsibility in a competition to a) develop the procurement plan, b) review the requirements and RFP, c) set the evaluation criteria and points structure, d) evaluate bids against predefined criteria, e) document evaluations and recommend the award. Departments are responsible for ensuring that an evaluation jury is in place and that a report documenting the evaluation is prepared for each competition. A copy of each evaluation report is to be filed with Procurement and will be part of the permanent competition file. A representative from Procurement can participate in the evaluation process, as required, to facilitate an acquisition or to validate the evaluation process that has taken place.

The final word on the view of the process from different jurisdiction goes to Alaska. Their policy and procedure manual emphasizes the independent judgment of each evaluator as a safeguard as well as identifying constraints on the process.¹⁸

Proposal Evaluation

Proposals may be evaluated by either the procurement officer or a PEC (Proposal Evaluation Committee). It is recommended that responses to RFPs be evaluated by a PEC. All members of a PEC exercise independent judgement and no member(s) vote may be considered more favorably than another(s). Evaluation meetings may be held between the PEC only to discuss the RFP, the evaluation process, the weighting of evaluation factors, and proposals received before evaluation.

All proposals must be evaluated only on the evaluation factors set out in the RFP. Evaluation factors not specified in the RFP may not be considered. If a proposal does not meet the minimum requirements set out in the RFP or the procurement regulations, the proposal must be rejected as nonresponsive. The PEC or the procurement officer should outline the evaluation criteria and the corresponding point assignment as stated in

the RFP. If a numerical rating system is not used to evaluate the proposals, the procurement officer or each member of the PEC must explain in writing their ranking.

Unless otherwise provided in the RFP, a proposal, correction, modification, or notice of withdrawal of a proposal may not be accepted if received after the date set for receipt of proposals, unless the delay is due to an error of the contracting agency.

A proposal received from a debarred or suspended offeror must be rejected. Evaluations may not be based on discrimination.

The next chapter provides an in-depth discussion of the steps in an evaluation procedure.

BEST PRACTICES: EXAMPLES OF ACTUAL EVALUATION PROCEDURES

There is much benefit in reviewing the work of others, in reading the actual words that organizations have used in their RFPs. Most RFPs contain the cumulative experience of the organization. Each time an RFP is issued, deficiencies are noted and used to influence the design or wording of a subsequent RFP. In this way, RFPs evolve to reflect current practices, laws, regulations, and the policies of the organization.

There are many different ways of evaluating proposals and each way can, potentially, lead to a different “winner”. So, the selection and design of the evaluation procedure is critical. As is the amount of information that is contained in the RFP. Those documents with little information about the evaluation procedure present difficulties for suppliers. They must make assumptions about the process and the criteria. RFPs with little information cause uncertainty in a supplier’s mind and often result in the supplier building in additional contingency factors related to the risks associated with the uncertainties. The more specific an RFP can be, the more confidence the supplier will have in its assumptions and the more realistic will be the proposal and the pricing.

Providing the supplier with no information about the evaluation process reduces the supplier’s confidence in the process and its objectivity. However, providing no information is better than providing the supplier with information that is offensive. A number of years ago, I came across an RFP from a local government that contained the following description of the process. The RFP stated that the organization (intends to treat all potential Vendors fairly and equitably throughout this process.) Having said this, the RFP stated that (an Evaluation Team will screen each proposal to ensure the Bidder’s compliance with the requirements of the RFP.) It then asserted that **The Evaluation Team will utilize specific Evaluation Criteria to rate various other requirements for evaluation purposes. The rating will be confidential and no totals or scores will**

be released to any Bidder. The RFP document contained no additional information about the evaluation process or the criteria.

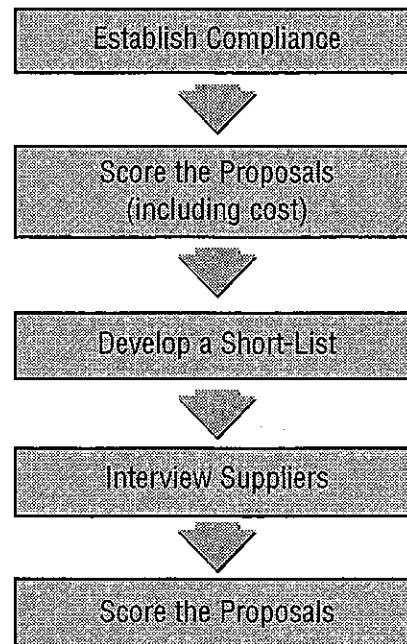
I expect that after reading this RFP many suppliers simply assumed that the decision would be arbitrary, or that, even worse, the decision had already been made and that the RFP process was simply a sham. Times have changed! Today, this RFP would not be issued. It would not survive any form of public scrutiny.

The remainder of this section contains a representative sample of the evaluation processes as described in a number of different RFPs.¹⁹

Sample Evaluation Procedure 1: A Common Approach

One of the most common evaluation methodologies involves only five steps or “building blocks”: Establish Compliance, Score the Proposals, Develop a Short-List, Interview Suppliers, and Score the Proposals. These are illustrated below. Following supplier interviews, scoring is completed and the winner selected.

Prior to issuing the RFP, the Project Manager established the evaluation criteria and the corresponding weights. Once the proposals were received, the evaluation was begun. For those proposals judged as compliant, the evaluation team scored each using a scale of 1 to 10. Total scores were calculated by multiplying the criterion score by the weight. The highest ranking proposals were short-listed and those suppliers were then interviewed. Following this, additional scoring was done and the winner selected.



This method has been found to be practical in many situations. A description of each step is set out below.

Step 1 - Establish Compliance. First, we ensure that the proposal complies with each of the mandatory requirements. For example, suppose the RFP stated that a solution must run “on a Unix platform”, or that the firm must provide 24-hour service and the proposal did not comply. In these cases, the proposal must be classified as “non-compliant” and disqualified.

The first thing that must be done is to examine each proposal to determine if it meets the mandatory requirements. Any proposal not meeting the mandatory requirements will be rejected immediately with no further consideration.

Step 2 - Score the Proposals. We now evaluate each proposal and establish a score using the pre-defined evaluation criteria and weights. For example, suppose that the RFP required the provision of training. We might assign 10 points if the supplier ran regularly scheduled classes on a monthly basis in the same city but only 5 points if the classes were scheduled less frequently.

Step 3 - Develop a Short-list. If a large number of proposals is received, it is appropriate to determine a shortlist of a few proponents for in-depth evaluation.

Each proposal must be evaluated independently by comparing it with the established evaluation criteria. Direct comparisons with other proposals may not be appropriate as bias can influence the scoring. If possible, each member of the evaluation committee should evaluate all the proposals. The committee as a whole may then meet to review each proposal and to achieve a consensus on its advantages and disadvantages. We identify the group of suppliers scoring highest and perform a more detailed investigation of their proposals.

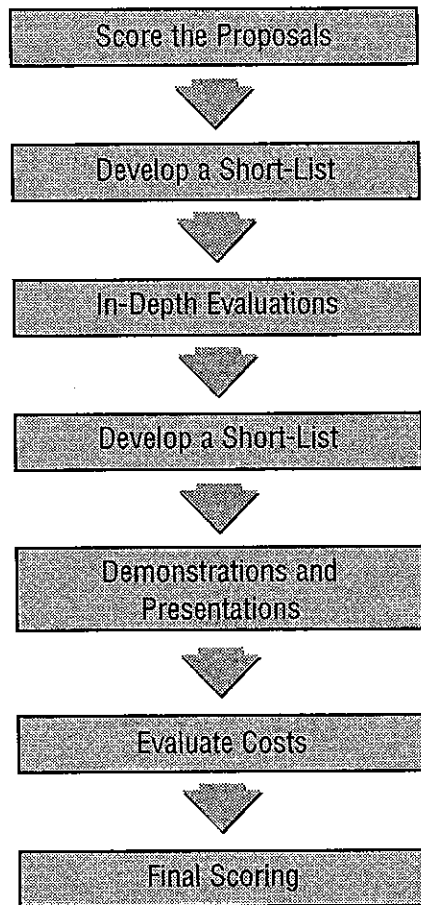
Step 4 - Interview Suppliers. We interview the short-listed suppliers to clarify the information in their proposals and meet their representatives. These interviews are often used to evaluate the inter-personal skills of the project manager and to clarify critical aspects of the proposal. This step could also be used to designate demonstrations and presentations.

Step 5 - Score the Proposals. Finally, the scoring is completed and the winner selected. A typical evaluation form follows.

SAMPLE SCORING SPREADSHEET²⁰

	WEIGHT	YES/NO	PROPONENT A	PROPONENT B
Mandatory Criteria	0	0		
a) project team must include an engineer (PEng)		Yes/No		
b) must accommodate at least six clients at all times		Yes/No		
c) tracking tool compatible with Ministry software		Yes/No		
FOR EACH PROPONENT, IF ANSWER IS "YES" TO ALL OF THE MANDATORY CRITERIA, MOVE ON TO EVALUATE THE DESIRABLE CRITERIA				
Desirable Criteria				
a) suitability of the proposed solution	40%	80		
i. extent to which solution meets Ministry goals		40		
ii. creativity of proposed program		10		
iii. ease of access for clients		10		
iv. implementation plan		10		
v. interaction with related programs		10		
b) price score = (lowest priced proposal / price on this proposal) x total marks available for price)	35%	70		
c) company background	25%	50		
i. proponent's experience on similar projects		15		
ii. skills of proposed project team		10		
iii. soundness and relevance of references		5		
TOTALS	100%	200		

Sample Evaluation Procedure 2: GIS System



There are several distinct ways of evaluating proposals. This one, developed by a municipality, is based on a seven-step process and incorporates demonstrations. Presentations are becoming more popular as an integral part of any evaluation process. With many information technology products, including Geographic Information Systems, a picture is truly "worth a thousand words". Products are often differentiated by factors such as ease of use which can only be evaluated first hand.

A description of both the process and some of the major evaluation criteria follows:

PROPOSAL SELECTION

1.1 Selection Committee

The Selection Committee will measure each vendor using the evaluation process described below.

However, the Selection Committee reserves the right to reject proposals which, in its opinion are clearly non-viable. In such a case, if the vendor has demonstrated a valid

understanding of the requirement and is otherwise qualified, the municipality will inform the vendor of the reason for rejection and may allow an opportunity to rectify the problem.

1.2 Evaluation Process

- 1. The first stage in the evaluation process is intended to filter out those vendors considered not to have a viable corporate presence in our region (where local support is deemed necessary) or considered to be incapable of providing the necessary function in the identified environments or the necessary hardware and/or software maintenance. This is an assessment of the vendor's ability to meet the implementation, operational and maintenance requirements and the extent of compliance with the implementation schedule described previously.*

The intent is to use the vendor as an expert and to encourage creative proposals. However, the Selection Committee reserves the right to reject proposals which in its opinion are clearly non-viable from an implementation, operational, environmental, scheduling, technological or other point of view. In such a case, if the vendor has demonstrated a valid understanding of the requirement and is otherwise qualified, the municipality will inform the vendor of the reason for rejection and may allow an opportunity to rectify the problem.

- 2. The second stage is a straightforward acceptable/unacceptable analysis of the vendors' responses to the mandatory requirements. A numerical score will be assigned based on how well these requirements were met. All qualified proposals will then be evaluated for completeness and suitability to the requirements. Suppliers will be contacted, if necessary, to clarify an item in question. A short-list will be prepared of suppliers considered most appropriate for the municipality, based on proposal responses.*
- 3. During the third stage, short listed vendors will be asked to perform demonstrations and/or presentations. References for systems similar to the municipality's, supporting the performance claimed by the vendor, will be checked. In addition, the mandate and capability of the vendor to undertake the necessary commitments will be checked and assessed. This may include an inspection of the facilities of the vendor or vendor references prior to award of the contract, to verify claims made in the proposal. Interviews with key personnel would be conducted during the inspection. Shortlisted GIS vendors may be asked to demonstrate their capabilities with a sample of the municipality's mapping data.*

The municipality will place a great deal of emphasis on the quality of the references and their similarity to the municipality's target environment.

A five year effective operating cost will be calculated. The effective operating costs will include all one-time and continuing costs associated with meeting the mandatory and desirable requirements described the Appendices.

The order of priority of the areas addressed by this RFP are:

The core components

Processing Infrastructure

Application Environment, including GIS

The network components

Network Infrastructure

LAN Operating System

Other Products and Services

Contract negotiations with the preferred supplier(s) will begin in priority order. The selected vendors will be required to negotiate a contract in a format acceptable to the municipality, and based on the municipality's standard Corporate Systems contract.

Sample Evaluation Procedure 3:

Contract Staff

North Carolina Department of Commerce

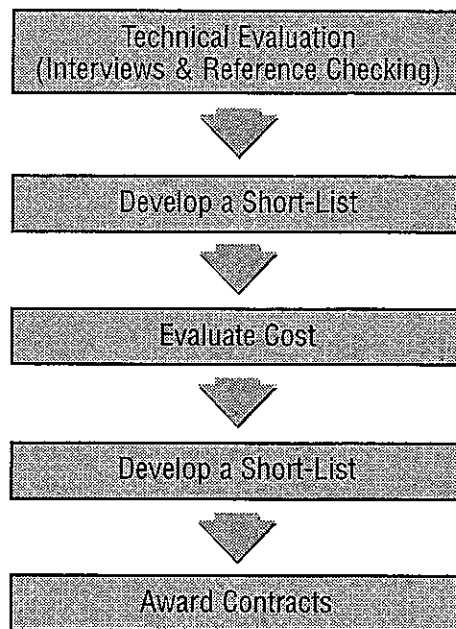
State Information Processing Services

SIPS Development Convenience Contract

REQUEST FOR PROPOSAL - RFP # SIPS019

This 95-page RFP was intended to place one or more vendors on contract for Information Resource Management (IRM) support for projects conducted by State Information Processing Services (SIPS) or its Client Agencies. The previous SIPS Development Convenience Contract represented a value of approximately \$14,000,000 to the State of North Carolina in calendar year 1997. This amount was expended on 19 different contracts. Three years ago, a similar RFP was issued and 78 proposals were received.

The evaluation process used in this RFP can be represented as a series of building blocks:



Here is the description of the evaluation from the RFP:

III. Evaluation Process

A. Evaluation Process Explanation

- 1. Technical Proposals will be evaluated first.*
- 2. All Technical Proposals will be evaluated by State representatives. Evaluators may request an interview with any or all vendors for purpose of clarification. However, this provision is not mandatory; therefore, all proposals both cost and technical, should be complete and concise and reflect the most favorable terms available from the vendors.*
- 3. Upon completion of the technical evaluation, Cost Proposals of those vendors whose technical proposals were deemed acceptable will be removed from safekeeping and opened. The cost offered will then become a matter of public record. Interested parties are cautioned, however, that these costs and their components are subject to further evaluation.*
- 4. All proposals received in response to this Request for Proposals will be evaluated. Award of a contract to one vendor does not mean that the other proposals lacked merit but, that with all factors considered, that proposal was deemed to provide the best value to the State.*
- 5. Vendors are advised that the Department is not obligated to ask for, or accept after the closing date for receipt of proposal, data which is essential for a complete and thorough evaluation of the proposal. Accordingly, each initial offer should be submitted in the most favorable and complete detail which the vendor can submit.*

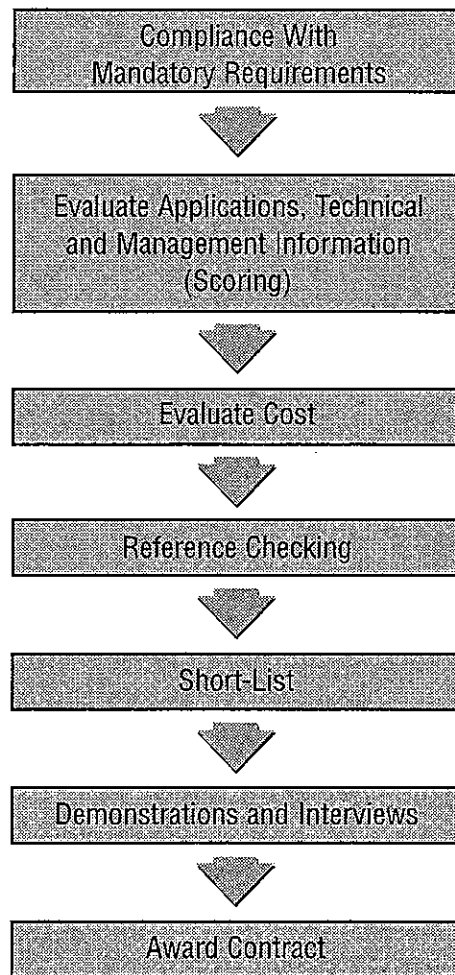
7. *Vendors are cautioned that this is a Request for Proposal, not a request to contract, and SIPS reserves the unqualified right to reject offers for any contract when such rejection is to be in the best interest of the State of North Carolina. The state is not required to furnish a statement of the reasons why a particular proposal was not the most advantageous.*

B. Evaluation Criteria

1. *Each proposal will be evaluated according to completeness, content, abilities of vendor and its staff, and cost. Number of (Resource Categories) being addressed by proposal will have no bearing on the evaluation criteria. Each Resource Category will stand on its own. Reference checks of personnel whose resumes were submitted as representative staff may be conducted to validate the vendor(s) ability to provide the services stated.*
2. *The State reserves the right to reject any proposal if vendor can not satisfactorily demonstrate that it can provide services stated.*
3. *Preference may be given to vendors who can supply personnel in less than 15 days and/or who can supply personnel with a displayed working knowledge of North Carolina State Government Information Systems.*

**Sample Evaluation Procedure 4:
Systems Integrator**

Request For Proposal²¹
UCC and Corporations
Filing and Imaging System
Nebraska Secretary of State(s) Office
SCA-0102



The evaluation process used in this RFP can be represented as a series of building blocks:

This 256-page RFP was intended to select a systems integrator, (a qualified contractor to implement a new UCC and Corporations Imaging System.) The document provides 4 pages of valuable information about the evaluation procedures, and a list of 14 major evaluation factors. While it goes to some length to explain the process, it does not provide any information about the relative weights of the evaluation factors.

Here is the description of the evaluation from the RFP:

5. Proposal Evaluation Procedures

This section presents the procedures that will be used to evaluate all proposals presented in response to this RFP, and the processes used to determine which vendor will receive the contract award to deliver the system described in this RFP.

5.1. State's Rights

The State of Nebraska reserves the right to accept or reject any or all proposals, or any part of any proposal, and to waive any defect or

technicality, and to advertise for new proposals where the acceptance, rejection, waiver or advertisement would be in the best interest of the State. The State also reserves the right to award in whole or in part, by item, group of items, or by section where such action services the State(s) best interest.

5.2 Evaluation Process

The State will conduct a fair, impartial and comprehensive evaluation of all proposals in accordance with the criteria set forth below. The evaluation process must comply with the terms and conditions set forth in Section 81-161 Neb. Rev. Stat. (Reissue 1994), for competitive proposals. Awards will be made based on the highest quality of service that meets the State(s) requirements at the most economical cost.

Evaluation and selection of a vendor will be based on the information submitted in the proposals plus any required oral presentations and demonstrations. There may be further information required for clarification purposes after the proposals are submitted.

The general factors for evaluating each contractor are:

- compliance with the procurement processes, and the proposal format requirements;*
- the ability, capacity and skill of the contractor to deliver and implement a filing and imaging system that meets the requirements of this RFP;*
- the quality of the products, equipment and services offered;*
- the contractor(s) understanding of the project requirements;*
- the professionalism, character, integrity, reputation, judgment, experience and efficiency of the contractor;*
- the financial responsibility of the bidder, the vendor(s) financial ability to meet the long-term goals and objectives of the project;*
- whether the contractor can perform the installation within the time frame reasonably close to that defined for the project in the Schedule of Events, Section 2;*
- the quality of contractor performance on prior contracts;*
- the quality of the key personnel that the contractor dedicates to the project;*
- the project management plan proposed;*
- a confident and assured demonstration of the ability to deliver and achieve the solution proposed through the system demonstration;*
- demonstration of an innovative approach and ideas or services beyond the minimum requirements; excellence in designing a solution that efficiently fulfills the requirements;*
- the perceived commitment of the vendor to the project and the long-*

term relationship that will be necessary for a successful project;

- *fair pricing of the proposal relative to other proposals received.*

5.3. Procurement Procedure compliance

All vendors will be evaluated for compliance with the Procurement Procedures set forth in this RFP in section 2.

5.5. Proposal Formal compliance

All proposals will be evaluated against the proposal format requirements defined in Section 4 of this RFP.

5.5. Application, Technical and Management requirements response evaluation

The sections of the proposal that respond to the application requirements, the technical requirements and the management requirements including all company information and project plans requested will be evaluated to ensure that they meet all application, technical, management and information requirements stated in this RFP. Deviations will be defined as material, which means that a proposal will be disqualified in its entirety, or immaterial, which means the deviation may, at our option, be accepted.

The Nebraska Secretary of State(s) Office reserves the right to waive minor deficiencies in a proposal. The decision as to whether a deficiency will be waived or will require rejection of a proposal will be solely within the discretion of the Nebraska Secretary of State(s) Office.

5.7. Evaluation of Cost Proposals

All Cost Schedules presented will be evaluated against the format stated in the Cost Proposal instructions in Section 4 of this RFP. Pricing will be checked for completeness and mathematical accuracy. Errors and inconsistencies will be handled according to the severity of the error. Minor mathematical errors will be called to the attention of the vendor and corrections will be made by the Nebraska Secretary of State(s) Office. Errors of substance will be reviewed with the vendor or, at our option, the proposal may be disqualified.

The Nebraska Secretary of State(s) Office will make every effort to substantiate prices for products and services to ensure that those prices are considered fair and reasonable.

The State reserves the right to acquire any hardware equipment through existing State contracts which have previously been awarded through competitive bidding processes. All hardware components quoted by the vendor will be reviewed to determine if equipment of equal or comparable value can be acquired at a better price through existing equipment contracts.

5.7. Reference checks

A vendor(s) references will be contacted and interviewed with a standard questionnaire. Areas of discussion will include:

- *quality and performance of installed equipment*
- *installation of hardware and software*
- *quality of training and training programs*
- *responsiveness to support and maintenance requirements*
- *problems (poor quality deliverables, contract disputes, work stoppages)*
- *problem handling, and problem resolution*
- *functional and technical abilities*
- *timeliness in meeting project deadlines*
- *the performance of the vendor(s) project team staff*
- *the overall opinion of the vendor(s) performance*
- *whether or not the reference would rehire the firm*

Responses to reference checks will be evaluated individually and as a whole. Negative comments may be reviewed with the vendor at our option. Consistent unfavorable responses may cause disqualification of the proposal.

The State reserves the right to check any other reference(s) that might be indicated through the explicitly specified contacts or that result from communication with other entities involved with similar projects.

5.8. System demonstration

Selected finalists will be required to present a functional demonstration of the system solution. The conditions of this demonstration are defined in Section 2, Procurement Procedures.

Detailed notes of system demonstrations and oral presentations will be recorded and supplemental information (such as briefing charts, etcetera) shall be accepted. Additional written information gathered in this manner shall not constitute replacement of proposal contents.

Any interviews with proposed key personnel may be taped. Taping interviews will allow the Selection Committee members to listen thoroughly without the distraction of taking notes.

5.9. Selection Committee

All proposals submitted in response to this RFP will be evaluated by the State of Nebraska, Secretary of State(s) Office. This project team will make the final decision of the selection of the vendor.

The members of the evaluation team are members of senior management and analysts who participated in writing the RFP and developing the requirements.

5.10. Scoring

Requirements will be evaluated against a numerical scale reflecting the range of compliance, and the quality of the solution offered. The various

vendors(scores will influence who wins the contract. Award will be made based on scoring and price.

Sections of the RFP will be weighted with different total possible scores for each section. The scoring of each individual requirement will contribute to a total score for each section. The overall proposal score will be a total of the section scores.

Sample Evaluation Procedure 5: Outsourcing All IT Services

Connecticut Department of Administrative Services Request For Proposals For Information Technology Services

This 90-page RFP was intended to outsource all IT services of the state.

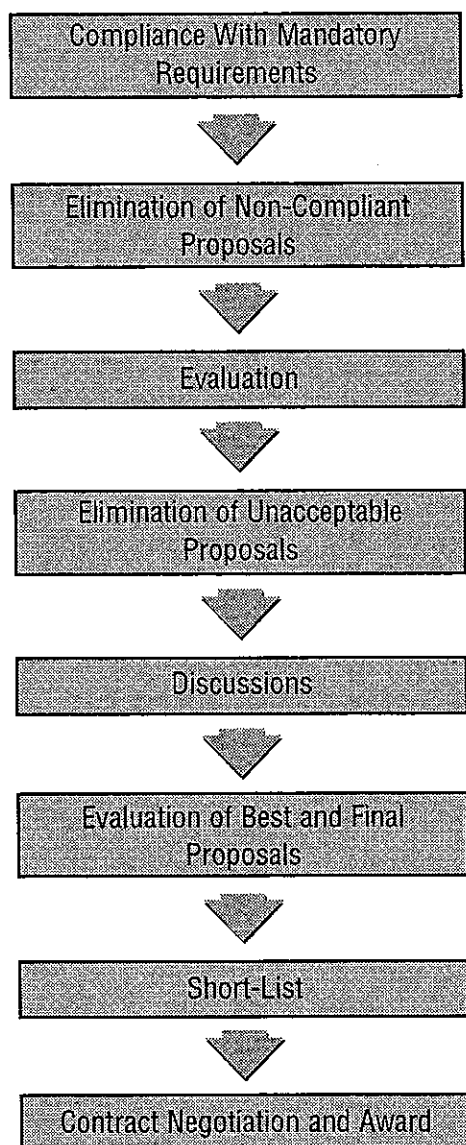
Connecticut, through the Department of Administrative Services ((DAS()), seeks to build a relationship with a world-class provider of IT services and enter into an IT services agreement with such entity. Connecticut expects that such provider shall provide all IT services necessary to fulfill the IT requirements of the departments, boards, councils, commissions, institutions, and other agencies of the executive branch of the state government (collectively (Agencies()) so that such Agencies can completely exit the business of providing IT services and focus on their core function - the business of government

The RFP was designed to attract only large viable firms. To do so, it stated that:

Your organization is discouraged from submitting a Proposal unless it meets each of the following criteria:

- (a) Your organization, either alone or teaming with other entities, has entered into at least one IT services contract for the provision of IT services where the annual contract value exceeded \$50,000,000.*
- (b) Your organization, either alone or teaming with other entities, has provided services in at least six of the eight services categories described in Section 4.5 of the RFP; and*

- (c) *Your organization has had average gross annual revenues in excess of \$1 billion over its three latest fiscal years.*



The evaluation process used in this RFP can be represented as a series of building blocks:

DATE	EVENT
Feb. 21, 1997	Issuance of RFP. Connecticut issues this RFP.
March 7, 1997	Notice of Intent to Propose. Organizations who intend to submit a Proposal shall submit a Notice of Intent to Propose by 4:30 pm on this date at Connecticut(s) office. Access to the data room will only be permitted to those organizations submitting a Notice of Intent to Propose. More details are included in Section 1.5 below.

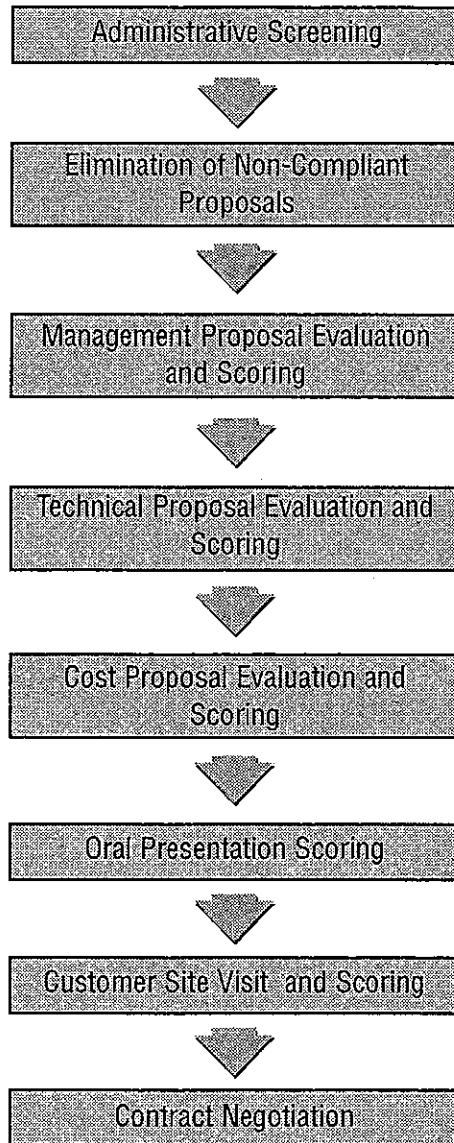
DATE	EVENT
March 14, 1997	Connecticut Informs Proposers of Data Room Rules. By this date, Connecticut will inform each proposer submitting a Notice of Intent to Propose of the data room rules. More details are included in Section 1.6 below.
March 24, 1997 through May 2, 1997 (excluding Connecticut holidays)	Access to Data Room. During this period, proposers submitting a Notice of Intent to Propose will have access to Connecticut's data room to permit certain due diligence activities. More details are included in Section 1.6 below.
March 7, 1997 through April 11, 1997	Submission of Written Questions. During this period, proposers are permitted to submit to Connecticut written questions, but only for purposes of clarifying this RFP. All submissions shall be delivered or faxed to Rock Regan at Connecticut's offices as set forth in Section 1.7 and shall include the name of a contact person to receive Connecticut's answers.
April 25, 1997	Connecticut Response to Written Questions. By this date, Connecticut will provide its response to the written questions submitted by proposers. Connecticut will have the option to answer selected questions earlier than this date if it determines that doing so would be in the best interest of Connecticut and would be helpful to proposers. All questions and responses will be provided to each proposer.
May 9, 1997	Proposals Due. Proposals are due by 4:30 pm on this date, at Connecticut's office, along with a signed CHRO Contract Compliance Regulations Notification to Bidders. All proposals will be time-stamped upon receipt and held in a secure place until this date. Proposals submitted after this date will not be opened. More details are included in Sections 1.7 and 2.2 below.
May 12, 1997	Proposal Opening. All Proposals received by May 9, 1997 will be opened in the presence of two or more procurement officials. A register of Proposals will be established and opened for public inspection only after the award of the contract.
May 12, 1997 through May 23, 1997	Compliance with RFP Requirements. During this period, the Evaluation Committee formed by the Commissioner of DAS will review the Proposals for compliance with the RFP requirements. The Evaluation Committee will determine if the proposers comply with the following: Provides complete Proposal; Agrees to Proposal conditions and process; Complies with RFP format. Any Proposals that is not in compliance with the foregoing requirements shall be eliminated from consideration and such proposers will be notified promptly.
May 26, 1997 through June 20, 1997	Evaluation. During this period, the Evaluation Committee will conduct a full detailed evaluation of proposals that have complied with the RFP requirements. The evaluations will be based on the evaluation criteria set forth in the RFP. For purposes of conducting discussions under Section 4a-51-17 of the Regulations of Connecticut State Agencies, proposals will be classified as: Acceptable; Potentially Acceptable;

DATE	EVENT
	Unacceptable. Proposers whose Proposals are unacceptable will be notified promptly. Proposers whose Proposals are either acceptable or potentially acceptable will continue through the evaluation process.
June 1997 and thereafter	<p>Commence Discussions with Acceptable and Potentially Acceptable Proposers.</p> <p>During this period, the Evaluation Committee can engage in discussions with any proposer. Discussions might be held with individual proposers to: promote understanding of Connecticut(s) requirements and the content of the Proposals; determine in greater detail the proposer(s) qualifications; explore with the proposer the scope and nature of the required contractual services, the proposer(s) proposed method of performance, and the relative utility of alternate methods of approach; and, facilitate arriving at a contract that will be most advantageous to Connecticut taking into consideration the evaluation factors set forth in this RFP. If, during the course of discussions, Connecticut determines that the proposers require more detailed information regarding the scope and nature of the required contractual services, Connecticut shall have the option to provide such information to all of the acceptable and potentially acceptable proposers and to allow such proposers to perform limited diligence activities.</p>
August, 1997	<p>Best and Final Proposals.</p> <p>During this period, the Commissioner will establish a common date and time for the submission of the best and final proposals. The best and final proposals will be submitted only once, provided, however, the Commissioner may make a written determination that it is in Connecticut(s) best interest to conduct additional discussions or change Connecticut(s) requirements and require another submission of the best and final proposals. Otherwise, no discussion of or changes in the best and final proposals will be allowed prior to award.</p>
Sept. 1997 and thereafter	<p>Evaluation of Best and Final Proposals.</p> <p>After the conclusion of discussions, the Evaluation Committee will evaluate the best and final proposal based on the evaluation criteria set forth in this RFP. The Evaluation Committee will make a final recommendation to the Commissioner. The Commissioner will select, in the order of their respective qualification rankings, no fewer than three acceptable proposers (or such lesser number if less than three acceptable proposals were received) deemed by the Commissioner to be the most advantageous to Connecticut for providing the contractual services. The Commissioner will then present a contract to the proposer whose Proposal is deemed by the Commissioner to be the most advantageous to Connecticut for the IT services and will attempt to negotiate a contract with such proposer in accordance with the applicable Regulations. Upon failure to negotiate a contract with such proposer, the Commissioner may continue the negotiation process and award such contract to the proposer next most advantageous to Connecticut, and so on until the contract is awarded and accepted. Should the Commissioner be unable to negotiate a contract with any of the acceptable proposers initially selected, proposals may be resolicited or additional proposers may be selected based on the original, acceptable proposals in order of the respective qualification rankings, and negotiations may continue.</p>

While many RFPs describe the evaluation process in a separate section, this RFP embedded the evaluation events in the Event Calendar:

**Sample Evaluation Procedure 6:
Document Imaging Systems and Services**

Washington State Health Care Authority Request For Proposals
Electronic Document Image Processing System



The evaluation process used in this RFP can be represented as a series of building blocks:

Here is the description of the evaluation from the RFP:

PROPOSAL EVALUATION

The Management, Technical, and Cost proposals will be evaluated separately. The evaluation will be performed by the RFP Coordinator and

three evaluation committees comprised of state staff: Selection Committee for review of Management Proposals; Technical Committee for review of Technical Proposals; and RFP Financial Committee for review of Cost Proposals. HCA evaluation committees may contact a bidder for clarification of any portion of the bidder(s) proposal.

The initial evaluation of each proposal (i.e. Management, Technical, and Cost) will progress independently of each other. The point distribution for evaluation scoring is as indicated below.

Management Proposal	250 points
Technical Proposal	500 points
Cost Proposal	200 points

(A maximum of four vendors with the highest combined points totals from the Management, Technical and Cost proposal will be considered semi-finalists and scheduled to make an oral presentation.)

Oral Presentation	200 points
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(A maximum of two vendors with the highest combined point totals from the Management, Technical, Cost Proposal, and Oral presentation will be considered finalists and scheduled for a customer site visit.)

Customer Site Visit	200 points
Total	1,350 points

2.8.1 EVALUATION PROCESS

The evaluation process is designed to award the contract not necessarily to the bidder of least cost, but rather to the bidder with the best combination of attributes based on HCA evaluation criteria.

The evaluation process consists of five review levels:

- Administrative screening for compliance with proposal content requirements
- Mandatory requirements screening
- Qualitative review and scoring
- Oral presentation
- Customer site visit.

These levels of review are described below.

2.8.2 ADMINISTRATIVE SCREENING

All proposals will be reviewed by the RFP Coordinator to determine compliance with all content requirements. Only proposals meeting all of the content requirements will be evaluated further.

2.8.3 MANDATORY SCREENING

Proposals meeting all the content requirements will be reviewed to determine if they meet mandatory requirements. Proposals found not to be in compliance will be rejected from further consideration. If all proposals

fail to meet any single mandatory item, HCA reserves the right to select one of the following options:

- *Cancel the procurement.*
- *Delete the mandatory item.*
- *Proposals meeting the mandatory requirements will progress to the next level of review.*

2.8.4 QUALITATIVE REVIEW AND SCORING

Proposals which pass content screening and review for compliance with mandatory requirements will be evaluated and scored based on responses to all requirements in the RFP.

HCA evaluators will consider how well the bidder(s) proposed solution meets the needs of the HCA, as described in the bidder(s) response to each requirement. It is important that the response be clear and complete, so that the evaluators can adequately understand all aspects of the proposal.

2.8.5.1 MANAGEMENT PROPOSAL EVALUATION AND SCORING

Management Proposals that pass the initial screening will be evaluated by the HCA Selection Committee and scored based on the information presented in the bidders(s) response to requirements of RFP.

Point assignment for this evaluation and the total points possible for the Management Proposal are as follows:

<i>0-4 Points</i>	<i>=</i>	<i>Unsatisfactory</i>
<i>5 Points</i>	<i>=</i>	<i>Meets minimum requirements</i>
<i>6-10 Points</i>	<i>=</i>	<i>Exceeds minimum requirements</i>

There are 250 possible points assigned to the Management Proposal.

2.8.5.2 TECHNICAL PROPOSAL EVALUATION AND SCORING

Technical Proposals that pass the initial screening will be evaluated by the Technical Committee and scored based on the bidders(response to scored requirements and specifications contained in RFP.

Each scored item in Section 5 will be assigned a score by each evaluator. Points will be assigned based on the documented approach to supporting each of the technical items being rated. Point assignment for the evaluation of the Technical Proposal is the same as shown above for the Management Proposal evaluation.

There are 500 maximum possible points assigned to the Technical Proposal.

2.8.5.3 COST PROPOSAL EVALUATION AND SCORING

Cost Proposals that pass the initial screening will be evaluated by the RFP Financial Committee. These staff will summarize the total cost of each vendor(s) proposal to HCA on a cost basis with all other proposals for

comparison purposes.

For comparative purposes, the actual cost quotation will be multiplied by .95, if the bidder is a certified MWBE vendor.

The total cost score will be calculated by dividing the lowest-cost proposal by the bidder(s) total cost and multiplying the result by 300 then subtracting 100 points to calculate the maximum points possible, 200 with a minimum of 0.

2.8.5.4 ORAL PRESENTATION SCORING

The oral presentation, not to exceed 90 minutes, including product demonstration and Q & A session, by each finalist bidder will be scored by members of the HCA Selection, Technical, and Finance Committees.

There are 200 maximum possible points assigned to the oral presentation.

2.8.5.5 CUSTOMER SITE VISIT

The customer site visit, not to exceed 4 hours will be scored by members of the HCA Selection, Technical, and Finance Committees. Customer sites should be located within 150 miles of the HCA Lacey offices. The HCA expects to be able to observe the proposed system in operation and discuss the system with knowledgeable customer staff. The HCA will expect at least 30 minutes of site visit time to be dedicated to discussions between customer and HCA staff with vendor representatives not present.

There are 200 maximum possible points assigned to the customer site visit.

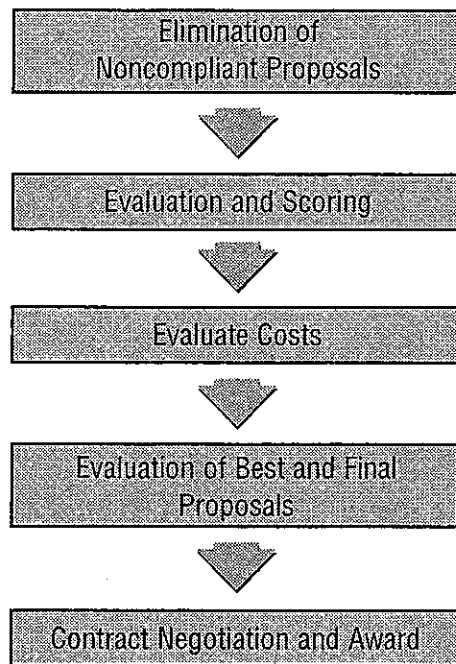
2.8.6 SELECTION OF THE APPARENT SUCCESSFUL BIDDER

The customer site visit score will be added to the bidder(s) total proposal score. The bidder with the highest final score will become the apparent successful bidder.

Sample Evaluation Procedure 7: Centralized Printing and Mailing

STATE OF WISCONSIN REQUEST FOR PROPOSAL (RFP) FOR CENTRALIZED PRINTING AND MAILING SERVICES RFP No. 27320-GRS

The evaluation process used in this RFP can be represented as a series of building blocks:



This 40-page RFP was intended to “provide interested parties with information to enable them to prepare and submit a proposal for the State of Wisconsin’s centralized printing and mailing of the mainframe computer output including, but not limited to, checks and other negotiable documents.”

“The state estimates it spends approximately \$3.6 million annually on its mainframe printing and mailing operations. Postage adds another \$7 million. Overall, approximately thirty-three full-time equivalent positions are devoted to the state’s printing, inserting and pre-sorting operations.”

Here is the description of the evaluation from the RFP:

PROPOSAL SELECTION AND AWARD PROCESS

3.1 Preliminary Evaluation

The proposals will first be reviewed to determine if mandatory requirements are met, e.g. “must”, “shall”, “required” provisions. Failure to meet mandatory requirements may result in the proposal being rejected. In the event that all vendors do not meet one or more of the mandatory requirements, the state reserves the right to continue the evaluation of the proposals and to select the proposal which most closely meets the requirements specified in this RFP.

3.2 Proposal Scoring

3.2.1 Accepted proposals will be reviewed by an evaluation committee and scored against the stated criteria. The committee may review references, request oral presentations, and conduct an on-site visit and use the results in scoring the proposals. Proposals from certified Minority Business

Enterprises may have points weighted by a factor of 1.00 to 1.05 to provide up to a five percent (5%) preference to these businesses. The evaluation committee's scoring will be tabulated and proposals ranked based on the numerical scores received.

3.2.2 Cost proposals will be scored using estimated one-year life-cycle costing. The state will adjust cost proposals to include anticipated and verifiable state-incurred expenses associated with a particular proposal, e.g., communications, travel by state personnel, programming and network upgrades.

3.2.3 Proposers shall not contact the state's evaluators except at the state's request.

3.3 Right to Reject Proposals and Negotiate Contract Terms

The state reserves the right to reject any and all proposals and to negotiate the terms of the contract, including the award amount, with the selected proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring proposer, the state may negotiate a contract with the next highest scoring proposer.

3.4 Evaluation Criteria

The proposals will be scored using the following maximum points:

4. GENERAL REQUIREMENTS 410

4.1 Staffing

4.2 Organization

5. TECHNICAL REQUIREMENTS 1010

5.1 Facility

5.2 Production Equipment

5.3 Network and Mainframe Connectivity

5.4 IT Standards

5.5 Migration Plan

5.6 Application Testing

5.7 Scheduling

5.8 Job Turnaround

5.9 Print

5.10 Inserting

5.11 Pre-sorting

5.12 Pick-Up, Delivery and Miscellaneous Transportation Services

5.13 Backup/Problem Prevention/Disaster Recovery

5.14 Consulting

5.15 State-Furnished Materials/Warehousing

5.16 Vendor-Furnished Materials

5.17 Routine Communications

5.18 User Billing

5.19 Reporting

5.20 New Technology

5.21 Additional Services

7. COST PROPOSAL 780

TOTAL POINTS AVAILABLE 2,200

3.5 Award and Final Offers

The award will be granted in one of two ways. The award may be granted to the highest scoring responsive and responsible proposer. Alternatively, the highest scoring proposer or proposers may be requested to submit final and best offers. If final and best offers are requested, they will be evaluated against the stated criteria, scored and ranked. The award will then be granted to the highest scoring proposer.

3.6 Notification of Award

All vendors who respond to this RFP will be notified in writing of the state's intent to award the contract(s) as a result of this RFP. After notification of the intent to award is made, and under the supervision of state staff, copies of proposals will be available for public inspection from 8:00 a.m. to 4:30 p.m. at the State Bureau of Procurement, 101 East Wilson Street, Madison, Wisconsin. Vendors should schedule reviews with Greg Smith at (608) 266-8413.

3.7 Appeals Process

Notices of intent to protest, and protests must be made in writing. Protesters should make their protests as specific as possible and should identify statutes and Wisconsin Administrative Code provisions that are alleged to have been violated. The written notice of intent to protest the intent to award a contract must be filed with:

*Jan Abrahamsen, Director
State Bureau of Procurement
P.O. Box 7867
Madison, Wisconsin 53707-7867*

and received in her office no later than five (5) working days after the notices of intent to award are issued. The written protest must be received within ten (10) working days after the notice of intent to award is issued. The decision of the head of the procuring state may be appealed to the Secretary of the Department of Administration within five (5) working days of issuance, with a copy of such appeal filed with the State Bureau of Procurement. The appeal must allege a violation of a statute or a provision of a Wisconsin Administrative Code.

PART 2 - GETTING IT RIGHT

WHEN BAD THINGS HAPPEN TO GOOD EVALUATIONS

Not all evaluation processes work well. Some don't work at all. They sometimes result in the obvious choice being overlooked, or an inferior proposal receiving a higher score. Sometimes, they result in scandals or in litigation. In this section, we will briefly examine some of the major flaws in the evaluation process and then see how they have been dealt with through the development of specific standardized documents.

Let's examine how the evaluation process works.

First, we define our needs, as best we can. In fact, we are abstracting a "model" of what we think we need. (Often, we don't find out until later that our basic statement of requirements was incomplete, or inadequate.) Once we write down these requirements they take on a life of their own. For it is the requirements, as stated in the RFP, that are used in the evaluation process.

In a sense, we've created a model of reality - we've used the RFP document to define the characteristics of the solution we want. We then take each proposal, compare the proposed solution with the requirements as specified, using the evaluation process as defined to produce a score. The fundamental assumption we make is that the model reflects our requirements accurately and that the highest scoring proposal will lead to the best solution. This is not always true!

Second, we define an evaluation process - a way of assessing each proposal. In fact, we are looking for a simple way of taking each supplier's information and translating it into a score of some sort. By translating each proposal into a score, we make the process more objective, or at least we think so. The evaluation process can be thought of as a machine. In one end, we feed the proposals. At the other end, we obtain a score for each. We then simply compare the scores and the highest one is the winner.

Even a cursory examination reveals the fact that there is a lot of room for error in this process. In the extreme, the proposal obtaining the highest score may not be a valid solution. In this case, either the requirements were not adequately defined or the evaluation process was flawed. There are several assumptions which can lead us to withdrawing or modifying the RFP, changing our requirements, changing the evaluation process, or selecting an inappropriate proposal.

Incomplete Requirements

The foundation for all of this work - the RFP, the Proposals, and the Evaluation - is the Requirements Document. If this document is deficient, incomplete, or ambiguous, then the proposals will miss the mark. They

will not offer viable solutions.

Even complete and clear documents can mislead the vendors and create major problems. Sometimes, organizations “over design” their requirements. To use an automobile analogy, they identify the characteristics of the high performance car they would like, not the mid-range car they can afford. “Over Design” can lead to all proposals exceeding the budget.

Inappropriate Evaluation Process

Another assumption is that the evaluation process and the scoring mechanism we have created will work as we intend them to. They will identify the “best” proposal. Sometimes, scoring mechanisms, the weights used, or the factors themselves are not appropriate. For example, we may have neglected an important factor such as our assessment of the risk associated with each solution. In this case, the proposal with the highest score could, in theory at least, also carry with it the highest risk.

Another example may help illustrate this point. Suppose that cost is worth 40% of the score and technical merit of the proposed solution is worth 10%. In this case, a proposal having a poor technical solution but not costing much could score higher than one having a brilliant solution but costing somewhat more. This may not have been the intention of the Project Manager or Executive Director when the evaluation process was defined.

Many organizations first establish the evaluation process and then the scoring mechanisms. When these have been defined, they create scenarios to reflect different types of proposals they might get. They investigate how different types of proposals would be scored: a proposal with a brilliant technical solution but a high risk; a proposal from an established vendor with a mediocre solution but costing only 50% as much as the competitions’. In this way, the evaluators test and modify the process and the scoring mechanism prior to issuing the RFP.

Other flaws in the process

There are many other potential problem areas and deficiencies that can harm the evaluation process. Cost is always an important issue. There are many different ways of handling cost. For example, some organizations give it a point rating; others identify those proposals which satisfy the technical requirements and then select the “winner” using least cost. It is important that the RFP reflect a costing approach acceptable to senior management. Some project teams interview senior management when developing the RFP to understand their decision-making process. What if the recommended proposal costs \$100,000 more than the one in second place? Will it be accepted? Failure to deal properly with costs is a significant risk in developing the RFP and the evaluation process.

The selection and training of the evaluators can present risks. Some evaluators are inappropriate - they have a conflict of interest or don't have enough time to do a good job. Evaluators require training to understand their responsibilities but this is lacking in many organizations.

The selection and training of the project manager can also present risks. A major RFP requires knowledge of the process and best practices, and planning skills. Some Project Managers are simply not suited to the task and endanger the overall success of the project.

BEST PRACTICE: A TRAIL OF GREAT DOCUMENTS INTIMIDATES THEIR LAWYERS

These issues, related to developing the requirements or planning and executing the evaluation process, challenge the skills of even the most experienced procurement officers, fairness consultants, and evaluators. Organizations attempt to reduce the risk of errors and litigation by standardizing the process. To do this, they produce manuals, and templates, and training courses, and guidance on 'best practices'. While millions of pages of documentation exist, much of it is mediocre.

In this remainder of this section, we present thumb-nail sketches of six excellent documents. Each of these can be easily adapted for use in another jurisdiction. Each will help to reduce the flaws and deficiencies in the RFP process and the evaluation of proposals.

Over the last ten years, I've spent a lot of time discussing legal issues with public sector procurement executives. We've discussed laws and regulations, best practices, and litigation. We've discussed "avoiding litigation" as a significant yet unwritten part of the procurement function.

These discussions often deal with "best practices" - things that we can do which will reduce the probability of being sued. Or, if we are sued, increase the probability that it will never get to trial because we did no wrong and could demonstrate the soundness of our process.

This (section of this book) deals with things you can do as part of the competitive process to ensure that your actions can survive scrutiny by the vendors' lawyers and the courts. Now, as we all know, litigation cannot be totally avoided. Anyone can sue you, for any reason. And sometimes, organizations get sued, not because they have erred, but because one particular vendor was truly angry, or the vendor wanted to ensure that next time, the procurement people would be very careful in how they treated that vendor.

There are lots of activities which improve the RFP process; for example, issuing a draft RFP, using outside experts, or employing Best and Final Offers.

Here are some of the document-driven activities which, if done properly, make it extremely difficult for the vendors' lawyers to be enthusiastic about their chances of winning in court. These activities when completed as part of the RFP process help ensure that the competition is "fair and open". And just as importantly, the documents which are part of these activities, when viewed by a lawyer after the award has been made, demonstrate that the process was well-planned and micro-managed to ensure that each vendor was treated fairly.

Document 1: Follow RFP Road-Map. Use this document to demonstrate that the entire process was properly planned.

Developing and issuing an RFP, and selecting the "best value" proposal is a common process based on "fair and open competition". Many jurisdictions base their process on the Model Procurement Code developed by the American Bar Association in the 1980s and recently revised. The State Procurement Bureau, State of Montana provides Montana Agencies with a good road map based on a 22-step RFP process and a 50-page RFP Manual.²²

Montana's road map consists of 22 steps:

1. Project need is identified by agency and SPB and/or procurement officer is contacted for assistance.
2. Agency prepares specifications and Scope of Project/ Statement of Work using the RFP Template.
3. For information technology (IT) procurements, prepare and submit IT procurement request to the Information Technology Services Division (ITSD).
4. Evaluation factors prepared by agency.
5. Agency sends requisition to State Procurement Bureau (SPB).
6. For IT procurements, agency must have IT procurement request approval from ITSD before moving forward.
7. Agency sends draft RFP and suggested vendors to SPB.
8. SPB finalizes RFP document for agency approval.
9. SPB establishes mailing list.
10. RFP is posted on the State's solicitation website and notice is faxed or mailed out.
11. Pre-proposal conference if required.
12. Question and answer period for offerors.

13. Agency and SPB develop scoring methods. (Ties in with #4.)
14. Evaluation committee should meet to discuss proposal review and scoring process.
15. Proposals received, inspected, and distributed to evaluation committee.
16. Evaluation committee meetings. Meeting notification posted on the State's solicitation website.
 - a) initial determination if proposals are responsive
 - b) clarification questions sent out if required
 - c) interviews, demonstrations if required
 - d) best and final offers requested if required
 - e) final evaluation
 - f) completed scoring matrix and committee recommendation submitted to procurement officer for approval
17. For IT procurements, get final approval from ITSD on selection of solution.
18. SPB sends out Request for Documents Notice to highest scoring offeror.
19. Agency conducts final negotiation with offeror if required.
20. Contract reviewed and signed off by SPB and agency. IT contracts require Chief Information Officer signature.
21. Contract issued when required documents are in. Signed copy sent to SPB.
22. Agency begins contract performance monitoring.

Document 2: Specify the Activities of the Evaluation Committee. Use this document to demonstrate that the Evaluation Committee was properly organized and directed to ensure fairness.

Members of the evaluation committee are usually selected because of their knowledge or expertise related to the procurement. In some organizations, members of the evaluation committee may have pre-existing, informal relationships with contractors. It is important that each person on the evaluation committee understand their role and the critical nature of their activities and behavior during the process. In many jurisdictions, care is taken to ensure that there are no conflicts of interest and the proposals and deliberations are kept confidential. Committee members are provided written instructions and are often required to sign agreements on how they will behave. In Arizona, there is a State law requiring a declaration from each committee member. In

Alaska, each prospective member of an Evaluation Committee is provided with RFP Evaluators Guide.

Both Arizona and Alaska provide strong, specific directions to members of any Evaluation Committee. In Arizona, the issue is dealt with in the Procurement Code. In Arizona, the State has established a law to restrict the activities on members on an evaluation committee.²³

C. A person who serves on an evaluation committee for a procurement shall sign a statement before reviewing bids or proposals that the person has no interest in the procurement other than that disclosed and will have no contact with any representative of a competing vendor related to the particular procurement during the course of evaluation of bids or proposals, except those contacts specifically authorized by sections 41-2534, 41-2537, 41-2538 and 41-2578. The person shall disclose on the statement any contact unrelated to the pending procurement that the person may need to have with a representative of a competing vendor and any contact with a representative of a competing vendor during evaluation of bids or proposals except those contacts specifically authorized by sections 41-2534, 41-2537, 41-2538 and 41-2578. A person who serves on an evaluation committee and who fails to disclose contact with a representative of a competing vendor or who fails to provide accurate information on the statement is subject to a civil penalty of at least one thousand dollars but not more than ten thousand dollars.

In Alaska, the Division of General Services has developed an 8-page guide to help evaluators understand their role and responsibilities.²⁴

This short publication deals with significant issues and emphasizes the required behavior of an evaluator. It deals with many common issues including ethical considerations, procurement code considerations, protests, and conflicts of interest:

- Neither the Procurement Officer nor the evaluation committee are allowed to deviate from the procedure and evaluation requirements of the RFP.
- Your duty is to apply judgment in awarding points to the proposals for the purpose of ranking them. You will be limited to considering only the evaluation criteria published in the RFP.

It is recommended that each evaluator complete and sign a Non-Conflict of Interest Form.

NON-CONFLICT OF INTEREST STATEMENT

I certify that neither I nor any member of my immediate family has a material personal or financial relationship with any offeror, or to a direct competitor of any offeror under consideration by this proposal evaluation committee. I further certify that no other relationship, bias or ethical conflict exists which will prevent me from evaluating any proposal solely on its merits and in accordance with the Request for Proposal's evaluation criteria.

Furthermore, I agree to notify the Procurement Officer if my personal or financial relationship with one of the offerors is altered at any time during the evaluation process. If I am serving as the Procurement Officer of record I agree to advise my supervisor of any changes that could appear to represent a conflict of interest.

Document 3: Develop a Fairness Plan. Use this document to demonstrate that you have taken steps to ensure that your process is equitable, justifiable and sound and provides equal opportunity for all proposers.

The Victoria Government Purchasing Board (Australia) has produced some excellent documentation related to the entire procurement process. Probity, defined as “unimpeachable honesty and virtue” or “complete and confirmed integrity”, is a critical issue. They have developed and published a policy which is accompanied by a Probity Plan Template. This 28-page document contains a list of 40 tasks which, when executed, help ensure compliance with public policy.²⁵

This topic is dealt with in “Using a Fairness Officer” found in Chapter 3.

Document 4: Publish an Evaluation Guide. The evaluation process often becomes the center of controversy and intense scrutiny. It is a common practice to define the details of the evaluation process while the RFP is being developed. In most organizations, the Project Manager or Procurement Officer reviews the evaluation procedure with the Evaluation Committee just before the proposals are distributed. They want to ensure that each evaluator understands the process and performs accordingly.

Some organizations provide the evaluators with score sheets; others, with a description of their responsibilities. Some organizations provide each evaluator with a Guide, a detailed description of the evaluation process based on the RFP itself. While these Guides take time and effort to prepare, they are worth it! These Guides help the evaluators understand the process and their responsibilities. They simplify the work of the evaluators and they are a great tool in defending the process from criticism.

The Atlantic Lottery Corporation's Evaluation Charter is one of the best I've seen. It's well organized. It's synchronized with the RFP. It deals with critical issues including Project Strategy, Responsibilities, and Risk

Management. Risk management is a topic which should routinely be part of every evaluation but one which is rarely included.

Table of Contents	
1	RFP Objective
2	Evaluation Charter Goal/ Purpose
3	Evaluation Charter Deliverables
4	Project Scope
5	Project Strategy and Process Flow
5.1	Strategy
5.2	Project Process Flow
6	Project Team Roles and Responsibilities
6.1	Responsibilities for All Team Members
6.2	Evaluation Team
7	RFP Evaluation, Criteria Percentage And Description
7.1	RFP Evaluation
7.1.1	Initial Review
7.1.2	Supplier Presentations
7.1.3	Second Review
7.1.4	Recommendation Report
7.2	Criteria Percentage Summary
8	Risk Management
8.1	Critical Success Factors
8.2	Risks
9.1	Project Quality Management
9.1.1	Lists of Pros, Cons, Issues, Questions
9.1.2	RFP Evaluation Report
10	Evaluation Charter Approval
10.1	Approved by:
10.2	Reviewed by:

Document 5: Publicize an Effective Debriefing Procedure. Use this document to demonstrate your sense of fairness, and your organization's willingness to deal with suppliers' concerns (without litigation).

The existence of a well-written reasonable debriefing procedure will re-enforce the idea that the entire RFP process was done properly. It will also convince some disgruntled vendors to seek more information before talking to their lawyers. And finally, an inviting and open debriefing process permits you to find out which vendors are really, really angry and gives you an opportunity to defuse the situation.

Debriefing is often looked upon as the crumbs given to losers to offset, at least in the purchaser's mind, the cost of submitting a losing proposal. It is an attempt by the Purchasing Organization to provide some value to the suppliers. It is also a means by which the Purchaser can determine which suppliers are really mad and intend to challenge the results, either through senior management, the political process or the courts.

Most jurisdictions provide an opportunity for suppliers to obtain details about their proposals and why they didn't win. The suppliers are offered some information as a 'thank you' for the cost and effort of preparing a proposal.

Under many different access to information laws in many jurisdictions, a large amount of information is available about an RFP and the proposals:

- Project authorization
- The RFP document
- The Evaluation Process
- The Evaluators' notes
- Memo recommending the winner
- Suppliers proposals, except for competitive information
- Evaluation summary sheets.

While there are lots of examples of documents dealing with the debriefing sessions, I've selected three for inclusion here. Each of these demonstrates some element of excellence. Each reflects a serious commitment to a transparent process. And each, in its own way, argues against initiating a legal action until the debriefing is completed.

Example #1 - The Federal Transit Administration's Best Practices Procurement Manual contains two pages on this topic.²⁶ It defines the value of a debriefing and its role in discouraging offerors from taking legal action:

Debriefing of unsuccessful offerors can be valuable to both the offerors and the procuring agency. A debriefing can be helpful for a number of reasons:

- *It communicates a sense of fairness and appreciation to offerors who have made sizeable investments of time and resources in preparing bids or proposals for your program.*
- *It may avoid a protest by convincing a disappointed offeror that your agency's decision was carefully made, factually well supported, and the best one for your agency.*
- *Of most importance, it can help offerors improve their future proposals, which is a definite advantage to them and to your agency.*

Example #2 - The Office of Government Commerce in the United Kingdom has published a 21-page Supplier Debriefing memo.²⁷ This text is easy to read and deals with many facets of this topic.

CONTENTS	
One	Introduction
Two	Benefits of effective debriefing
Three	When to debrief
Four	Where debriefing takes place
Five	Approach to debriefing
Six	Who should attend?
Seven	The debriefing meeting
Eight	After the debrief
Nine	Further advice and tips

It also contains a Supplier Questionnaire dealing with the solicitation package, interaction with the Government Department, the Advertisement, the Workload in preparing a response, and the debriefing.

Document 6: The Protest Procedure. Use this document to inform vendors that you will attempt to resolve their issues through discussions and negotiations, rather than litigation.

A written complaints procedure can direct (and control) the vendors' activities, promote confidence in the process, promote the resolution of grievances, and restricts or discourages frivolous protests. There are many examples of protest policies and procedures. Some are statutes; others, policies or guidelines. They all deal with the same set of issues: Who can protest? When? What is the procedure? Who decides if the claim has merit? What are the remedies?

The City of Miami has a 3-page procedure.²⁸ Protests must be initiated within two days of the notice of award of a contract. Only proposers can protest. Protests may not challenge the evaluation criteria or weights. And protests are first dealt with by the Chief Procurement Officer.

The State of Nebraska²⁹ has a one-page protest procedure that identifies the timing (within ten days of intent to award), the official in charge (Materiel Division Administrator), and the tasks.

The City of Orlando³⁰ has a two-page Bid Award Disputes procedure. Protests often cause the contract award to be suspended until the protest is resolved.

G. In the event of a timely protest and/or appeal, the City shall not proceed further with the solicitation or with the award of the bid/contract unless the Director, after consultation with the head of the using agency, forwards to the Chief Administrative Officer a written request to award the bid/contract without delay in order to protect the public

AN ENDING COMMENT

This Chapter has discussed the evaluation process from a number of different perspectives: why it is needed; different ways of evaluating a group of proposals; the structure of an evaluation committee. It has also provided some examples of evaluation procedures and defined six documents which can promote excellence.

The next chapter provides a more detailed examination of each major component of an evaluation. It examines the problems, pitfalls and best practices for each of the building blocks.

For more information about this book, our other RFP reference publications, our free newsletter or our training CDs, go to:

<http://www.rfpmentor.com>

END NOTES

1. Reference 45. In reading the quote, the word “jury” is used rather than “evaluation committee”. (This is the only jurisdiction I know that employs this term.)
2. Reference 7.
3. Reference 46.
4. Page VII-25, Reference 34.
5. Page VII-27, Reference 34.
6. Page 12, Task 6, Reference 27.
7. Page 7, Reference 26.
8. Exhibit 22, Reference 47 contains several good examples of adjectival rating schemes.
9. Reference 22.
10. Page 24, Reference 48.
11. Pages 3 to 6 of Reference 6 provide information about the roles and responsibilities of the chair and the committee members.
12. Reference 49.
13. Reference 50.
14. Reference 20.
15. Pages 95-96, Reference 7.
16. Page 88, Reference 7.
17. Pages 14-15, Reference 45.
18. “Proposal Evaluation,” Reference 22.
19. There are hundreds of thousands of RFPs issued each year by the more than 80,000 public entities in the U.S. Many of these RFPs are accessible via the internet using a search engine such as Google or Yahoo. Some professional associations such as NIGP (www.nigp.org) and ICMA (www.icma.org) have electronic libraries of RFPs.
20. Page 22, Reference 48.
21. Additional information about this RFP can be obtained from Dept. Of Administrative Services, Materiel Division, P.O. Box 94847, Lincoln, Nebraska 68509-4847.
22. Montana has provided direction in a series of documents each dealing with a different element of the RFP process. The roadmap described above is “RFP Flowchart”. All of the documents can be found at:
<http://www.discoveringmontana.com/doa/GSD/css/Resources/RFPProcess.asp>
23. Reference 51.
24. Reference 52.
25. Reference 35.
26. Reference 39.
27. Reference 53.
28. Here is the web address for this brochure:
<http://www.ci.miami.fl.us/Procurement/docs/BidProtest.pdf>
29. Here is the web address for this brochure:
<http://www.das.state.ne.us/materiel/purchasing/rfpmanual/formprotestprocedures.pdf>
30. Here is the web address for this publication:
<http://www.ci.orlando.fl.us/admin/purchasing/appealofpurchagentdecision.htm>

Chapter Eight

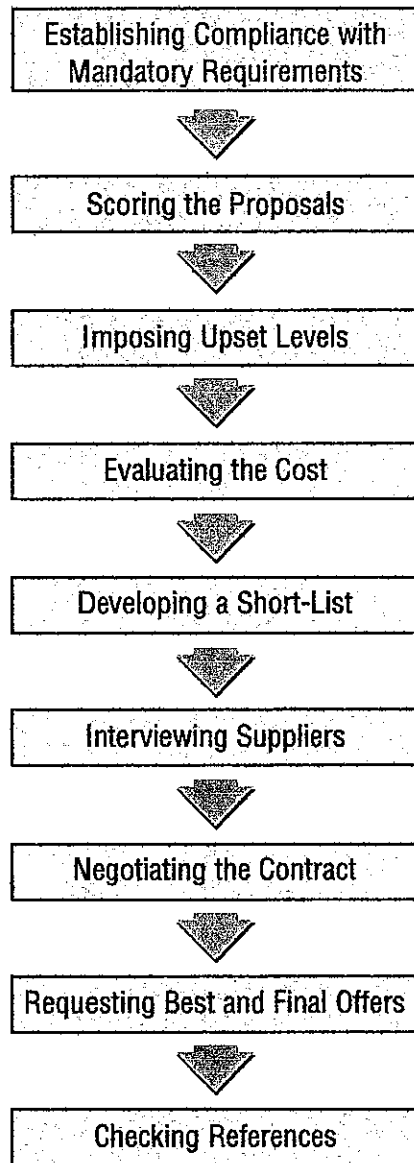
THE BUILDING BLOCKS OF THE EVALUATION PROCESS

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THE NINE BUILDING BLOCKS

In this section, we examine the details of the evaluation process. In reviewing a large number of RFPs, we identified nine different components of the process, such as reviewing a proposal for compliance with mandatory requirements, or interviewing the suppliers. We refer to each of these components as a building block:



Many different evaluation processes can be constructed by combining some or all of these building blocks in different sequences. Some procedures use only three or four of these. More complex examples can use all nine and repeat some of them two or three times. For example, one evaluation process commonly used is based on a 3-step short-listing process. After each major type of analysis, the list of suppliers still being

considered is reduced. This is repeated three times; once, for each type of analysis.

Different processes formed by using different building blocks and different evaluation criteria and weights will yield different results. Purchasers should test their evaluation process before using it on real proposals. Some organizations create hypothetical proposals and “walk through” the evaluation process. These purchasers are investigating the ability of their intended process to yield an acceptable result. They are seeing how small differences in process or weight can influence the results. For example, if “technical merit” receives 10% more weight, will the results change? Is this acceptable? If cost is included as an evaluation criterion, could a company win the competition but be \$200,000 higher than a close competitor? Is this acceptable?

Often organizations discover, by testing their evaluation process, that the process will readily identify those firms capable of doing an acceptable job. The process will identify a group of companies that scores high, say in the 80 to 90 per cent range. The process may not, however, be very good at identifying which of the companies in this group is “the best”. Often additional thought, more specific criteria, and additional steps have to be included to establish and confirm the winner.

For almost any proposal, a face-to-face presentation by the proponents adds value to the process. It is very difficult to determine by reading the proposal “the ability of the project manager to communicate effectively with a wide range of users”. This attribute is readily determined in a two hour presentation by the project manager. Presentations provide a quality control check on the selection process. They often reveal issues which have been overlooked or under-valued. While a firm cannot go from last place to first place on the basis of a presentation, the presentation can be useful in differentiating the skills of the top three proponents.

ESTABLISHING COMPLIANCE

Establishing Compliance with Mandatory Requirements

Most organizations establish a set of mandatory requirements in the RFP. These requirements can be administrative, such as “Proposals are due by August 15 and must be received not later than 5:00 p.m. at the specified location.” The requirements can also be technical in nature, identifying a critical feature or functional capability. For RFPs with mandatory requirements, the evaluation process is at least a two-step process. First, the evaluators examine each supplier’s ability to satisfy the mandatory requirements. Suppliers not able to do this are eliminated from further consideration. Second, the evaluators assign a score to each proposal based on the evaluation criteria (similar to the examples presented earlier).

Typically, evaluators establish compliance before doing the more detailed analysis. During this step, one or more evaluators review each proposal to ensure that all of the mandatory conditions have been met. A mandatory condition is a requirement that must be met without alteration. One example is the submission of the proposal by a specified time. If it is late, it is usually returned to the supplier unopened. Another example is a requirement that the supplier must provide 24-hour emergency service. To ensure that vendors do not miss mandatory requirements scattered throughout the RFP, all of the mandatory requirements are often identified in one section of the RFP.

Many evaluators are uncomfortable eliminating a supplier from further consideration for failure to satisfy a mandatory condition - especially when the evaluator believes that the requirement is, in fact, only "highly desirable" and not really mandatory. Mandatory requirements must be precisely defined and must be essential elements in the success of the project. For example, consider the following mandatory requirement: "Suppliers must have a local service office." Now, I presume that the concern of the purchasing organization was prompt service and travel time. As stated, this requirement is poorly defined and could cause a number of problems for the evaluators.

First, the RFP didn't state the type of service required. Was it for equipment repairs, software support, or network support? Second, no service levels were given. Did they need 8-hour per day support? Or 24 hour support? Third, no mention was made of the level of expertise required locally. Did they require a very expensive, technical expert who might only be found at the supplier's head office or development facility?

It is awkward, risky, and sometimes embarrassing to declare a proposal non-compliant when the mandatory requirement was not stated precisely and could be interpreted several ways. In these cases, evaluators often declare all proposals compliant, examine the actual requirement more closely, and seek clarification from the suppliers. Evaluators often ignore ambiguous mandatory requirements and evaluate each proposal on its merits.

Some RFPs declare that "proposals not meeting all mandatory requirements will be rejected"; others are less clear and state that "proposals may be rejected". The use of the word "may" rather than "must" permits the evaluators some latitude. They can waive mandatory conditions which all suppliers failed to meet. They can also waive mandatory conditions which on close examination during the evaluation process have proven to be ambiguous.

In California, one organization¹ permits the evaluators to give proponents an additional 72 hours to meet mandatory requirements when "... (i) the Proposer gains no advantage from the opportunity to

correct the deficiency; and (ii) other Proposers suffer no disadvantage.”

When “may” is used, the principle of treating each supplier fairly must prevail. Evaluators should expect complaints and protests from suppliers eliminated for failure to comply with a mandatory condition that was ambiguous, or not an essential part of the solution.

As a result of this process, each proposal is declared to be either compliant or non-compliant. Compliant proposals are evaluated further. Non-compliant proposals are eliminated from the competition after preparing a memo for the project file, and for senior management (in anticipation of a protest). Often, discussions are held with legal counsel before eliminating a proposal.

Definitions are Important

To ensure that suppliers understand the significance of key words such as “mandatory”, many RFPs define the term and indicate that it will be identified by use of the word “must”. Here are the definitions used by the State of Nevada:²

Definition of Key Words Used in the RFP

Shall,/Must: Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the vendor fails to provide recommended information, the State may, at its sole option, ask the vendor to provide the information or evaluate the proposal without the information.

May: Indicates something that is not mandatory but permissible.

The State of Washington elaborates on the definition and defines those circumstances which may result in elimination of the proposal from further consideration:

MANDATORY REQUIREMENT DEFINED

A mandatory requirement (MR) is an essential need that must be met by the vendor. L&I (Dept. Of Labor & Industries) may eliminate from the evaluation process any vendor not fulfilling all mandatory requirements.

Failure to meet a mandatory requirement (ground for disqualification) shall be established by any of the following conditions:

- *The vendor states that a mandatory requirement cannot or will not be met.*
- *The vendor presents the information requested by this RFP in a manner inconsistent with the instructions stated by any part of the RFP.*
- *Customer references report the vendor's inability to provide average (satisfactory) service or to comply with one or more of the*

mandatory requirements.

- *The vendor's references fail to send the customer reference forms as required, and/or by the time required.*
- *The vendor fails to include information requested by a mandatory requirement.*

Helping the Vendors Keep Track of Mandatory Requirements

It is both a common practice and a “best practice” to summarize all of the mandatory terms on one page in the RFP and reference the pages which describe each of the requirements in more detail. This summary, often in the form of a table, can be used by vendors to ensure that they have dealt with each mandatory requirement.

Often, mandatory requirements are distributed throughout the RFP. Some may be obvious but others may be buried in the middle of a page. These ones can be missed, even when the RFP is read several times. It is unfortunate when a vendor simply fails to identify a particular mandatory requirement and is eliminated from the competition.

The use of this table summarizing the mandatory requirements helps ensure that vendors do comply.

Promoting the Development of “Within Budget” Proposals

Often, “within budget” is a critical requirement but not defined as a mandatory condition. Suppliers are not always told the budget and this can present difficulties. There are several different approaches to handling this problem. Obviously, publishing the budget is the best but there are some compelling arguments raised against it in many jurisdictions. If your organization does not publish the budget, then it must include language in the RFP which indicates the type of solution you are seeking or the importance attributed to cost. For example, “we are looking for an economical solution” or “Cost is the overriding consideration”.

Another way of giving vendors direction about the significance of the budget is through the weighting. If “cost” receives 70% of the points and the least cost gets 70%, then you are telling vendors to submit an inexpensive proposal. If, on the other hand, cost only gets 20%, then you are telling the vendors that technical and management considerations are far more important than the cost.

Here is what one jurisdiction tells its purchasers if all the proposals exceed the unpublished budget:

When this happens, your (organization) may appear to be incompetent and ill-prepared, but you can reduce the impact on your organization. You have two alternatives:

- *cancel the procurement and perhaps also the project for which the*

procurement is being done; or,

- *review your requirements and reduce them to the essential needs to be met. This will mean a new competition, with a new requirements document and all the inherent delays and potential for complaints from the supplier community.*

Some jurisdictions do not permit significant changes to the RFP or proposal through the negotiation process. For these, it is not proper, usually contrary to written policies, and sometimes illegal to identify the winning company and then approach them to determine how much of their solution they can deliver, not for their proposed price of (for example) \$100,000 but for the budgeted amount of \$50,000.

Make sure you understand the business case for the project since a procurement is part of a project. Ensure the project plan is well thought through. Assure yourself that suitable technology products and services are available at the prices you anticipate - before you finalize the project plan. This knowledge of products and services can be gained by talking to industry contacts, suppliers, and other organizations about suitable products and services before completing the development of the RFP document. Ensure your requirements document contains only specifications that truly reflect program needs.

Include a tentative amount in the RFP. For example, a statement such as "we anticipate that the winning supplier will propose a solution whose total life-cycle present value cost is between \$1.0 million and \$1.3 million". This information will ensure that suppliers do propose solutions which are affordable, if those solutions exist.

Alternatively, structure the RFP so that the supplier proposes a solution which can be expanded as needed. For example, suppose you want to acquire services related to developing a complex training system, or training people. Your RFP could ask for a proposal to develop "UP TO" 3 training modules, or to provide training for "UP TO" 200 people, or a treatment program for "UP TO" 15 people. In this way, you can obtain a proposal for the product and select the quantity that is affordable.

Some Requirements are Only Highly Desirable, not Mandatory

The 'best practice' is to keep the list of mandatory requirements short and to take great care to define each requirement precisely and unambiguously. Many stakeholders view their most important requirements as mandatory when these requirements may be only highly desirable. Often, the decision to define a requirement as mandatory contains an element of discretion. Do we define a mandatory requirement that the vendor is a large company or do we evaluate the capacity of the firm to do this work? Do we insist that the company have an office within five miles of our building or do we evaluate the ability of the firm to get to us quickly in case of an emergency?

For example, the State of Connecticut issued an RFP to outsource all IT services . . . so that such Agencies can completely exit the business of providing IT services and focus on their core function - the business of government. It only wanted large, world-class corporations to bid. Rather than imposing a mandatory condition such as “revenue of more than \$1 billion per year”, a condition that could be seen as restricting competition, they simply told their story in the RFP and defined the characteristics of the winner as “highly desirable”³

...While Connecticut will take receipt of and evaluate all Proposals complying with the RFP requirements, it is unlikely that a Proposal from other than a world-class IT services provider will be considered Acceptable or Potentially Acceptable, as described in Section 1.4. Your organization is discouraged from submitting a Proposal unless it meets each of the following criteria:

- (a) Your organization, either alone or teaming with other entities, has entered into at least one IT services contract for the provision of IT services where the annual contract value exceeded \$50,000,000;*
- (b) Your organization, either alone or teaming with other entities, has provided services in at least six of the eight services categories described in Section 4.5 of the RFP; and*
- (c) Your organization has had average gross annual revenues in excess of \$1 billion over its three latest fiscal years.*

The foregoing criteria are only guidelines provided for your consideration, and Proposals will be formally evaluated as otherwise stated in this RFP..

SCORING THE PROPOSALS

Scoring the Proposals

In most evaluation processes, scoring is performed as the second task, immediately following the determination of compliance.

Most proposals require that the financial information be provided separately. This is to ensure that the technical evaluators have no knowledge of the pricing proposal. This avoids the debate over whether knowledge of the pricing proposal influenced an evaluator’s assessment of technical factors.

Upon receipt of the proposals, the financial section is removed and given to the analyst for evaluation. This person receives the information, establishes the costs to be used in the evaluation, and determines the score (if required). Costing is discussed later in this chapter.

Copies of the technical/management proposal are distributed to the Evaluation Team as required. For small proposals, each member of the Evaluation Team may read the entire proposal (except for cost) and perform the evaluation. On larger or more complex proposals, specific

sections are usually assigned to individuals. For example, the communications expert on the Evaluation Team and the Project Manager might be the only people who evaluate the proposed network design

The Evaluators then meet to review each other's evaluations, to resolve differences, and to ensure that they share the same understanding of each proposal. This process results in scores for each evaluation criterion. The purpose of the meeting, and the team effort for that matter, is to discuss, to understand and to resolve differences - not simply to average the scores. If two evaluators, both experts in the same area, score the same proposal as a '2' and a '6' respectively, there is some fundamental difference in each evaluator's interpretation of the proposal. It is not good enough to give the proposal a '4', the average of the two scores. Fairness dictates that the two evaluators discuss the issue, identify the differences in interpretation, and agree upon a score. (However, in some jurisdictions, evaluators do their scoring independent of one another and scores are then averaged.)

Three components are required to establish a numerical score for a proposal: a detailed set of evaluation criteria; an assignment of weights to reflect the importance of each factor; and a method for establishing a score. Each of these components is discussed in the remainder of this section.

Evaluation Criteria

Evaluation criteria are guidelines that aid procuring organizations in assessing responses to a Request for Proposal (RFP). These criteria serve two primary purposes. First, they enable project participants to standardize the project criteria to be considered during each reviewer's evaluation of a proposal. Second, they provide potential responders with an understanding of how proposals will be reviewed, both individually and in comparison with other proposals.⁴

Evaluation criteria are as different as people. Some are very specific and easy to assess. Others are vague and highly subjective; and, some would argue, arbitrary.

There are three major families of criteria: Technical, Management and Cost.

Technical criteria usually include the following: understanding of the problem, soundness of the approach and solution, ability to satisfy the stated requirements, service and support capabilities, analysis of risks, and testing methodology.

Management criteria usually include the following: project plans, management approach, qualifications of key people, project timetable, and corporate experience.

Cost is often evaluated in terms of the following criteria: total life cycle costs, cost controls, and consistency with technical and management plans.

As the RFP is developed, the evaluation criteria are identified. There are many sources of details about evaluation factors: similar RFPs from other jurisdictions, your organization's old RFPs and templates, and RFP Handbooks. The specific evaluation criteria to be employed are based on the specific requirements of the RFP. It is important that the RFP demand the information required to perform the evaluation. For this reason, the evaluation process must be finalized prior to issuing the RFP. You want to ensure that you have asked for all of the required data to perform the evaluation.

The quote which follows is one of the best which I have found that deals with the effectiveness of evaluation criteria:⁵

For evaluation criteria to be effective, they should ideally have the following characteristics:	
Objective:-	not subject to diverging interpretation;
Relate to the requirements definition	all key elements of the project requirements must be covered by evaluation criteria;
Discriminating:	separate best, average and weaker proposals;
Non-discriminatory:	fair and reasonable - mandatory and heavily weighted criteria must be justified;
Realistic:	given the contract nature and/or value;
Measurable:	use measurable standards and have sub-criteria if necessary to simplify evaluation;
Economical to use:	do not consume an unreasonable amount of time or resources;
Justifiable:	makes sense, can be justified on common sense, technical and legal basis.

In developing this book, hundreds of pages of documentation were reviewed. The best description of the critical role of evaluation criteria in the process was provided by Utah. It is an excellent discussion and is reproduced in full:⁶

Evaluation Criteria

Evaluation criteria are the factors an agency uses to determine which of several competing proposals submitted in response to an RFP will best meet the agency's needs. In establishing effective evaluation criteria, an agency must clearly identify the factors relevant to its selection of a contractor and then prioritize or weight these factors according to their importance in satisfying the agency's needs in the procurement. Together, the proper identification and weighing of the evaluation criteria will form

an evaluation plan which will provide the agency with a common standard by which to judge the merit of competing proposals. This allows the agency to rank the proposals received while simultaneously providing offerors with a fair basis for comparison. As importantly, when evaluation criteria are properly selected and weighted, the proposals received will accurately reflect the offeror's understanding of the solicitation and the offeror's ability to deliver what the agency needs.

The process of evaluating offers is unique to the RFP method of procurement. This method allows an agency to consider factors other than price in deciding to whom a contract should be awarded. Whenever the RFP method of procurement is used, evaluation criteria should be selected which will provide offerors with a clear idea of the factors that will be important in making award. By properly identifying and weighing evaluation criteria at the outset of the procurement process, an agency can later rely on the evaluation criteria to do the work of selecting and judging the proposals submitted.

Evaluation criteria should be individually tailored to each RFP. While the choice of criteria is within the agency's sound discretion, only those factors relevant to the acquisition should be included. Further, evaluation criteria should reflect the agency's minimum needs, and should not be so restrictive as to limit competition. Evaluation criteria often encompass such factors as price or cost, technical excellence, management capability, personnel qualifications, experience and past performance. While price or cost must be included in every procurement and will be the deciding factor in most, price or cost need not be the deciding factor in all acquisitions. This is especially true for cost-reimbursement contracts, in which the contractor's ability to understand the procurement and produce a quality product may well override narrow cost concerns.

The establishment of meaningful evaluation criteria is a critical step in choosing the best contractor for a particular procurement. Since the goal of an effective evaluation scheme is to reflect an agency's program needs, an agency must determine what evaluation factors are relevant to the procurement before choosing an evaluation plan.

For example, an agency should select different evaluation criteria for a single task, data entry job than for a long term facilities management contract. In choosing the criteria for a data entry job, an agency would select factors reflecting its need for an experienced contractor with sufficient labor and equipment to complete timely performance.

Management factors would not be stressed for this type of one shot job. In contrast, for a facilities management contract, an agency would identify factors stressing the management contract, an agency would identify factors stressing the management capabilities of prospective offerors, as well as their technical competence, since the differing circumstances of a long term management contract require proven managerial expertise.

The precise evaluation criteria chosen must reflect the particular

requirements of the contract. For example, an agency may quickly realize that a contractor's technical capability will be decisive in meeting an agency's need to switch from mainframe to distributed computer processing. As part of technical capability, the agency might further identify a contractor's ability to convert the agency's current programs and data files in a timely manner as critical to filling the agency's mission. Thus, "technical approach" and "conversion plan" might then be broken down into subcriteria such as "delivery schedule," "prior conversion experience," and "conversion facilities."

As noted above, in addition to clearly stating what evaluation criteria will be considered in selecting an offeror, the RFP must identify the relative importance or weight of the criteria. Using the above example, an agency might then decide that "Technical approach" is twice as important as the "conversion plan" and thus should be assigned twice the weight in the evaluation plan. To establish the relative importance of evaluation criteria, the RFP may simply state that the evaluation criteria are listed in order of relative importance. Or, the RFP may state that the evaluation criteria listed are all of equal weight. If listed in order of importance, an agency must be sure that the first or second criterion is not assigned predominant importance, since this would not provide offerors with a realistic picture of the procurement. An agency may also assign numerical weight to each of the evaluation criteria listed.

Once evaluation criteria are issued, an agency must adhere to its evaluation plan. If the agency realizes in mid-procurement that the evaluation plan does not accurately reflect the agency's needs, then the Purchasing Agent must issue a written amendment to all offerors stating the changed evaluation plan and requesting a new round of proposals.

The process of selecting and weighing the evaluation criteria will assist the agency in understanding and defining its own needs. Similarly, the proper choice of an evaluation plan will greatly assist contractors in understanding the agency needs. This will result in the receipt of better proposals from offerors. Moreover, by clearly identifying the evaluation criteria to be used together with the relative weight assigned to each factor, an agency will be able to ward off potential protests from disgruntled offerors who could otherwise claim that the evaluation plan was not properly disclosed.

The percentage weighting for the price criteria should not be less than 30%. Any lower percentage to be given for price must be justified in writing and will require prior approval by the Director of Purchasing.

Evaluation criteria are an integral and fundamental part of an RFP package and crucial to an orderly procurement. The evaluation plan must closely reflect the RFP Statement of Work and Specifications. When properly selected, weighted and drafted, evaluation criteria can tremendously assist an agency in its procurement of goods and services.

New Criteria

Once the evaluation criteria are published in the RFP, it is difficult to deal with factors that have not been included. How do you handle the proposal from a supplier that suggests an unexpected approach, a new piece of technology, or provides information which changes the way you think about the project? How do you build this unknown into the RFP? You certainly cannot include a factor labeled “unexpected information”. If you did, you would be accused of being arbitrary. One approach which seems to be gaining in popularity is to include “Management of Risk” as a factor. This permits the Evaluators to take into account new, unexpected information. All new information influences the Evaluators’ assessment of the risks of the project. In addition, other criteria such as (understanding of our requirements) can be used by the Evaluators to reward suppliers for innovation and unexpected approaches.

A Few Examples of the Amount of Information Provided in an RFP

Some RFPs provide the minimum amount of information. They satisfy the law, their policies and their own practices but don’t go out of their way to provide additional information. Other RFPs provide extensive descriptions of each evaluation factor. Throughout this text, we have endorsed the belief that “more is better” - the more information you provide in the RFP, the better the resulting proposals. Alternatively, based on detailed information, some vendors may decide not to submit a proposal. This self-selection process saves both the vendors and the evaluators time and money.

Example 1

This information about the evaluation criteria is inadequate. This 28-word description only provides broad categories with few details.

The evaluation criteria for this RFP are as follows:

<i>Understanding of project and requirements</i>	<i>25%</i>
<i>Ability to meet time frames</i>	<i>15%</i>
<i>Skills and experience with required technology</i>	<i>20%</i>
<i>Support ability</i>	<i>15%</i>
<i>Pricing</i>	<i>25%</i>

Example 2

This statement of evaluation criteria provides some direction but lacks important details in several areas.

Vendor selection will be based on the following criteria:	
Understanding of the objectives (20%)	an assessment of the vendor(s) understanding of the objectives of this project;
Appropriateness of approach (20%)	an assessment of the vendor(s) proposed approach to providing the required services to the Ministry;
Pricing/Contract (20%)	an evaluation based on the prices as bid in the vendor(s) proposal; acceptance of the Ministry(s) standard contract;

Vendor selection will be based on the following criteria:	
Suitability of hardware /software/Expendability/ Flexibility (20%)	an assessment of how easily the systems hardware and software will integrate with the ministry(s) current and future environment; an assessment of how easy it is to add or delete components to the system;
Suitability of firm and clarity of submission (10%)	an assessment of the vendor(s) suitability; an assessment of the clarity of the vendor(s) submission;
Personnel/Experience/ References (10%)	an assessment of the qualifications and experience level of the vendors; an evaluation of the vendor's references.

Example 3

This example provides some direction to the proponents in crafting their proposals.

A. Proposal Evaluation Criteria⁷

The Commissioner of DAS will establish an Evaluation Committee to evaluate the Proposals. The evaluation Committee will review the Proposals for format to ensure conformance with the requirements of this RFP. Failure to meet these requirements might result in rejection of your organization(s) Proposal. The Evaluation Committee can waive minor irregularities if, in its judgment, to do so would be in the best interests of Connecticut.

Evaluations will be based on the Proposals, and additional information requested by Connecticut, applying the following criteria as to each Proposal:

- (a) Proposer(s) understanding of the project, its purpose and scope, and proposer(s) plan for performing the IT services, as evidenced by the proposed solution*
- (b) Proposer(s) ability to perform the scope of the IT services, as reflected by its experience in performing such services and by the qualifications and abilities of the key individuals proposed as proposer(s) team*
- (c) Proposer(s) demonstrated ability to make available the key personnel and facilities to perform the IT services at the time of contracting and to keep them on the project thereafter*
- (d) Proposer(s) specific record of past performance of similar IT services*
- (e) Price competitiveness of proposed solution and cost savings demonstrated*
- (f) Proposer(s) ability to provide IT services from off-site facilities in Connecticut and to foster job retention and job creation in Connecticut*
- (g) Demonstration of commitment to affirmative action by full compliance with regulations of the Connecticut Commission on Human Rights and Opportunities*

- (h) *Previous experience and customer references in government-sector IT services*
- (i) *Expertise in managing complex integrated systems and services and implementing and maintaining evolving leading-edge technologies*
- (j) *Expertise in business process reengineering, for purposes of developing new system architectures and developing plans for changes in computing environments*
- (k) *Expertise in consolidating mainframe environments and in migrating systems (in whole or in part) from mainframe environments to distributed-computing environments.*
- (l) *Financial strength and depth necessary to sustain a long-term relationship and long-term growth as Connecticut(s IT services requirements change*
- (m) *Readiness to assume full accountability to Connecticut, its Agencies and its citizens for performance including commitments to perform IT services at levels that meet acceptable performance criteria, and commitments to an open-book approach and financial-reporting requirements*
- (n) *Proposer(s) demonstrated ability to protect highly sensitive and confidential information of its customers*
- (o) *A focus on delivering value-added services*

Example 4

This approach is simple to use and thorough.⁸

7.01 Understanding of the Project (5 Percent)

Proposals will be evaluated against the questions set out below:

- [a] Has the offeror demonstrated a thorough understanding of the purpose and scope of the project?*
- [b] How well has the offeror identified pertinent issues and potential problems related to the project?*
- [c] Has the offeror demonstrated an understanding of the deliverables the State expects it to provide?*
- [d] Has the offeror demonstrated an understanding of the State's time schedule and can meet it?*

7.02 Methodology Used for the Project (5 Percent)

Proposals will be evaluated against the questions set out below:

- [a] Does the methodology depict a logical approach to fulfilling the requirements of the RFP?*
- [b] Does the methodology match and achieve the objectives set out in the RFP?*

[c] Does the methodology interface with the time schedule in the RFP?

7.03 Management Plan for the Project (5 Percent)

Proposals will be evaluated against the questions set out below:

- [a] How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFP?*
- [b] How well is accountability completely and clearly defined?*
- [c] Is the organization of the project team clear?*
- [d] How well does the management plan illustrate the lines of authority and communication?*
- [e] To what extent does the offeror already have the hardware, software, equipment, and licenses necessary to perform the contract?*
- [f] Does it appear that the offeror can meet the schedule set out in the RFP?*
- [g] Has the offeror gone beyond the minimum tasks necessary to meet the objectives of the RFP?*
- [h] Is the proposal practical, feasible, and within budget?*
- [i] How well have any potential problems been identified?*
- [j] Is the proposal submitted responsive to all material requirements in the RFP?*

7.04 Experience and Qualifications (5 Percent)

Proposals will be evaluated against the questions set out below:

Questions regarding the personnel:

- [a] Do the individuals assigned to the project have experience on similar projects?*
- [b] Are resumes complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires?*
- [c] How extensive is the applicable education and experience of the personnel designated to work on the project?*

Questions regarding the firm:

- [d] How well has the firm demonstrated experience in completing similar projects on time and within budget?*
- [e] How successful is the general history of the firm regarding timely and successful completion of projects?*
- [f] Has the firm provided letters of reference from previous clients?*
- [g] If a subcontractor will perform work on the contract, how well do they measure up to the evaluation used for the offeror?*

Weights

Weights reflect the relative importance of each of the evaluation criteria. The use of weights grew out of the provisions and commentary of the Model Procurement Code⁹ which states “The Request for Proposals shall state the relative importance of price and other factors and subfactors, if any.” Their Commentary provides some understanding and insight into the importance of this component of every RFP:

...the Request for Proposals (shall) set forth the relative importance of the factors and any subfactors, in addition to price, that will be considered in awarding the contract. A statement in the RFP of the specific weighting to be used by the jurisdiction for each factor and subfactor, while not required, is recommended so that all offerors will have sufficient guidance to prepare their proposals. This Subsection serves two purposes. First, a fair competition necessitates an understanding on the part of all competitors of the basis upon which award will be made. Second, a statement of the basis for award is also essential to assure that the proposals will be as responsive as possible so that the jurisdiction can obtain the optimum benefits of the competitive solicitation. The requirement for disclosure of the relative importance of all evaluation factors and subfactors applies to the areas or items that will be separately evaluated and scored, e.g., the items listed on evaluations core sheets. The requirement does not extend to advance disclosure of the separate items or emphasis that are considered in the mental process of the evaluators in formulating their scores for the factors and subfactors that are described in the solicitation.

Well, it's clear from this Commentary that the MPC was written by and for lawyers. I believe this example provides evidence that while you don't have to publish the weights, it would be helpful to vendors if you did. And it also states that you only publish the factors that are measurable, not the items that you think about such as “risk” or “my career”, or “approval of my boss”.

Determining the Weights. How do we establish the weights for a specific factor? Is Project Plan worth 10% or 20% of the available points? And who has the final word on it?

After having reviewed the weights used in hundreds of evaluations, I've concluded the obvious: the weights for a specific factor are surprisingly similar at the gross level, but seemingly arbitrary when examined closely. For example, Project Plan may be 10% in one jurisdiction and 20% in another, but rarely 50%. Similarly, the merits of the technical solution may range between 10% and 25% but rarely get to 70%.

Many jurisdictions have standardized the weights for each factor. The Procurement people have developed a standard RFP or a standardized evaluation process in which the weights are fixed. To modify the weights,

the Evaluation Committee must justify the change.

While most RFP publications deal extensively with the evaluation process, surprisingly little has been written about the weights. There is no formula to determine the weight for a specific factor. Some jurisdictions like Idaho and New Mexico provide their evaluators with a little bit of guidance.

For example, in Idaho¹⁰, evaluators are presented with weights and factors in the Model RFP and given a little bit of guidance on adjusting the weights to suite the particular situation:

...Generally, weights are assigned based on a 60/40 split, with cost equaling 40% and technical/managerial requirements equaling 60% of the evaluation. The percentages can be adjusted (70/30 or 80/20 or other) to reflect the relative importance of cost to the agency. The purpose of adjusting cost factors downward is to assure that the offeror with the best technical response and reasonable costs is awarded the contract and prevent an offeror from "buying" the business by simply having the lowest cost. Generally, weighting factors are not included in the RFP.

Evaluation Criteria	Points
Technical Capability and Solution Approach Understanding of project requirements Ability to meet timelines Other	300
Managerial and Staff Capability Past performance (experience) Key personnel References Other	300
Cost	400
Maximum Total Points 1000	1000

The New Mexico Handbook¹¹ devotes eight pages to a discussion of evaluation factors. They provide weights for different types of RFPs and discuss the importance of specific evaluation factors and their reasons for increasing or decreasing certain weights. Here is one example:

Balancing the Base Evaluation Factors

The evaluation factors and their weights vary depending upon the type of the procurement. The following are the established base factors and their weights which have produced the best result. These recommended base factors and weights are the result of several hundred RFP based procurements:

- *Professional Services - Firm Fixed Price Contract*
Experience

described in this text, the method is successful if it leads to an understanding of the deficiencies, weaknesses, strengths and risks of each proposal.

The Louisiana RFP manual¹² provides a good example of adjectival scoring:

12. Evaluating Risk: evaluates how risky a proposer's approach is in relation to cost and schedule.

Risk Scale:

Serious - Expected to cause serious disruption of schedule or increase in cost. Will require a significant level of contractor emphasis and government monitoring to overcome difficulties

Moderate - Expected to cause moderate disruption of schedule or increase in cost. Will require average level of contractor emphasis and government monitoring to overcome difficulties.

Minor - Expected to cause minor disruption of schedule or increase in cost. Will require a low level of contractor emphasis and government monitoring to overcome difficulties.

Minimal - Expected to cause minimal disruption of schedule or increase in cost. Will require little or no contractor emphasis and government monitoring to overcome difficulties.

While no method is perfect, some are better than others. One method that has been found satisfactory in many jurisdictions is a weighted point system in which points are awarded for each proposal's ability to meet predetermined criteria. Many organizations have found, through bitter experience, that it is harder to defend an evaluation based solely on words than on numbers. Scores seem easier to justify and to defend as being objective. Part of this is reality - often the detailed process for assigning scores is based on well-defined measurable factors. For example: "The proposal will receive one point (to a maximum of 4) for each full-time member of the project team with more than 5 years of directly related experience on similar projects." Part of the attraction of a numerical score is fiction: saying that a proposal received 230 points out of a maximum score of 400 is, to many people, much more concrete than saying that the proposal was "poor". Numbers imply objectivity and fairness, sometimes more than warranted.

Evaluators sometimes have a difficult time deciding on the specific score of a factor. Suppose you were evaluating the plan for a project, or the project manager's experience. When is it worth 5 out of 10? Why isn't it worth a score of 6? Or 4?

The more general question is how do we eliminate personal bias and take some of the arbitrariness out of scoring? Can we ensure that each of the evaluators is using the same scheme? There are two major types of

- Corporate	175
- Key Personnel	125
Methodology/Tools Employed	50
Technical Merit of Proposed Solution	50
References	
- Corporate	50
- Key Personnel	50
Project Plan	100
Cost	300
Oral Presentation	100

The base factors for this type of procurement strike a balance between quality, knowledge and experience of the offeror and key personnel versus cost and proposal work products. The base factors of Methodology and Technical Merit are established for the assessment of “best value” for the procuring agency. For contracts for amounts in excess of \$500,000 a performance bond is recommended for this type of procurement instead of an evaluation of financial stability or retainage as the primary performance protection. The cost factor may be increased to 350 points with a corresponding 50 point total reduction to the other factors. Higher cost factors have produced undesirable results. Compensation is based upon receipt and approval of deliverables in accordance with the approved project plan. The oral presentation should cover all aspects of the offeror’s proposal.

To disclose or not to disclose? The answer to this question of whether to publish or not is “yes, we must disclose the weights”, “no, we are prohibited from publishing” or “maybe - we can publish if we want” depending on the jurisdiction. The Model Procurement Code requires that the RFP disclose the relative importance of each factor. This is a generally accepted practice. Typically, the factors are ranked in decreasing order or the importance of each is described in words. For example, “Cost is more important than the technical solution.”

Many jurisdictions find it easier to simply publish the actual weights. They believe that this provides direction to the vendors in understanding the requirements and supports “fair and open competition”.

Scoring Systems

Scoring systems are used to establish a numerical value indicating how well the proposal satisfies each selection criterion. Numerical scoring systems are easier to understand and explain than those based on only descriptive phrases. However, there are many different ways to evaluate proposals and establish the best value. These methods include color coding, adjectival ratings, and rankings. None of these methods is without problems and each method has its proponents and its critics. There is no requirement in many jurisdictions to use a numerical scoring system. Whatever method is used, including the common approach

scoring systems. The first is generic; it's the system used for the last 100 years in public schools to grade students' compositions. Ten out of 10 is excellent. Five is acceptable. Most evaluations use some variation of this method.

The second type of system is based on the specific characteristics of the procurement and requires a lot more work to be done prior to issuing the RFP. In this system, positive and negative indicators are developed for each factor. For example, in evaluating the strength of the project team, a positive factor would be the proposed manager's experience with a similar system. A negative factor would be the use of a part-time project manager. After reviewing the proposals and these indicators, the evaluators would assign a score, usually using the zero-to-ten scale. The use of these indicators is a powerful tool in performing an objective evaluation, and one that is easy to justify should it come under public scrutiny. If these indicators are not formally developed and written down when the RFP is being constructed, they always emerge when evaluators are discussing their score for a specific proposal. These indicators simply reflect the concerns that an informed person would have related to each evaluation criterion. For example: Is the project manager experienced? Is the project manager full-time?

The remainder of this section contains three examples of scoring systems. A scoring system published in an RFP should help the supplier understand the process and create a better proposal. Scoring systems are intended to assist the evaluators to identify the merits or the deficiencies in a proposal in an unbiased, objective way. They should be easily understood and simple to use.

This first example is poor. It fails to promote an objective evaluation. It doesn't provide any assistance in differentiating a "good" from a "satisfactory". Unfortunately, tables such as this are used in many jurisdictions.

10	Excellent - meets all requirements/very desirable
7	Good - most requirements met, it is good enough
4	Satisfactory - some requirements met, not sufficient
1	Unsatisfactory - requirements essentially not met

This second example is excellent. It helps the evaluators by providing precise definitions and boundaries on the scoring. It sets the agenda for discussions among the evaluators. The following rules were taken from a U.S. government publication dealing with procurement policy in the U.S. Air Force (Air Force Regulation 70-15). They go a long way towards standardizing the rules for assigning scores. I certainly recommend their inclusion in your evaluation process.

1. *If a requirement (objective) is particularly difficult to meet and the proposal offers an approach which, with little or no risk, will yield a result which exceeds requirements qualitatively, the item should score "8," "9," or "10," dependent upon the level of exceptional features offered.*
2. *If the requirement (objective) is relatively difficult to meet, the majority of the factors are acceptable, no major deficiencies or risks exist therein, and the collective approach yields a qualitative benefit beyond that which is minimal, a score of "6" or "7" should be assigned, dependent upon the benefits to be attained.*
3. *If the majority of the factors meet standards, the requirement is not overly difficult to meet, and the factors which are deficient are of a very minor nature or are susceptible to easy correction, the item should be scored "5".*
4. *If the major number of important factors are acceptable but one or more factors is deficient and some minor risk is involved in the correction thereof, the score for the item should be "4".*
5. *If a majority of the factors for the item are deficient and their correction, either collectively or individually, poses a serious problem in correction or has a "domino" effect on the other design features, or the approach poses a high risk without means for correction, or if the approach fails, a score of "3", "2", or "1" should be assigned, with the lower score indicating a serious or severe condition.*
6. *If the major factors of the item are deficient to the extent that a major reorientation of the proposal is necessary, or if the approach taken is undesirable and correction would require a major and material change in the proposal, the item should be scored "0".*

This final example was developed for a specific RFP. While, at first glance, it seems to require a lot of up-front work, this might be a solid investment. The first time this type of scheme is used, it requires the evaluators to identify their specific requirements. However, in subsequent RFPs, this scheme can simply be revised to suit the particulars. For example, the characteristics of the Project Team in subsequent RFPs can be readily established by beginning with these definitions and then editing the text.

A few years ago, the Ontario Government used the guidelines described in this section to identify the winner in an RFP¹³ for re-engineering the procurement function. Each of ten different factors was to be scored by each evaluator. The scores were then multiplied by the corresponding weights to determine the overall total score for each proposal.

The evaluation guidelines contained both positive and negative indicators for each factor. This material was included in the RFP. Many

organizations do not specifically identify these negative factors. The rest of this section contains the factors, the indicators and the weights assigned. Here are two of the factors:

Positive Indicators	Negative Indicators
<p>Factor 2: Project Team (Weight = 40)</p> <ol style="list-style-type: none"> 1. Project Manager is experienced in all 3 key areas 2. Project Manager has managed large, similar projects 3. Key assistants (2 or 3) are experience in 3 key areas 4. Extra (contingency) resources are available 5. Two or more specialist to assist team 6. Experience with a similar system 7. Commitment/dedication of resources <p>Factor 3: Project Plan (Weight = 15)</p> <ol style="list-style-type: none"> 1. Clarity and rationality 2. Deliverables related to project steps 3. Quality checks/reviews 4. Workload data 5. Key issues for each Deliverable are identified 6. Effective use of government personnel 	<ol style="list-style-type: none"> 1. Limited experience of the Project Manager 2. Poor reference checks 3. Marginal projects to illustrate qualifications 4. "Bare bones" team 5. Part-time project manager <ol style="list-style-type: none"> 1. Apparent anomalies 2. Illogical flow

IMPOSING UPSET LEVELS

Imposing Upset Levels

An upset level is a minimum score that is required to remain in the competition. It is also known as a threshold score. The RFP announces that an upset level will be used and identifies those factors that will be affected. Many RFPs identify the specific value required. "Proposals receiving less than five out of ten on Project Plan will be eliminated from further consideration."

Upset levels may be applied to one evaluation criteria, a group of factors, or the total score.

One Evaluation Factor

Upset levels are used to eliminate the possibility of a proposal obtaining the most points overall when it has serious deficiencies in one or more categories. It is quite possible that a proposal could receive very high marks in several categories and few in a critical area and still win the competition.

Suppose that 40 evaluation points are available for the technical response. An upset level of 20 would indicate that regardless of the scores

in other categories, no proposal will be accepted with a score of only 20 in this area.

Sometimes, a critical component, such as Project Plan, is only assigned a few points, say 10 out of 100. Applying an upset level of 7 out of 10 to this factor will ensure that proponents understand its importance.

A Group of Factors

Upset levels ensure that a proposal with an unacceptably low score in one category, such as Management, consisting of Experience, Staff, Training, etc., cannot win the competition. The best practice is to announce in the RFP that "Proposals must obtain 50 out of 75 points for Management to be considered acceptable. Proposals with fewer points will be eliminated from further consideration."

Care must be taken in setting upset levels. If you assign an upset level to each evaluation criterion or group, review these levels carefully before issuing the RFP. Otherwise, you may find that you have published the upset levels (and therefore cannot change them) and every proposal has failed to meet at least one minimum score.

The Entire Score

Upset levels can be applied to the entire score. Proposals obtaining less than 75% of the total available points will be eliminated from further consideration. This strategy ensures that only proposals judged as being "very good" will be considered.

EVALUATING THE COST

Evaluating the Cost

Cost is a significant, critical, and sensitive issue. In RFPs, the award is made on the basis of best score, that is, best fit with all the requirements including cost. It is never made solely on the basis of cost. So, the winner is invariably not the least cost proposal. Hence, the value of the contract is an easy target for the disgruntled. In these times of budget constraint and cutbacks, it's easy to politicize the process. In developing the RFP, always assume that your decision will be challenged, and prepare to answer questions such as: "Why did you select that proposal when the second place one was almost as good and cost \$200,000 less?"

There are several different approaches for incorporating cost into an evaluation. Whichever approach is used must reflect the priorities and the business case related to the project. Cost is almost always isolated from the technical and management parts of the proposal and submitted as a separate document. In many jurisdictions, the inclusion of any cost figures in the technical/management proposal is grounds for declaring the proposal non-compliant and eliminating it from further consideration. In this way, the Evaluation Team, which has been formed

to deal with functionality and other issues, is not tainted by knowing the costs of various proposals.

While cost is usually analyzed separately, there is communication between the Evaluation Team and the Financial Team to ensure that the tasks underlying the costs are reasonable. Often, the Financial Officer will attend meetings of the Evaluation Team to obtain a better understanding of each proposal's approach and to ensure that all cost items have been identified.

Cost usually means cumulative cost, a total cost of all related activities, goods and services. In some jurisdictions, they use life cycle costing based on a nominal period of five years. Life cycle costs may include the start-up costs associated with a particular approach as well as the "off-ramp" costs (the costs of leaving) at the end of the contract. In other jurisdictions, they determine the costs over the contract period. In still others, they use an 'evaluated cost' based on features and requirements.

Usually, RFPs provide detailed directions in terms of the cost proposal. Increasingly, they provide forms or spread sheets to be completed and submitted both in hard copy and on a disk.

Many organizations do not even open the cost proposal until an analysis of the corresponding technical/management proposal has been completed. It is becoming a common practice to review the cost proposals only for those suppliers whose technical/management proposals have been reviewed and found capable of potentially providing an acceptable solution. Here is the wording for this practice from Yukon's RFP guidelines:¹⁴

When the technical evaluation is complete, those proposals which meet or exceed the minimum acceptable score identified, will have the white, price envelope opened. Price will then be scored according to the evaluation criteria.

Price envelopes, for proponents who do not meet the minimum acceptable score, will be returned unopened.

Some organizations first ensure that the Technical/Management proposal has satisfied the mandatory requirements of the RFP. In other organizations, they evaluate the proposals and eliminate those which failed to achieve a pre-defined minimum technical/management score. (There are 700 points for technical/management factors. Those proposals scoring less than 700 will be deemed unable to satisfy our minimum requirements and will be eliminated from further consideration. For those proposals, the cost proposal will be returned to the supplier unopened. For those proposals scoring at least 700 points, the cost proposal will be opened and evaluated.)

Different Ways of Handling Costs

There are many different approaches to handling costs. Cost, as used in this section, means life-cycle costs: the total value of all costs associated with a proposal over the life of the contract or the life of the solution. Each different approach could theoretically yield a different “winner” from the same set of proposals.

The same proposal can “win” in one process, and not even be a serious finalist in another.

Approach 1: The Best Solution Within Budget. If you are looking for the proposal which provides the “best solution” within budget, determine the score for all the non-cost factors. Then select the proposal with the highest point score that doesn’t exceed the budget.

Approach 2: Cost is Just Another Evaluation Criterion. In this method, cost is simply another factor which is included in the scoring scheme. For example, cost could be assigned 20 points. Based on the particular scoring scheme, points would be assigned to cost for each proposal.

There is a significant argument raised by many jurisdictions against assigning points to cost. These entities argue that it is inappropriate and misleading to rely on a mathematical formula dealing with costs rather than a well-reasoned analysis. Here is how the Federal Transit Authority views this issue:¹⁵

The difficulties in trying to assign a predetermined weight to price and then scoring price proposals is that no one is smart enough to predict in advance how much more should be paid for certain incremental improvements in technical scores or rankings (depending on what scoring method is used). For example, no one can predict the nature of what will be offered in the technical proposals until those proposals are opened and evaluated. Only then can the nature of what is offered be ascertained and the value of the different approaches proposed be measured. It is against the actual technical offers made that the prices must be compared in a tradeoff process. Agencies cannot predict in advance whether a rating of “Excellent” for a technical proposal will be worth X\$ more than a rating of “Good,” or whether a score of 95 is worth considerably more or only marginally more than a score of 87. It is what is underneath the “Excellent” and the “Good” ratings, or what has caused a score of 95 vs. a score of 87, that is critical. The goal is to determine if more dollars should be paid to buy the improvement, and equally important, how many more dollars those improvements are perceived to be worth. It could well be that the improvements reflected in the higher ratings are worth little in terms of perceived benefits to the agency. In this case the grantee does not want to get “locked in” to a mathematically derived source selection decision. This may very well happen when price has been assigned a

numerical score and the selection is based on a mathematical formula instead of a well-reasoned analysis of the relative benefits of the competing proposals.

The calculation of a proposal's points for cost requires two components: as assigned weight to reflect the importance of cost, and an approach for calculating cost.

Assigning Weights. The importance of cost is reflected in the number of points or percentage of the total points assigned to cost. Clearly, the larger the percentage of points given to cost, the more it influences the decision. (When all of the requirements are mandatory, and cost is 100%, the RFP becomes an Invitation To Quote.) Cost seems to range from 25% to 60% in most RFPs. In some jurisdictions, the minimum weight is determined by Regulation. In others, it is determined by the Project Team. In Alaska, the minimum weight is sixty percent:¹⁶

Agencies are required to give a minimum weight of 60% for professional and non-professional services contracts, 75% for supply contracts, and between 60% and 75% for procurements involving a combination of both.

Determining the Score. There are several ways of determining the points or the score based on the costs of each proposal. If cost is included as one of the evaluation criteria, then we require some way of translating the dollar amount into a score. Suppose cost has been assigned 50 evaluation points out of a total possible score of 200. How many points does each proposal get? How are they calculated?

Here are three techniques that are commonly used. The first is based on the ratio of costs of each proposal to the least expensive one. The second is based on the relative differences in costs among the proposals; the third, on an interval scale. In establishing a costing procedure care must be taken to ensure that an artificially low price can be accommodated as some bona fide suppliers may submit a low bid to obtain the work.

For each of these examples, let's assume we have three proposals each with a different cost: A costs \$300,000; B costs \$250,000; and C costs \$275,000. Let us also assume that cost is worth 100 points.

Ratio of Costs

Using the first method, the vendor with the lowest cost proposal receives all 100 available points. All other vendors would receive a smaller number of points as determined by the ratio of their costs to the least expensive proposal.

Proposal	Cost	Calculation of Points	Points
A	\$300,000	$(250,000/300,000) \times 100$	83
B	\$250,000	$(250,000/250,000) \times 100$	100
C	\$275,000	$(250,000/275,000) \times 100$	91

Differences in Costs

The points are based on the differences in costs. Using the same data, we first determine the difference in cost between the least cost proposal and the one under consideration. We then express this difference as a percentage of the lowest cost proposal.

Proposal	Cost	Calculation of Points	Points
A	\$300,000	$100 - (300,000 - 250,000)/250,000 \times 100 = 100 - 20$	80
B	\$250,000	$100 - (250,000 - 250,000)/250,000 \times 100 = 100 - 0$	100
C	\$275,000	$100 - (275,000 - 250,000)/250,000 \times 100 = 100 - 10$	90

Points per Interval

In this method, all proposals within the same range of costs receive the same number of points. For example, those within 10% of the lowest price, receive 100% of the points. Those proposals whose costs are between 10% and 15% greater than the lowest cost receive 80% of the points. Between 16% and 30% greater, 60% of the points.

Proposal	Cost	Calculation of Points	Points
A	\$300,000	Difference: \$50,000 Percentage Premium: $50,000/250,000$ (20%)	60
B	\$250,000	Lowest cost receives all the points.	100
C	\$275,000	Difference: \$25,000 Percentage Premium: $25,000/250,000$ (10%)	80

Approach 3: ‘Bang for the Buck’. In this approach, we use the concept of value - points per dollars. Each proposal is evaluated and a score established for it. The score excludes any considerations of cost. Once this has been completed, the Total Score for each proposal is divided by the Total Cost to obtain a “points per dollar” measurement of the proposal. The Proposal with the greatest “points per dollar” represents the greatest value and is selected. Cost is usually the life-cycle or total contract cost.

Let’s assume that for Proposals A, B, and C, the scores for the technical/management parts were 650, 730, and 800 respectively. Now let’s look at the calculation:

Proposal	Cost	Technical/Management Points	Value Points/\$
A	\$300,000	650	$650/300 = 2.17$
B	\$250,000	730	$730/250 = 2.92$
C	\$275,000	800	$800/275 = 2.91$

Using this approach, proposal B would be selected as it provides the greatest value.

Approach 4: Two Steps - First Merit, Then Cost. This approach represents a workable trade-off between the often divided members of the Evaluation Committee. Typically, the technical people want to select the proposal with the strongest technical appeal, regardless of the cost. The finance people, on the other hand, are not terribly concerned with the technical issues and simply want to spend as little as possible. They often think “least cost” and forget that this is an RFP process.

Also, senior management often focuses on budget. They question selecting the most expensive proposal. It is awkward and difficult to explain to a senior manager or a politician why you didn’t select Proposal D over proposal A. Proposal A got 86 points and costs \$250,000. Proposal D got 82 points and costs \$200,000. What did you get for the extra 4 points? Is it worth \$50,000 which could be applied to a currently unfunded high visibility project?

Identify Acceptable Proposal

In this two step approach, we first evaluate the merits of each proposal (but not cost). The Evaluators eliminate any proposals which do not satisfy the organization’s mandatory requirements. A mandatory requirement may be the ability to service 500 user terminals concurrently, or the ability to provide a particular set of applications programs. Each of the remaining proposals is evaluated and a score established for the technical and management parts. We now have a table of proposals and their technical and management scores:

Proponent	Technical & Management Score
Company A	86
Company B	75
Company C	70
Company D	82
Company E	65

In discussions with the technical and management stakeholders, they agreed that any proposal scoring more than 72 points was capable of satisfying their requirements. Now that knew that a 90 point proposal would be superior to a 75-point proposal, but they were prepared to

accept anything above a 72. This agreement was reflected in the RFP which stated that any proposals scoring less than 72 points would be judged as not capable of providing an acceptable solution and eliminated from further consideration.

On this basis, Company C and E were eliminated from further consideration. The remaining three proposals were deemed as potentially acceptable.

Select the Least Cost Proposal

The cost for each of the remaining proposals was then established.

Proponent	Technical & Management Score	Cost
Company A	86	\$250,000
Company B	75	\$225,000
Company C	70	xxx
Company D	82	\$200,000
Company E	65	xxx

The selection is made on the basis of least cost. That is, select the proposal which was acceptable based on the technical & management score and costs less than the others as determined by the life-cycle cost.

In this analysis, D is the winner. It was acceptable based on the evaluation of the technical and management factors. And it costs the least of all those that were acceptable.

DEVELOPING A SHORT LIST

Develop a Short-List

After an evaluation score has been determined for each proposal, this step is used to reduce the number of proposals to be evaluated in subsequent steps.

Consider the following illustrative example. Eight proposals were evaluated and the following scores were assigned: 82, 80, 78, 72, 65, 63, 50, 48.

We now wish to develop a short list. Let's first divide the scores into groups. A group consists of proposals with similar scores. The first group could be 82, 80, 78. There is some question as to which group the proposal scoring 72 should be in. It is always easier to justify keeping a proposal in the competition than disqualifying it. Since 72 is mid-way between 78 and 65, let's put the proposal with 72 in the first group. The next two groups are easier: one being 65 and 63; the other, 50 and 48.

If we want to keep lots of proposals in the competition, we could

eliminate only the lowest group: 50 and 48. If we want fewer proposals, we could eliminate the middle group as well: 65 and 63.

It is neither fair nor defensible to eliminate a proposal that scored better than one that has been kept in. For example, we cannot drop the proposal with the score of 72 if we keep the one with the score of 65. If the proposal with the score of 72 was clearly inferior to the proposal with the score of 65, then our evaluation process was flawed. The proposal with the score of 65 is in fifth place and, most likely, there is little chance that it will emerge as the winner. If it becomes necessary to disqualify this proposal, we have to find some other way of doing it. In some jurisdictions, each major criterion has a lowest acceptable score that must be exceeded to remain in the competition. (See Upset Levels.)

In some jurisdictions, the Evaluators are not strictly bound by the point scores. The Project Manager has the discretionary power to declare whether a one or two point difference in scores represents a significant difference in quality of the proposed solutions.

This short-listing process produces a reduced number of proposals to be evaluated further.

INTERVIEWING SUPPLIERS

Interviewing Suppliers

This step usually occurs after the initial evaluation. The interview may, in fact, be a presentation, a demonstration of software, or a question and answer session.

During these sessions, information is obtained to clarify the supplier's proposal but not to modify the proposal. These sessions are not an opportunity for the purchaser to change the requirements or the RFP terms, or for the supplier to submit major modifications. They are not a negotiation session. (Negotiation is often part of Best and Final Offers. See Section 8.8.)

Sometimes, the sessions are simply to clarify information and to permit the evaluators to complete the scoring of the written RFP. Other times, these sessions are scored as a separate part of the evaluation. Whether or not a score is assigned, a face-to-face encounter with supplier personnel or a demonstration of a system often results in significant changes in scoring.

Presentations provide an opportunity to meet the supplier personnel, to assess their professional and inter-personal skills, and to clarify the proposal. Often, face-to-face presentations add an important dimension to the evaluation process. Sometimes, the presentations provide critical information not readily available or easily determined from a written

proposal. For example, the project manager from one of the vendors may, in discussing the details of the proposal, demonstrate a depth of knowledge and experience that far exceeds the description in the proposal. Alternatively, presentations provide some suppliers the opportunity to show how little they know about certain specific aspects of the project.

The Procurement Officer should prepare an agenda for the presentation outlining the objectives of the presentation and any specific requirements. All shortlisted proponents should be given a copy of the agenda far enough in advance to allow them to prepare properly. A set of evaluation criteria should be prepared (prior to issuing the RFP) in order to evaluate the presentations (if a score is assigned to them).

Some jurisdictions revise or finalize the scores based on the information and clarifications provided during the vendor presentations. In some jurisdictions, the presentation itself is given a score. Other jurisdictions only score the presentation when presentation skills are an important factor in the work; for example, if you are selecting a communications firm to present a new project to the public.

Notes should be taken during the presentations, and/or written responses obtained from the proponents. The notes may become part of the documentation supporting the final selection decision. In some jurisdictions, the sessions are recorded.

Here is the advice offered in Guidelines from B.C.:¹⁷

Presentations and short-lists

If the intent is to create a short-list and invite proponents who make the list to deliver a presentation this should be clearly explained and should match information already provided to proponents in the section on "Evaluation and Selection". Proponents must be made aware in the Request for Proposal whether:

- a) an additional set of marks is available for presentations;*
- b) marks for the presentation form part of the original 100%; or*
- c) presentations will be used to support the evaluation of the information contained in the proposal.*

Here's how these face-to-face encounters are structured in several different jurisdictions.

Clarification Meetings

Massachusetts(procedures manual discusses several key aspects of clarification meetings:¹⁸

If a procuring department requires a clarification of a particular section of a response from a bidder, the procuring department must provide the same opportunity for clarification of the identified response section to all

bidders that submitted responses. Sometimes this opportunity is provided during oral presentations when bidders can be asked specific questions about their responses. If oral presentations are not conducted, all bidders who submitted responses must be provided with notice of an opportunity to clarify the identified section in the RFR.

This situation may arise when a review of responses reveals that a section of the RFR was unclear and several bidders misunderstood what was intended. Ambiguities are usually identified during the RFR inquiry period, but if there was no inquiry period, or if the ambiguity was not identified during the inquiry period, the PMT may choose to amend the RFR to clarify the section and all bidders who submitted responses should be given the opportunity to revise their responses on that section of the RFR. A department will not be expected to go through the extra work to clarify the RFR if only one bidder misunderstood the RFR or if the ambiguity is not a material element of the procurement.

No correction or clarifications of response prices, terms and conditions or the submission of supplemental information prejudicial to the interests of other bidders or to fair competition shall be permitted. Departments and PMTs must be careful to protect the integrity of the competitive procurement process by treating all bidders fairly and equally during the procurement process.

Oral Presentations

Utah's guidelines for structuring presentations help to ensure that all suppliers are treated fairly:¹⁹

12. Oral Presentations

To properly evaluate many service procurements, an offeror's proposal may need to be clarified. Oral presentations are then scheduled to answer questions by evaluation committee members. The offeror's original proposal cannot be changed in any aspect at the oral presentation. The oral presentation is only to allow offeror's to clarify portions of their proposal.

Once again, the discussion from Massachusetts is easy-to-understand and provides some insight into the value of these sessions:²⁰

Oral Presentations or Demonstrations

Oral presentations are an optional phase of the evaluation process. Oral presentations provide an opportunity for bidders to highlight the strengths and unique aspects of their responses and provide answers to questions regarding their responses. If a department intends to offer the opportunity to give oral presentations as part of the evaluation process to some or all of the bidders, it should clearly state so in the RFR.

Oral presentations are generally scheduled after the initial determination by the department of which responses met the minimum submission

requirements. If they choose, departments have the option to limit the invitation to make oral presentations to the top ranked bidders only.

Departments are responsible for conducting oral presentations in a manner that is fair. The time allotments and format should be the same for all presenters; however the location, dates and times for presentations are at the discretion of the department. The oral presentation is not an opportunity for bidders to submit new information or modify an already submitted response; rather, the purpose is to clarify issues that would enable departments to better understand and evaluate responses. Oral presentations and demonstrations are particularly helpful in bidder evaluations when the RFR is for complex services, a large information technology procurement or when a solution-based RFR has been issued.

The Procurement Team Leader may waive the location and other requirements of an oral presentation upon the written request of a bidder due to special hardships, such as a bidder with disabilities or limited resources. In these circumstances the PMT may conduct oral presentations through an alternative written or electronic medium (e.g., telephone, video conference, TTY or Internet). A bidder's failure to agree to an oral presentation may result in disqualification from further consideration. Oral presentations may be recorded manually or electronically by the department as a matter of public record.

Demonstrations

The text which follows is an excellent example of a description of the demonstration phase as contained in an RFP:²¹

Demonstration

At the conclusion of the oral interviews a time and location will be arranged for the live system demonstration(s) . The offerors with the highest ratings after the oral interviews will advance to the third and final phase of the evaluation process. This demonstration must take place in Anchorage within 10 working days after the interview data.

The selected finalist(s) will present a two (2) day demonstration of their system in action. The demonstration will consist of three steps:

The points to be awarded for each section based on the following evaluation criteria:

A. Day one. 300 points

Structured examples of system transactions will be performed. The specific steps to be performed will be provided by SEF. The vendor will be required to perform a set of transactions. Batch processing will be run, and a bill produced. No deviation from the structured performance will be allowed at this time. Questions from state observers will be held to a minimum. The points will be awarded based on the following criteria:

- can the software perform the assigned tasks 100 points*
- how well the task is performed by the software 100 points*

- subjective assessment of general overall system; ease of use, logic in formats and design. 100 points

B. Day two. 100 points

Prepared Demonstration by the Vendor. The vendor will be given 90 minutes to demonstrate key features of their applications in any format they desire. No questions from state observers will be allowed during this phase.

Points to be awarded on the basis of how well demonstrated features apply to this RFP(s requirements and the state(s need in facilities and equipment management.

C. Day two. 300 points

Question and Answer period, with hands on use of system by state observers. State personnel may address questions to the vendor at this time relating to function of specific application features. The availability of multiple terminals during this phase is desirable.

In order to minimally impact the on-going work of DOT&PF employees, the demonstration shall take place in an environment outside the DOT&PF facilities. The vendor shall schedule the demonstration in Anchorage. The vendor shall make all necessary preparations in advance. The vendor should plan on up to 30 observers and should ensure adequate seating and viewing capabilities.

NEGOTIATING THE CONTRACT

Negotiating the Contract

Procurement people, especially inexperienced ones, find negotiations difficult, seemingly complex and often intimidating. However, negotiations are an integral part of the RFP process. The simple act of adding a negotiations step to your evaluation process will reduce the risks of failure, improve the quality of the proposals, improve your understanding of the proposals, and, in many situations, lower the price. This step invariably costs little yet provides much value.

With all these benefits, you'd expect negotiations to be greeted with enthusiasm. This is often not the case. Many agencies have only recently discovered the power of using RFPs instead of bids. Even fewer agencies build competitive negotiations or best and final offers into their processes

Most publications about RFPs deal only briefly with competitive negotiations, often in the context of Best and Final Offers. Sometimes, this step is omitted in a description of the RFP process.

There are several seemingly valid reasons for this oversight:

- Few people understand the role of competitive negotiations in the

RFP process.

- This process is ignored by many agencies.
- Many procurement people are unaware of this tool.
- Little training is provided for this skill.
- A majority of procurement people do not like to negotiate.
- In some jurisdictions, the laws do not permit or are interpreted not to permit negotiations.

When competitive negotiations are used, they produce revised proposals. Often these revised proposals are submitted as “best and final offers”. In some jurisdictions, such as Idaho, negotiations are conducted as the final step in the procurement process and lead not to a revised proposal but to a contract.

In the remainder of this section, we provide some basic information and several views of this building block:

- We discuss legal and policy considerations from the perspective of the Model Procurement Code.
- We introduce a buyer’s perspective. Negotiations can be scary.
- We discuss the negotiation process.
- We look at this building block as it is practiced.

Legal and Policy Considerations

In the beginning, there was the Model Procurement Code.

Public sector procurement is subject to many different, often confusing, statutes, regulations, policies and guidelines. The fundamental purpose for this body of rules and expertise is to ensure that competition thrives in a fair and equitable environment - to provide a level playing field and ensure that value is received for taxpayer dollars.

Unfortunately, negotiations are also subject to confusing rules, policies and laws. It is one of the most poorly understood elements of public procurement. In 1979, the American Bar Association introduced its Model Procurement Code. At the time, this was a groundbreaking document. Since then, the MPC has had a profound influence on public sector procurement. Unfortunately, the original MPC spent little time on negotiations. It only provided a few words of direction on the subject. Recently, a revised MPC was issued. However, the negotiation section was virtually unchanged. Here is what it said:²²

Discussions with Responsible Offerors and Revisions to Proposals. As provided in the Request for Proposals, and under regulations, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion

and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

The Commentary section also remained unchanged:

- (1) Subsection (6) provides the procurement official an opportunity to make certain that offerors fully understand the solicitation requirements and provides offerors an opportunity to clarify proposals where necessary so as to assure responsiveness to the solicitation. Price discussions can best be conducted when there is a mutual understanding of the contractual requirements. Clarifications are intended to promote exchanges between the [State] and an offeror that may occur when an award is contemplated without discussions, for example, to resolve minor or clerical errors or ambiguities in proposals.*
- (2) When discussions or negotiations are contemplated after the receipt of proposals which are expected to lead to the revision of proposal or to best and final offers, fair and equitable treatment of competitors dictates that negotiations be conducted in accordance with ethical business standards. Auction techniques shall be prohibited in discussions with offerors under the competitive seal proposal method. There must be a cut-off for the submission of revised proposals and final offers.. Both Subsection (4) and Subsection (6) are intended to provide that prices; technical solutions; unique technologies; innovative use of commercial items, design construction, or operating techniques; or other aspects of proposals submitted by one offeror must not be disclosed to competing offerors. Safeguards against abuse in the conduct of negotiations must be strictly observed to maintain the essential integrity of the process. Procedures should be specific in regulations in order to achieve these objectives.*

The private sector is not subject to the same policies, laws, and regulations. Their negotiation strategies can incorporate auction techniques, unequal treatment, and disclosure of information about competing offers - all prohibited in the public sector.

The 1979 Model Procurement Code set the direction for public sector negotiations. Since then, some of the concepts have evolved and new procedures have been tried

Defining the Terms of Reference

Before we can even discuss this topic, we have to agree on some definitions. Now most people understand the meaning of “negotiate”, “clarify” and “discuss”. However, these terms have specific meanings related to procurement. These meanings are more legalistic and

somewhat different than the day-to-day usage.

In most jurisdictions, “*Clarify*” is used to indicate that the offeror will have the opportunity to remove minor errors or provide additional information to resolve ambiguities. A clarification is not a major revision to the proposal. So, when you clarify, you fix the small stuff. This fundamental aspect seems clear and has been adopted in many jurisdictions.

In writing the commentary on this issue in the Model Procurement Code, the lawyers do their best to make this simple concept difficult to understand. If you carefully analyze the words, you will conclude that they intended that “clarifications” be an exchange of information between the buyer and offeror to resolve minor or clerical errors or ambiguities in proposals. And that “clarifications” are *not* “negotiations”.

Alaska has found some words which explain this concept in a simple and straightforward manner:²³

During the evaluation process, the procurement officer or the PEC may communicate with an offeror to clarify uncertainties or eliminate confusion. This communication may not result in a material or substantial change to the proposal, but it may result in an adjustment to the procurement officer or PEC's evaluation.

In California, they've defined the term formally:²⁴

Clarification: Discussions of a solicitation response with a supplier that may eliminate minor administrative or other irregularities, informalities or apparent clerical mistakes and that can be achieved by explanation or substantiation. Clarification does not give the supplier an opportunity to revise or modify its solicitation response except to the extent that correction of apparent clerical mistakes results in revision.

Massachusetts has provided some direction in their Procurement Handbook to ensure that departments will permit corrections and clarifications, to ensure that all the suppliers are treated fairly and equally, and to ensure that a “clarification” does not become a material revision to the proposal:²⁵

- ... a procuring department has full discretion of determine whether to allow a response correction or clarification . . .
- ... the procuring department must provide the same opportunity for clarification of the identified response section to all bidders that submitted responses..
- ...No correction or clarification of response prices, terms and conditions or the submission of supplemental information prejudicial to the interests of other bidders or to fair competition shall be permitted....

“**Discuss**” is often used in procurement documents instead of “negotiate”. This confusing use of “discuss” can be traced to the Model Procurement Code’s phrase “discussions or negotiations”. In many places, “discuss” means “negotiate”.

“**Negotiate**” is used to describe the bargaining process when the buyers and offerors sit down and review the proposal. Usually, these discussions lead to a better understanding by both parties and the submission of a revised proposal.

There are several concepts embedded in “negotiations”.

First, it is bargaining. Here is the definition used in California:²⁶

Negotiation: The act of communicating with a supplier orally or in writing for the purpose of determining the acceptability of a supplier's bid, as permitted by law. May provide the supplier an opportunity to revise or modify its price as the result of discussions where it benefits the State to accept a different firm offer from the supplier.

Second, the bargaining is not done with all offerors but with those likely to be selected for award:²⁷

Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for award.

Third, all offerors must receive fair and equal treatments. So, if you negotiate with one, or “hold discussions”, you must do it with all who are similar:²⁸

The procurement officer or PEC may give offerors whose proposals are reasonably susceptible for award the opportunity to meet with the procurement officer or PEC, as set out in 2 AAC 12.290. If you hold discussions under 2 AAC 12.290 you must offer an opportunity to participate in the discussions to all those deemed reasonably susceptible for award.

Negotiations can be far-reaching. In many jurisdictions, you can negotiate anything in the RFP or proposal that improves the value to the State. Typically, you cannot negotiate changes to prescribed contract terms and conditions, or expand the scope of the RFP.²⁹

Negotiations Can be Scary

In some organizations, negotiation is regarded as the poor, neglected step-child of the RFP process. The reasons for this are related more to psychology than RFPs or procurement:

1. Many procurement people receive little if any training.

They aren't taught how to negotiate; they don't know about tactics; they don't structure an effective process; they lose control of the meetings. Lack of training usually carries with it lack of confidence and, therefore, avoidance of the process.

2. The supplier is better prepared.

Most procurement people "own" the process. They aren't the subject experts. The supplier is the expert about the product and service, and has an inherent advantage. Also, suppliers are extremely knowledgeable about contract issues related to their products, service and industry. Many procurement officers have sat in a meeting and concluded that the supplier's team is much more knowledgeable about the details of the implementation, the risks, the negotiation process and contract issues than the buyers. Lack of a knowledgeable negotiation team is a barrier to effective negotiations and erodes the confidence of the procurement person managing the process.

3. Roles and responsibilities are poorly defined.

Often the buyers' team is unsure of its role. How much authority do they really have? Can they end negotiations due to an impasse and will their senior management support them? Or will senior management override their process and decisions? Are they acting within the law? Often, the negotiation team doesn't know how to treat the suppliers, as an adversary or as a potential partner?

4. Many people find negotiations awkward.

As individuals, many of us regard face-to-face discussions to resolve differences as difficult and awkward. Many people simply do not like to negotiate, whether it's a major contract or purchase of a new car. They find the process intimidating, and somewhat unseemly or demeaning. They don't see negotiations as an important part of a process - one designed to acquire "best value" in a fair and open manner.

All of these shortcomings related to lack of training, lack of confidence and lack of an effective process can be overcome.

Negotiations are valuable. They do much more than provide lower prices. The Victoria Government Purchasing Agency has a great perspective on negotiations:³⁰

Post tender competitive parallel negotiations with two or more short listed tenderers is a purchasing strategy that provides substantial benefits to both buyer and seller and is usually used for high value and/or complex acquisitions. The objective is to seek the optimal solution and commercial arrangements, and not merely accept the lowest priced technically

complying offer made at the time of tendering. This technique also maintains a competitive market situation throughout the evaluation process which sustains purchasing leverage . . .

There are many solid reasons for negotiating changes to suppliers' proposals:³¹

- *increase the number of complying offers (providing greater competition)*
- *reduce risk to both parties*
- *eliminate unnecessary costs*
- *reduce costs*
- *improve benefits (better quality, performance, delivery etc.)*
- *identify alternative solutions*
- *clarify requirements and proposals*
- *create better understanding and relationships between the parties*
- *improve the contract*
- *improve the tender bid*
- *opportunities for partnership*

The Negotiation Process

By this point in the RFP process, most of the work has been done. You've worked with the user group to develop specifications; you've written a procurement plan; the RFP has been issued and proposals received. You've done most of the evaluation and all that remains is to negotiate the final details with, at most, a few suppliers.

The negotiation process is similar in many different jurisdictions. Typically, as part of the evaluation, the strengths and weaknesses of each proposal are identified. Clarifications of ambiguous or omitted terms have been received. Based on this information, the offers are divided into two groups: those within the competitive range and those outside the competitive range. All those inside have been judged as capable of providing an acceptable solution.

Now its time to negotiate. You prepare a negotiation plan, and identify the negotiating team and each person's role in the process. You then meet with the offeror to discuss their proposal, to seek a common understanding of the problems and issues, and to resolve disagreements. Usually the discussions are documented and to formalize the results, you call for a best and final offer. This permits each of the suppliers with whom you have been negotiating to submit a revised proposal. In some organizations, the request for best and final offers follows a written notice from the buyers about deficiencies and concerns in the original proposal.

Abermarle County (VA) has developed an 8-page guide for its procurement people describing the procedure for conducting negotiations:³²

The following are general guidelines for conducting negotiations, during which the selection committee should:

Control: Control all discussions.

- *Identify deficiencies: Advise the vendor of deficiencies in its proposal so it has the opportunity to satisfy the RFP's requirements. (See section 16-8 below)*
- *Resolve uncertainties: Attempt to resolve any uncertainties concerning the technical proposal and other terms and conditions of the proposal. (See section 16-8 below)*
- *Resolve mistakes: Resolve any suspected mistakes by calling them to the vendor's attention as specifically as possible, without disclosing information concerning other vendors' proposals or the evaluation process. (See section 16-8 below)*
- *Opportunity to revise: Provide the vendor a reasonable opportunity to submit any cost, price, technical or other revisions to its proposal that may result from the interviews (goods or nonprofessional services only).*
- *Cost or price: Inform a vendor that its cost or price is considered to be too high or unrealistic (goods or nonprofessional services only).*

Negotiation is a four step process:³³

1. Preparation
2. Fact Finding
3. Bargaining
4. Agreement

In many jurisdictions, negotiations are not restricted. Any element of the procurement can be negotiated so long as in doing the review, all offerors are treated in a fair and equal manner. However, radical changes in scope can end in litigation initiated by aggrieved suppliers.

In California, their Acquisition Manual sets the scope of negotiations:³⁴

Negotiations are conducted on all procurement transactions as permitted by law and when practical, as determined by the Buyer (and the Buyer's management). . . Negotiations may address all aspects of the anticipated contractual arrangement (or change) including technical requirements, contract terms and conditions and/or price. . .

Only people with training and experience in negotiations should lead these efforts.

1. Preparation

Preparation involves assembling a negotiation team, knowing the details of the proposal being considered, and establishing the boundaries of an acceptable agreement. The team, in turn, identifies a negotiation strategy

and objectives, and develops a negotiation plan.

Usually, negotiations are conducted by a team consisting of user representatives, technical specialists, sometimes a lawyer, and a procurement officer.

As part of the pre-negotiation preparation, before meeting with any offer, the team has to do its homework. It has to develop a complete understanding of the contractual requirements and the offerors response in its proposal, a unified team approach to various topics, and a position from which to negotiate. The team usually identifies its negotiating objectives and a minimum and maximum limit for each objectives.

All of this information is often incorporated into a Negotiation Plan - a written document prepared by the chief negotiator describing the objectives for the negotiations and the corresponding rationale.

In developing a Negotiation Plan, the following questions should be answered:³⁵

- With whom am I negotiating?
- What are the key issues?
- What am I trying to accomplish?
- What are the strengths, weaknesses and deficiencies of the proposal?
- What is the negotiating environment?
- What is the negotiating process?
- What information do I need?
- What is my negotiating strategy?
- How will the agreement be reached?
- How will the agreement be implemented?

2. Fact finding

Fact finding is when each side asks questions to ensure that they share a common understanding of the requirements, RFP, and the offer. It is to obtain both clarifications and additional information on issues of concern to either party. At the end of this phase, both parties should agree on the specifications, requirements or statement of work.

3. Bargaining

This is the difficult step. It is during the bargaining phase that each party puts forward its negotiating positions and seeks resolution of disagreements. Usually, the agenda is set by the chief negotiator and often deals with the most important issues first.

There are many different tactics which can be employed during this process. Some are ethical, others are borderline. Some are dangerous and can jeopardize the process. These tactics are available to both sides and

astute negotiators quickly recognize their use and diffuse their effectiveness. Tactics include the classical “good guy/bad guy” routine; intentionally delaying the process; claiming a lack of negotiation authority, and bluffing.

Price is always an issue in negotiations. Often it is the most important issue and sometimes it is the only issue. Many procurement officials, especially in smaller agencies, are at a disadvantage when they negotiate. They think it is somehow wrong to challenge prices, or for a supplier to set prices to generate large profits. These buyers are not effective as negotiators. Here is the advice that Victoria Government Purchasing Board gives to all procurement officers in their government:³⁶

Price is an obvious focus for tender negotiations. However, it should not be regarded as unethical for a buyer to challenge the prices quoted. It is not immoral or wrong for a supplier to price a bid to the highest level which the market or purchaser can withstand. The seller has a responsibility to maximise company profits and departments have a corresponding duty to minimise cost/expenditure to an extent compatible with the purchase of a reliable product and/or service. Price negotiation should be done in a professional, objective and forthright manner.

Conducting negotiations is a vast topic addressed by books, articles, training courses, professional associations. Treatment of this topic in more than a cursory manner is beyond a text dealing with RFPs. As an illustration of some of the factors and issues that may arise in conducting negotiations, consider the following list of good negotiating tactics:

Conducting Negotiations³⁷

- *Aim for a good result for buyer and supplier.*
- *Agree on the issues and the way to proceed.*
- *Maintain confidentiality and treat suppliers fairly.*
- *Be careful about using tactics which may undermine your own negotiating position.*
- *Ensure the bidder is fully aware of, and understands, the real requirements.*
- *Ensure that the competitive element is maintained whenever possible, e.g. that inappropriate information regarding the contract or order is not revealed to other competing parties.*
- *Do not give the supplier the impression that the contract/order is a certainty.*
- *Maintain an ethical approach according to the standards of conduct both expected by and required of you.*
- *Ensure your overall strategy is flexible and adaptable to changing circumstances, but seek to settle differences within your team outside the negotiation venue.*

- *Behave so that ways exist for both sides to reach agreement without loss of face.*
- *Aim to use negotiating techniques which better enable you to find common ground with the other party, e.g. discuss the argument/rationale both for and against the views adopted by either party on a particular issue. This approach can help in more easily obtaining all the relevant facts, considering all available points of view, and providing a summary of views.*
- *Recess to caucus when the team needs to confer privately.*
- *Be open-minded and make concessions when good reason exists to do so.*
- *Look for long-term consequences.*
- *Use standard forms of agreement whenever possible. Where they are modified or new clauses written, legal advice may be necessary to ensure the changes achieve the intended results. Ensure changes are considered in the light of the whole document.*
- *Be careful not to reject offers which you may wish to accept later.*
- *Make clear that negotiations are 'subject to contract' until you are ready to commit your organisation.*
- *Ensure that the essential terms have been actually agreed to and entered into the contract document.*

4. Agreement

Once the major issues have been negotiated and resolved, the details usually fall into place. And once there is agreement on all the items, the negotiations are concluded and the contract signed.

Upon completion of negotiations, the chief negotiator writes a Negotiation Memorandum which often contains the following:

- *Identification of the proposal and the players*
- *Summary of the negotiation objective, results, and the proposal*
- *Important details for each negotiated item*

In some jurisdictions, the final step after completing negotiations is for the offeror to modify its proposal - in essence, to submit a Best and Final Offer. This revised proposal is then given to the evaluators so they can prepare their final report.

Bridging the Gap³⁸

Consider this example - you receive three proposals for the county enterprise financial system:

- Proposal A meets or exceeds all of the stated requirements and has most of the desired optional features but is \$250,000 over budget.

- Proposal B meets all of the stated requirements, a few of the desired optional features and is within the program budget.
- Proposal C meets most of the stated requirements, a few of the desired optional features and is half the price of its nearest competitor.

What do you do? Score the proposals, using your handy-dandy price formula and award the contract? Big mistake! Proposal A is obviously the best alternative but it is too expensive. Proposal B is probably OK but it represents old technology. Proposal C misses the mark but it will leave money in the budget for consultants to fix it.

Many procurements officers ignore one of the most important features of the RFP process, NEGOTIATION! If you are not negotiating, you are not taking advantage of the RFP process.

The term “competition negotiation” became part of the Armed Services Procurement Act of 1984 as “competition proposal”. One of the key features of the RFP process is our ability to negotiate proposal revision.

The American Bar Association Model Procurement Code for State and Local Governments is the foundation for many state and local government procurement codes. Model Procurement Code RFP process permits discussions and best and final offers. The NIGP Dictionary of Terms defines “discussions” as “an oral or written exchange of information, other than simple clarifications, for the purpose of obtaining information essential for determining the acceptability of a proposal, or to provide the offeror an opportunity to revise its proposal. Discussions are negotiations and negotiating is bargaining to reach mutual agreement.

There are some important rules for negotiating. Negotiations must be fair, allowing all offerors who are in the competitive range or reasonably susceptible for award to participate. Avoid revealing details from competing offers. Point out all significant weaknesses to each offeror and encourage improving the offer. Avoid auctioning techniques to make all offers equal.

Negotiations are not easy. They require planning and patience. Let’s set up a negotiating strategy for our three proposals:

Proposal A meets or exceeds all of the stated requirements and has most of the desired optional features but is \$250,000 over budget.

Although it exceeds our budget, it appears to be our best proposal. The purpose of the RFP process is to award the contract to the most advantageous offer. This could very well be it! When negotiating, we should tell the offeror that its proposal exceeds budget and discuss methods for reducing the price, without sacrificing any required or highly desired features. If all else fails we might seek more money.

Proposal B meets all of the stated requirements, a few of the desired optional features and is within the program budget. This proposal meets our current requirements but represents old technology that may be obsolete in a few years. We may want to seek some assurance that the contractor will provide maintenance and upgrades for ten years and customization, additional options and other features and price concessions.

Proposal C meets most of the stated requirements, a few of the desired optional features and is half the price of its nearest competitor. This offer may be well be not susceptible for award. It does not meet our minimum requirements and has few desired options. Chances are, the offer cannot be improved enough to win the contract. If we choose to negotiate, we have a lot of work to do. We need to point out all significant weaknesses and recommend improvements. We should also encourage additional desired options.

Best and final offers or final proposal revisions come after, repeat, after negotiations. This is the formal process for obtaining written confirmation of the discussions. This is our “meeting of the minds”. Once we receive the best and final offers, we can return the proposals to our evaluation committee and let them recommend the most advantageous offer.

Do's and Don'ts

There are some do's and don'ts to competitive negotiations:

Don't negotiate with just one offeror, unless you have no reasonable choice. Competitive negotiations require competition. To be fair, we should negotiate with all offerors who are susceptible for award or are in the competitive range.³⁹

Don't negotiate with offerors who are not susceptible for award. Negotiations should be efficient. Don't waste the valuable time of your negotiators and evaluators. Release the unacceptable offerors to seek other business opportunities.

Do negotiate to improve weaknesses but don't compare details from each proposal. Our goal is to help each offeror meet our requirements, not to match up with a competitor.

Do appoint a negotiation team. Evaluators evaluate and negotiators negotiate. Assemble a competent negotiation team with technical advisors. The team leader should be a skilled and competent procurement negotiator.

Do plan the negotiation strategy. Identify weaknesses and desired characteristics. Study your offerors and identify their needs. Hint: Money is not the only motivator for prospective contractors. Understand

the environment. The more you know, the better you will do.

Don't try to negotiate the same things with each offeror. Each proposal is different and demands a different negotiation strategy. Discuss price only when price is a weakness. In many situations, we can expect price to climb as we negotiate to improve weaknesses.

Do keep good notes. It is acceptable to request the contractor take notes, for approval by the government negotiators.

Don't lose control of negotiations. Appoint a competent and skilled negotiation team leader. Negotiate in government offices. Regulate team dialog. Don't join prospective contractors for lunch or drinks. This is business.

Do negotiate for mutual understanding and "win-win" solutions.

Don't negotiate if you don't need to. If you number one offer meets government requirements and does not require improvements, leave it alone and award the contract.

Don't issue "Surprise BAFO's". The Best and Final Offer should only be requested after negotiations are done.

We are just scratching the surface. This article is not the consummate guide to government negotiating. If anything, this article should make you curious and encourage you to become a good negotiator. There are many good negotiation books and workshops.

Please remember, if you are just evaluating proposals and awarding contracts, without negotiation, you are only doing half the procurement. Negotiations bridge the gap between what the government requires and what to offeror proposes.

REQUESTING BEST AND FINAL OFFERS

Requesting Best and Final Offers

According to the procurement people in New Mexico, "The best and final offer step has produced some truly amazing results over the years saving the State literally millions of dollars."

The RFP process is highly flawed. Buyers issue documents that often provide a distorted, incomplete, or inaccurate description of the problem. This is not their intention but simply the result of many different people trying to describe a complex requirement or a difficult problem. Suppliers then take this information and interpret it in the light of their own knowledge and product offerings and develop their proposals.

Our evaluation processes attempt to compensate for these systemic

problems by basing the award on a number of factors: not simply the least cost, nor only the best project management plan, nor just the best technical solution. We combine all of these factors so that we often award the contract on the basis of *least apparent risk*. The winning proposal often does not represent the best value but rather the proposal with the fewest “holes”, the fewest ambiguities, the fewest weak sections. In short, the proposal that seems to solve the problem and is most credible.

The systemic problem is easy to define. Many of the critical details of a solution cannot be articulated by buyers until they have reviewed the suppliers’ proposals. Until this time, the buyers do not have sufficient insight or knowledge of potential solutions to make an informed decision. But it is fundamental to our RFP process that suppliers can’t revise their proposals; evaluators can only evaluate the submitted material. And evaluators hate it! For example, you issue an RFP and get six proposals. Only three are anywhere close to the mark. They are o.k. but not great. One of the proposals lacks the depth of technical information which would inspire confidence in the solution. The second lacks project management depth. The third is simply too expensive.

Best and Final Offers (BAFO) is often used when the Evaluation Team believes that the price could or should be better, when some elements of a proposal are confusing and need further definition. It is also used to obtain additional information which will provide a larger point difference between competition proposals.

Vendors hate the traditional RFP process - the one without BAFO. Losing a major contract because one section of their proposal was rated a ‘6’ rather than an ‘8’ is difficult to understand. Vendors often complain that “If we had only known more details and understood the buyers’ reasons, then we would have proposed a different solution.”

There is a process - Best and Final Offer (known as “BAFO”) - designed to solve this problem. This procurement strategy permits buyers to get revised proposals from vendors. In the U.S., this process is defined in the procurement statutes of many states and in the ordinances for many cities. In Canada, BAFO is rarely used. I haven’t seen it used by the federal government or Ontario. Nor by many of our largest cities. The Province of British Columbia used this technique a few times in the mid to late 90s for IT procurements. And the City of Mississauga has used it but rarely. In the U.S., it is used in many jurisdictions, but always under rigid controls. The concern is that all suppliers be treated fairly, and that no information be transmitted from one supplier about the other suppliers’ offers.

Here’s how it works. First, the RFP contains language that properly defines the rules and the process. Typically, the evaluators identify those proposals capable of delivering the required results. This evaluation is

the same as would normally be done to develop the short-list of finalists. These finalists are then provided detailed questions related to their proposals, or informed of those parts of the proposals that are deficient. The suppliers are given the opportunity to redo their proposals. They are provided with the opportunity to improve their offering and to eliminate unacceptable conditions contained in their original proposal. The amended sections are then re-evaluated and re-scored according to the evaluation process defined in the RFP.

There are several different ways in which BAFO is employed:

1. In some jurisdictions, such as Arizona, competitive negotiations precede BAFO. In this way, the revised proposals reflect the agreed upon changes resulting from the negotiation process.
2. In some jurisdictions, such as New Mexico, competitive negotiations are not used. Rather, vendors are sent a letter indicating the weaknesses in their proposals and invited to submit a BAFO.
3. In other places, such as Idaho, negotiations occur after BAFO and result in a contract. No revised proposal is required.

Montana has produced an easy to read, logical description of the RFP process and BAFO:⁴⁰

Best and Final Offers (Optional step)

- *The committee may decide to seek best and final offers from one or more offerors if additional information is necessary or responses will be altered in order to make a final decision.*
- *The committee may request only one best and final offer.*
- *Offerors may not request an opportunity to submit a best and final offer.*
- *The procurement officer must be notified of the offerors who are provided the opportunity to submit best and final offers and the areas to be addressed.*
- *The procurement officer will send out the request for best and final offers in a letter stating the areas to be covered and the date and time in which the best and final offer must be returned.*
- *Proposal scores are adjusted in light of the new information received in the best and final offer. Additional points cannot be given.*
- *A best and final offer cannot be requested on price/cost alone unless so stated in the RFP. (ARM 2.5.602.)*

New Mexico's RFP Guide⁴¹ provides some insight into the use of BAFO:

The best and final offer is the only step in the process where the proposal

can be amended. If the offeror's proposal contains unacceptable contract terms and conditions, this is the step in the process where that problem is resolved. If an offeror stamped every page of the proposal "proprietary" or "confidential", this is the step in the process where that problem is corrected. If costs were not proposed on exactly the same basis as the other offerors, this is the step in the process to correct that problem.

New Mexico uses BAFO to ensure that the winning proposal receives at least 90% of the available points - they simply do not accept mediocre proposals. Here are the rules that they have published:

A. NOTIFY FINALISTS

This step is an extremely important part of the procurement process as this is the only place in the process where offerors can amend their proposals. They may amend their proposed costs as well as other portions of their proposals. Offerors should be encouraged to improve their proposals. The recommended technique is to collect questions about the offeror's proposal from the Evaluation Committee. The Procurement Manager divides the questions into two groups: 1) questions to be addressed in the best and final offer; and 2) questions for the oral presentation. If the Procurement Manager took good notes during the evaluation, the notes may suffice as the basis for the notification letters.

The Procurement Manager must provide each finalist a written notification letter that contains the following:

- The date, time and location of the oral presentation or system demonstration, along with instructions as may be appropriate for the conduct of the session including an agenda.*
- Specific areas of the offeror's proposal that the Evaluation Committee may request to be addressed as part of the submission of best and final offers. For example, the Evaluation Committee may request that the offeror readdress important aspects of the proposal such as the implementation schedule, level of support, type or amount of resources proposed, or contract terms and conditions.*
- Specific areas of the offeror's proposal that the Evaluation Committee may require to be addressed as part of the submission of best and final offers. For example, unacceptable terms and conditions may have to be amended or withdrawn as part of a best and final offer. Confidential or proprietary designations on non-proprietary*
- portions of an offeror's proposal must be removed. Unacceptable licensing or other restrictions on the use of the product must be eliminated through a best and final offer amendment.*
- The due date and time for submission of best and final offers.*
- The final paragraph should emphasize the fact that the best and final offer is an opportunity for the offeror to improve the proposal*

by submitting revised proposed costs as well as other amendments.

If the best and final offer contains meaningful revisions to the original proposal, then all of the revised portions of the proposal must be reevaluated and points reassigned accordingly. The best and final offer step has produced some truly amazing results over the years saving the State literally millions of dollars. The step works best on single source awards. However, it is valuable every procurement as it is the only step in the process where the offeror is given an opportunity to amend the proposal. The RFP document encourages the offerors to respond to the contract with specific wording changes and additions. Some of these changes and additions could preclude the signing of a contract. That is why they are required to be submitted up front as part of the proposal as opposed to the more traditional negotiation process that corporate attorneys thrive upon. For example, offerors have required that the contract be governed under laws of some other state than New Mexico. That requirement is not acceptable. The offerors were given the opportunity to amend their proposals eliminating the requirement. In some cases the proposals were amended, in others they were not and the offeror was eliminated from the process, deemed non-responsive. In other cases offerors have required payments in advance, which is prohibited by statute. There have been almost endless variations. That is why the Procurement Manager is responsible for reviewing the offeror's changes and additions with in-house counsel before this step in the process. Another area that causes serious problems is workmanship or other warranties that impact the offeror's proposed costs. For example, the contract may require that the contractor be bound and honor a six-month workmanship warranty where errors will be fixed during the warranty period at no additional cost to the agency. If one finalist agrees to the requirement and another does not, what does that do to the points awarded for cost by the formula.

Obviously, the cost formula works only when the costs are proposed on an identical basis. Since, in this case, proposed costs are not on the same basis, the Procurement Manager has an obligation to get the inequity fixed as part of the best and final process. The Procurement Manager may demand that the second offeror resubmit costs and a written amendment eliminating objections to the six-month contractual workmanship warranty. The Procurement Manager may ask both offerors to propose costs on a new basis, e.g. a three-month workmanship warranty.

The key point of this discussion is that the model RFP best and final paragraph uses the phrase "offerors may be required to submit revisions...", and this step in the process is where proposal inequities and unacceptable conditions are eliminated.

DON'T ACCEPT RESPONSES SUCH AS "SUBJECT TO NEGOTIATIONS" AS AN ANSWER.

If the best and final offer request contains instructions for reproposing the offeror cost on a basis other than what was contained in the RFP

document, then the change should be treated as an RFP amendment and identified as such.

After the award the Procurement Manager is responsible for preparing the proposals for public inspection. This simply means that one or more of the competing offerors may request copies of one or more of the proposals submitted by the other offerors. Of course, the winning proposal is the one most often requested. Public disclosure has to be timely. The problem arises when the offeror has designated all or sections of the proposal as "proprietary" or "confidential" when they do not meet the requirements for such designations. The best and final offer step in the process should be used to correct this type of problem. The Procurement Manager should require that the extraneous designations be removed from the proposal as a condition of award. After the award it is generally difficult to get even the winning offeror to cooperate with the public disclosure requirements. This situation can extend the protest period and delay contract initiation. Finalist notification letters should be sent via facsimile or e-mail and U.S. Mail.

B. NOTIFY NON-FINALISTS

Non-finalists need to be notified too. They probably have a procurement response team on standby awaiting notification of the selection. Therefore, prompt notification of the non-finalist is required so that the procurement teams may be released for other duties.

The recommended notification procedure is a telephone call from the Procurement Manager followed by a written letter of notification. "This letter is notification that your company's proposal in response to RFP # was not selected as a finalist. On behalf of Secretary and the members of the Evaluation Committee, I want to express our sincere appreciation for the time and effort you and your staff have taken to respond to our Request for Proposals."

If the company representative requests a critique of the proposal, schedule the critique after the expiration of the protest period. The notification letter should be sent via facsimile and U.S. Mail.

C. COLLECT BEST AND FINAL OFFERS

The model RFP language states that the best and final offer must be submitted on a given date and time. This deadline is treated exactly like the proposal submission. Best and final offers submitted after the deadline are not accepted. There is no reason to hear an oral presentation from an offeror who is going to be deemed non-responsive for failure to adequately address required "best and final" offer requirements. The best and final offers must be verified for compliance with the requirements.

Disqualification decisions are made by the Evaluation Committee and disqualification letters must be promptly sent as well.

Best and final offers may need to be clarified which is another good reason for having them early for review prior to the oral presentation. The

Procurement Manager may request a written clarification or the offer may be amended via hand written notes which are dated and signed by a qualified representative of the offeror's organization. Since the amended offer is binding, it must be signed by someone who has the power to contractually obligate the organization.

Best and final offers, as amended, are accepted only once. They are discussed and clarified at the oral presentation which concludes the contact with the offerors' organizations. For some unknown reason, some jurisdictions require a sealed best and final offer that is opened sometime after the oral presentation has been concluded. That is not the way this process is conducted. The best and final offer must be submitted by the specified due date and time. The best and final offer should be discussed and clarified, if necessary, before the oral presentation/demonstration has been concluded.

The state of Massachusetts uses BAFO to solve budget and cost issues:

If all the responses received are priced too high for the department's available funding, a department has the choice of canceling the procurement, amending the procurement or requesting a Best and Final Offer to obtain more reasonable pricing.

It then defines the rules for BAFO:

Best and Final Offer (BAFO)

Pursuant to 801 CMR 21.06(11), a Procurement Management Team may provide bidders with an opportunity to provide a Best and Final Offer (BAFO). The BAFO process represents an optional step in the bidder selection process and is not part of the contract negotiation process. BAFOs may be useful when no single response addresses all the specifications, when the costs submitted by all bidders are too high, when two or more bidders are virtually tied after the evaluation process or when all bidders submitted responses that are unclear or deficient in one or more areas.

The PMT may restrict the number of bidders invited to submit a BAFO, or may offer the option to all bidders. In either case, the PMT should provide the same information and the same submission requirements to all bidders chosen to submit a BAFO. Departments are required to develop and distribute to selected bidders the written terms for a BAFO with specific information on what is being requested, submission requirements with timelines and information on the basis for evaluating responses and determining the successful bidder(s). Bidders may be asked to reduce costs or provide additional clarification to specific sections of the RFR.

Selected bidders are not required to submit a BAFO and may submit a written response notifying the PMT that their response remains as originally submitted. The terms of the BAFO may not identify either the current rank of any of the bidders selected for a BAFO or the lowest costs

currently proposed. The Procurement Team Leader will have full discretion to accept or reject any information submitted in a BAFO. OSD recommends that departments consider how the BAFO option will be evaluated. Departments may evaluate the submissions of BAFOs as an addition to the scores already received by bidders on their original RFR responses or may develop a new evaluation process based entirely on the BAFO submission. Departments should articulate in the evaluation criteria the process to be used in evaluating the BAFO.

CHECKING REFERENCES

Checking References

There are two common approaches to incorporating references into the evaluation process: award points, or simply use the references to confirm the winner(s) capabilities.

Using References to Confirm a Selection

References are usually used to confirm the selection rather than as an evaluation criterion. In many cases, only the references of the winning proponent are checked. If several proponents are close in the final evaluation, references may be used to help choose between them. The interview should be conducted using predetermined, consistent questions, in order to receive reliable and objective information about service, support, reliability, etc. It is a good idea to interview more than one person within the organization. Often senior management and the technical staff have different views of a vendor's performance.

References should only be checked if the RFP requested them.

Most selection procedures require the bidders to identify reference accounts. The wording in many RFPs is similar:

"Proposals must include a list of references including names and telephone numbers for whom the bidder has performed similar work. These references might be contacted during the proposal evaluation phase to determine their satisfaction with the work carried out."

"Provide three references, for work performed within the last two years, which you judge to be of similar scope and complexity."

Massachusetts describes the ground rules for using references:⁴²

The Commonwealth of Massachusetts

PROCUREMENT POLICIES AND PROCEDURES HANDBOOK

PART TWO - THE DETAILS

CHAPTER II. HOW TO DO A COMPETITIVE PROCUREMENT

Pursuant to 801 CMR 21.06(9) a Procurement Management Team may verify any references included in a Bidder(s) Response and to conduct any other reference or credit checks as the Procuring Department deems

appropriate. The Procuring Department may consider any documented references, including documented performance records of a Bidder on file at the Procuring Department or solicited from other Departments or entities.

The PMT may conduct reference checks in a manner that it deems most appropriate and efficient, however all reference checks must be documented in writing by the PMT. Departments should use the same "script" or format of questions when conducting reference checks so that the results are consistent and fair to all Bidders. A sample Reference Check form is attached to this Handbook that Departments can modify as needed. The Procurement Management Team may decide whether or not to accept unsolicited references. Reference checks may be made at any time during the procurement process or during the life of the contract.

Invariably, someone from the selection team makes the calls. If this is your job, what do you say? What questions do you ask? What is the purpose of the exercise? Clearly, you want to verify that the supplier did, in fact, do a very good job at that company.

But only the most naive evaluator would assume that a supplier will submit the name of a bad reference. The existence of a few solid references only demonstrates that the bidder has the potential for excellent work. It seems obvious that vendors will only submit the names of companies which they know will provide them with wonderful references. This is not always true. Occasionally, you will contact a reference that endorses the competition.

There is another, more aggressive tactic. Phone the reference accounts, not only to learn about the vendor, but to learn the names of other purchasers. (Alternatively, ask for an extensive list of customers in the RFP.) Once this has been accomplished, call all of the purchasers who weren't listed as references.

The purpose of these calls to "non reference" accounts is to learn about the supplier from a broader range of customers. These customers will relate both good and bad stories about the bidder, and its products or services.

The purpose in contacting "non reference" accounts is not simply to identify problem situations (which may have been caused by the supplier or its products, the purchaser, third parties, etc.). The purpose is to learn what the supplier did when difficulties were encountered? What did the supplier do when its project leader left? What happened when the key user became ill? What did the supplier do when the customer required more support on short-notice? Did the supplier act in the customer's best interest? Did the supplier simply disavow responsibility? Did the supplier and purchaser solve the problem by working as partners?

If these conversations cause you to be concerned about the risks in dealing with a particular supplier, then discuss the information with the supplier. You may want to listen to the supplier's side before accepting the information.

If you do decide to incorporate this approach to reference checking into your evaluation procedure, I suggest that you modify your RFP so that the vendors are aware of this new process. Here's how one RFP informed the bidders that the reference checking would include a broad range of customers, not just the names they provided: "Our evaluation will be made primarily via checks with the bidder provided references and *other industry sources and users known to the evaluation team.*"

In one of its RFPs, Nebraska identified the areas of concern that would be discussed with the references.⁴³

5.7 Reference Checks

A vendor's references will be contacted and interviewed with a standard questionnaire. Areas of discussion will include:

- *quality and performance of installed equipment*
- *installation of hardware and software*
- *quality of training and training programs*
- *responsiveness to support and maintenance requirements*
- *problems (poor quality deliverables, contract disputes, work stoppages)*
- *problem handling, and problem resolution*
- *functional and technical abilities*
- *timeliness in meeting project deadlines*
- *the performance of the vendor(s) project team staff*
- *the overall opinion of the vendor(s) performance*
- *whether or not the reference would rehire the firm.*

Responses to reference checks will be evaluated individually and as a whole. Negative comments may be reviewed with the vendor at our option. Consistent unfavorable responses may cause disqualification of the proposal.

The State reserves the right to check any other reference(s) that might be indicated through the explicitly specified contacts or that result from communication with other entities involved with similar projects.

Assigning Points to References

Some organizations assign a score to the references and include the points in the overall evaluation. Sometimes, there is a minimum acceptable score, say 12 out of 20. Firms receiving 12 or fewer points would be eliminated from further consideration.

Typically, references are worth between 5% and 25 % of the total points. The references are contacted for the (winner(or the (finalists(, the information is obtained using a checklist or questionnaire, and a score is assigned. Here is the manner in which a Washington State agency described the process in its RFP:⁴⁴ The good news is that they provided the bidders with details of the reference information sought and the weight or score that was being assigned to references. The bad news is that this section is legalistic and difficult to understand. I expect that more than one of the bidders read this section two or three times and still didn't understand it fully.

4.8 REFERENCES - EQUIPMENT, SOFTWARE, AND INSTALLATION VALUE = 50%

Provide at least three appropriate references of customers which use equipment/software combinations which are the same as or substantially similar to the system being proposed and where you managed the installation and conversion. For each reference, list:

- a) Company Name*
- b) Individual contact name, and title if available*
- c) Telephone number*
- d) If available, a brief description of the system(s) installed at the reference and the application for which it is used.*

The references will be contacted during the evaluation of the management proposal, and the results of the contacts will be used to derive the score for this section. It is recognized that some bidders may be dealers of systems manufactured by other entities, and in that case customers of other dealers may be referenced if they acquired and installed a system which is substantially the same as that being proposed. For such references also provide the name and telephone number of the dealer for whom the system was acquired.

If the result of the foregoing is that there are fewer than three references which are direct customers of the bidder, then provide additional other references so that there are at least three which are customers of the bidder, although they need not necessarily be purchasers of the system being proposed.

References to entities which are owned by the bidder, or are owned by an entity which also owns a significant interest in the bidder, are not acceptable and do not comply with the requirement of this subsection.

A Concrete Example⁴⁵

In this example from the state of Washington references are used as an evaluation criterion. This example is more complex and more formalized than that found in many RFPs. Each proponent is required to submit at least five references. Each of the references must complete a questionnaire contained in the RFP. The questionnaire itself focuses on

twenty measures of performance excellence.

To be considered responsive, the proposal must contain five references and the scoring of past performance must be at least 560 out of a possible 700 points indicating that the overall performance was “above expectations”.

References 700 maximum points, 560 minimum category points required to be considered responsive.

Proposer should provide five (5) references who have had experience with the proposer under existing and/or prior contracts of a scope similar to this RFP and for each of the categories listed in this section. Any proposals which fail to meet this level of excellence, as identified above, may not be allowed to progress to step 3. Proposer is only required to submit references for the categories the Proposer is bidding. The scoring is based off the five (5) references provided. If more than five (5) references are provided for the same category then the state will randomly select only five (5) references. If Proposer fails to provide five (5) references then that Proposer will lose 140 points per reference not submitted. N/A or no response to a question = 0 points for that questions. The Lead State reserves the right to lower these requirement in order to ensure sufficient contract coverage

Qualified Proposers will be evaluated on performance under existing and prior contracts of a scope similar to this RFP. Performance information will be used for both responsibility determinations and as an evaluation factor against which Proposers relative rankings will be compared to assure best service value to the states. The state will focus on information that demonstrates the Proposer’s performance relative to the size and complexity of the procurement under consideration. References identified by the Proposer may be contacted by the state to validate the score they received. The state reserves the right to adjust the reference score to reflect all information received.

Past Performance was scored by each reference. The RFP provided a detailed “how to” section which included a definition of each of seven different performance levels to be assigned to each factor.

Past performance will receive relative consideration as designated in each segment, as identified below. All subfactors are of equal importance. The Proposer(s) is responsible for providing a copy of the “Past Performance Questionnaire” to no less than 5 references for completion and delivery of completed sealed surveys with their RFP proposal response, and with a signed copy of Attachment “B” for each reference. The references will be evaluated and scored on the following categories. If Proposer(s) fails to provide references at the time the RFP is submitted the RFP may be deemed non-responsive.

The state will make additional copies of the completed sealed evaluations

for its use in scoring the proposal.

Past Performance segments:

Product and Service - compliance with contract requirements

Timeliness of Performance - met interim milestones, responsive to technical direction, completed on time, including wrap-up and contract administration, met repair response times, etc.

Cost Control - within budget - current accurate and complete billings - relationship of bid costs to actual costs - cost efficiencies...

Business Relations - effective management, reasonable/cooperative behavior - flexible effective contractor recommended solutions - business like concern for customer's interests.

Community Relations - Citizen like concern for community safety.

Performance for non-cost factor (past performance) will be scored as raw points from 1 (lowest) to 7 (highest) using the following definitions: (N/A responses = 0) The points will be totaled.

Performance Level 7: *Performance indicates excellent capability and support of the contract. Performance stands above all others. There are no critical shortfalls.*

Performance Level 6: *Performance is above expectation, far exceeds desired quality, and stands out. May have shortfalls in a few non-critical areas.*

Performance Level 5: *Performance is slightly above expectations and for the most areas exceeds desired quality. Has exhibited some shortfalls in a few non-critical areas.*

Performance Level 4: *Performance meets minimum expectations and is generally adequate. Has exhibited shortfalls in performance in non-critical areas and does not stand out.*

Performance Level 3: *Performance is seldom complete, deficiencies exist in critical areas and limited shortfalls exist in non-critical areas.*

Performance Level 2: *Performance is not complete and serious shortfalls in capability exist.*

Performance Level 1: *Performance is non existent in critical and non-critical areas.*

Assessment of the Proposer's past performance will be one means of evaluating the credibility of the Proposer's proposal, and relative capability to meet performance requirements.

Information utilized may be obtained from the references listed in the proposal, other customers known to the state, consumer protection organizations, and other who may have useful and relevant information. Award may be made from the initial offers without discussion. However, if discussions are held, Proposer(s) may be given an opportunity to address

unfavorable reports of past performance. Recent contracts will be examined to ensure that corrective measures have been implemented. Prompt corrective action in isolated instances may not outweigh overall negative trends.

The questionnaire contained 20 items and required the reference to assign a performance score of between 1 ("non existent") to 7 ("excellent capability") for each.

- Question 1: Past Performance*
- Question 2: Delivery As Promised?*
- Question 3: Equipment Provided Meets Operational requirements*
- Question 4: Equipment Provided Meets Specifications*
- Question 5: Provided Necessary Documentation (e.g. warranties, instructional materials, directions)*
- Question 6: Interconnects Appropriately with Existing Equipment*
- Question 7: Maintenance Was Performed as Required?*
- Question 8: Reliability - Did Equipment Perform as Expected?*
- Question 9: Would you buy from this Manufacturer again?*
- Question 10: Did the equipment you purchased from this Manufacturer require interoperability with any other manufacturer? YES _____ NO _____*
If YES, then please rate the equipment's Interoperability with the other manufacturer
- Question 11: Warranty/Customer Service Support*
- Question 12: Did your contract or purchase agreement with this manufacturer require interaction with agency (ies) or other vendors when solving a equipment problems?*
YES _____ NO _____
If YES, then please rate this manufacturers ability to interact with others to solve problems
- Question 13: Use of Current Technology in this manufacturer's products*
- Question 14: Fitness for use of company products*
- Question 15: Effectiveness of company services (e.g. support and repair)*
- Question 16: Company's efforts to develop business relationship with you as a customer*
- Question 17: Execution/Efficiency of Manufacturer during performance of your agreement:*
- Question 18: Value of Company products to your system(s)*

Question 19: *Value of Company services to your system(s)*

Question 20: *Rate your overall satisfaction with this Manufacturer.*

AN ENDING COMMENT

In this chapter, we've examined each of the nine different components of the evaluation process from the perspective of best practices. By adopting these best practices, you can reduce the risk that your process is flawed, or doesn't work properly, or is not "fair and open".

END NOTES

1. Reference 36.
2. Page 22, Reference 55.
3. Reference 56.
4. Reference 57.
5. Page 3, Reference 45.
6. Page 12, Reference 6.
7. Reference 56.
8. Reference 23.
9. Page 27, Reference 1.
10. Reference 58.
11. Page 36, Reference 26.
12. Reference 47.
13. Reference 59.
14. Page 5, Reference 60.
15. Section 4.5.2, Reference 39.
16. Section 7.05, Reference 23.
17. Page 14, Reference 48.
18. Page 40-41, Reference 7.
19. Page 4, Reference 6.
20. Page 41, Reference 7.
21. Pages 28-29, Reference 61.
22. Page 28, Reference 1.
23. Section 81, Reference 21.
24. Section 3.5.6, Reference 62.
25. Pages 40-41, Reference 7.
26. CAM 3.5.6, Reference 62.
27. Reference 63.
28. Section 81.470(6), Reference 21.
29. See pages 42-44, Reference 7 for a discussion of these issues.
30. Page 1, "Post Tender Negotiations Guideline", Reference 35. To locate this publication, search on "negotiations" and select "Tender Negotiations".
31. Page 2, "Post Tender Negotiations Guideline", Reference 35. To locate this publication, search on "negotiations" and select "Tender Negotiations".
32. Chapter 16, Section 6, Reference 64.
33. Some of the ideas and material in this section is based on Chapter 18, Negotiations, Proposals That Win Federal Contracts, Barry L. McVay, Panoptic
34. CAM 3.5.6, Reference 62.
35. Page 21-22, Successful Negotiating, Ginny Pearson Barnes, Career Press, 1998
36. Page 3, "Post Tender Negotiations Guideline", Reference 35, plus others.
37. Pages 11-12, "Post Tender Negotiations", Reference 35.
38. This article was provided by John O. Alder, CPPO, State Procurement Administrator, State of Arizona.
39. Brooks Act negotiations for architects, engineers and other services require negotiations with the most qualified offeror.
40. Page 19, Reference 30.
41. Reference 26.
42. Page 41, Reference 7.
43. Page 34, Reference 65.
44. Page 20, Reference 66.
45. Reference 67.