Chapter 6

SERVICE PROVIDER SELECTION

6.1 NARROWING THE FIELD, THEN MAKING YOUR CHOICE

Once proposals are received, they must be reviewed, analyzed and scored by the agency to determine the apparent successful service provider. The proposal represents the service provider's best offer to the agency.

Proposals submitted in response to a Request for Proposal (RFP) must demonstrate that the proposer understands the agency's problem by recommending a workable, feasible solution. The proposal should state how the service provider plans to solve the problem and fulfill the needs; should define specific, definite, measurable and obtainable objectives; establish a time frame for the project; and calculate costs of the consulting services. The proposal should stress economy and cost-effectiveness consistent with the difficulty of the project. It should describe the special talents of the service provider's personnel, their various backgrounds and skills, and the strength of the overall organization. It is then up to the agency to conduct a thorough and objective evaluation.

In much of what service providers do, effective communication is vital. The proposal should reflect an ability to organize and present data, to address complex situations, ideas and information, and to conceptualize and express appropriate and innovative ideas in a clear and effective style.

6.2 PROPOSAL EVALUATION DOCUMENT

The proposal evaluation document assists the agency in fairly evaluating the service providers' proposals. It should be prepared concurrently with the RFP and the major evaluation criteria to be included in the RFP. No criteria may be used in proposal evaluation that are not set forth in the RFP.

Preparing the evaluation document prior to issuing the RFP helps to ensure that the methodology for scoring and evaluating proposal elements is well thought out and workable and that it is consistent with the contents of the RFP. The criteria and the weight assigned to each element in the proposal, e.g., technical, managerial and cost, will vary depending upon the circumstances of each project. In a highly complex proposal, technical factors may be weighted highest. In that instance, the best technically qualified competitor may be selected even though the proposed costs may be higher than competitors' costs. On a project where numerous qualified service providers are expected to bid, cost may be given the greatest weight.

The following types of criteria, not listed in order of significance, are examples of criteria that might be included in the proposal evaluation document depending upon the type of service required and the content of the RFP:

- • Proposer's understanding of the project requirements.
- • Project approach and methodology.
- • Quality of the work plan.
- • Company ability, capacity and skill to provide the service.
- • Company experience on projects of similar complexity and type.
- • Project team structure and internal controls.
- • Staff qualifications and experience.
- • Satisfactory record of past performance.
- • Cost.
- • Company financial capability.
- • Business references.
- • Compliance with statutes and rules relating to contracts.

Fair competition requires that all competitors understand the basis upon which an award is made. Therefore, proposals must be evaluated based on the requirements set forth in the RFP and no other criteria may be used. A sample proposal Evaluation Score Sheet is included as Appendix D. More detailed questions specific to the project would often be included in an agency's scoring sheet depending upon the nature and

complexity of the project. The critical point is that the scoring sheet should reflect the evaluation criteria stated in the RFP.

6.3 SELECTING THE EVALUATION TEAM

The goal of the RFP process is to select the most qualified, responsive consulting firm among the field of competitors, through a fair and unbiased evaluation. Use of a panel of qualified individuals to evaluate proposals is common practice to accomplish this end.

Members of the evaluation team may be agency staff, employees from other state agencies or governmental entities, or individuals from the private sector. A variety of disciplinary skills and talents should be represented to ensure an impartial and objective analysis. Selection should be based on technical competence, familiarity with the procurement and applicable skills, understanding or expertise. In instances where the proposals are particularly complex, separate panels may be used to evaluate each component.

It is advisable to have team members sign declaratory statements certifying their lack of potential conflict of interest and assurance of confidentiality. Evaluators cannot have a financial interest in the outcome of the selection. A sample Conflict of Interest and Confidentiality Statement follows.

IOWA DEPARTMENT OF _____

No Conflict of Interest and Confidentiality Form for_____ RFP

I, _____, have reviewed the list of Bidders who have submitted proposals and have no conflict of interest with any of the Bidders. This shall include, but not be limited to, any relationship, past or present, with any Bidders, partners, or subcontractors referenced in the proposals submitted. I understand that the (Name of the Agency) relies upon my voluntary disclosure of any past or present relationship with any Bidders, partners, or subcontractors. I further understand that the purpose of this request is to insure the fair and impartial review of all proposals.

I agree to not release any information regarding these proposals until the resulting contract is signed. I further agree to not release any confidential information regarding these proposals in the future.

I agree to return all proposal documents to the (Name of the Agency.) I understand that portions of the proposals may be identified as proprietary and I will not retain or disperse any portion of the proposals.

(Printed Name)

(Signature)

(Date)

6.4 COMMUNICATING WITH SERVICE PROVIDERS

Agencies must provide an avenue of communication with prospective proposers. The RFP, therefore, should designate an Issuing Officer/RFP Coordinator, through whom all questions on the RFP will be directed. This communication is essential if potential contractors are to understand agency requirements and prepare responsive proposals.

Providing consistent information to proposers is extremely important. Inconsistency can result in one proposer receiving an unfair advantage over other proposers and potentially invalidate the entire competitive process. Any pertinent information generated after the RFP is issued should be incorporated into an addendum to the RFP and forwarded to all on the mailing list.

Agency employees should be instructed to refer all service provider questions about proposals to the Issuing Officer/RFP Coordinator, named in the RFP. Some agencies state in their RFPs that contacting any other agency individual for information may result in disqualification of the service provider. Opportunities for communication and information must be equally available to all potential respondents. Agencies may provide this opportunity through a formal vendors' conference, an on-site visit or other controlled communication forum.

6.5 VENDORS' CONFERENCE

The vendors' conference offers a setting where all potential respondents may ask questions and seek clarification and additional information about the Request for Proposals (RFP) in a public setting without gaining competitive advantage in preparation of their proposals. The vendors' conference also provides an opportunity for the agency to clarify complicated issues or requirements of the RFP. In addition, it provides a format to present administrative information to prospective proposers and to correct any errors discovered in the RFP.

Personnel familiar with the RFP and the project should preside at the conference and be available to answer questions. Many questions will be simple, and may be answered directly, but carefully. Some questions may not be immediately answerable, and the audience should be advised that a written response will be issued. The RFP should state that the agency will provide written questions and answers to all recipients of the RFP and that the agency will only be bound by its written responses.

The following guidelines will assist you in holding a vendors' conference:

- • The best practice is not to have members of the evaluation panel attend the conference. If attendance cannot be avoided, then all members of the panel should attend.
- • Bidder sign in sheet and self-introductions.
- • Record the conference.
- • Announce the title of the RFP and the date.
- • Explain that the purpose of the conference is to answer questions the bidders may have.
- • Inform the bidders that the questions and responses will be transcribed and that only the written responses of the Agency will be binding.
- • Describe the question and answer process. The goal is to have an orderly process. Taking the RFP section by section, or page by page and asking if there are any questions will avoid the shotgun question approach.

- • Inform the bidders that some questions may be not answered directly, but will be deferred until the written responses. Do not guess at an answer. If a question requires additional discussion among agency members, defer the question. Decisions on complicated or sensitive matters should not be made at the bidder's conference.
- • Answer only the question asked. The shorter the response the better.
- • On occasion there may be a bidder who is unnecessarily argumentative or aggressive toward either the Issuing Officer/RFP Coordinator or competitors. It is the responsibility of the Issuing Officer/RFP Coordinator to discourage this type of behavior.
- • The bidder who calls the Issuing Officer/RFP Coordinator after the conference with the statement, "I didn't want to say this in front of my competition, but . . ." is out of line. Inform the bidder that the contact is untimely and inappropriate.

The vendors' conference is generally used to brief prospective bidders on complex procurements. In situations where few questions could arise as a result of the RFP, the vendors' conference can be eliminated.

6.6 RECEIPT AND OPENING OF PROPOSALS

Proposals are required to be submitted by a definite time and date and to a specific location. Upon receipt in the office, sealed proposals are to be stamped in by date and by time and initialed or signed by the individual receiving the proposal. This verifies receipt within the date and time frame specified in the RFP. Proposals received electronically, if allowed, will automatically indicate the date and time received.

Proposal security is necessary to ensure the integrity of the competitive process. One individual should be delegated the responsibility for receipt, recording and safekeeping of the proposals. This person will date, time stamp and initial each proposal immediately upon receipt. Written proposals should be kept locked in a secure location. A locked file, locked storage cabinet or a locked office is acceptable.

Only the delegated individual(s) should know which firms have responded. Prospective service providers should not be told which firms have submitted proposals as it could potentially effect their own submission.

Once the deadline for submission is passed, delegated agency staff may open the proposals. Opening is usually done promptly according to the RFP timeline. Agencies can announce which firms have submitted proposals when the proposals are opened. The contents of the proposals remain confidential until the agency announces the apparent successful service provider.

6.7 LATE PROPOSALS

Late proposals should not be accepted and the RFP should state this. If received by mail, a late proposal should be returned unopened with a letter stating why the proposal is being returned.

6.8 RESPONSIVENESS OF PROPOSALS

The Issuing Officer/RFP Coordinator reviews the proposals for responsiveness as soon after the opening of proposals as possible, but prior to evaluation. For a proposal to be responsive, it must meet certain minimum requirements of the RFP. Only responsive proposals are submitted to the evaluation committee for consideration.

A responsive proposal is one that complies in all material respects with the solicitation, including satisfaction of the minimum requirements clearly identified in the RFP. A non-responsive proposal is one that obviously does not conform to the essential requirements of the RFP. A non-responsive proposal is rejected as non-responsive and is not forwarded to the evaluation committee.

Occasionally all proposals may be deemed non-responsive and are all rejected. This could be the result of unreasonable qualification requirements, misunderstanding by the service providers of RFP requirements, or insufficient or unclear communication of the objectives. The agency must then decide whether to revise and reissue the RFP or to consider other alternatives.

If only one proposal is received and it is responsive, an award can be made. If only one proposal is received and it is non-responsive, it may be rejected. The reason(s) for rejection of proposals should be included in the contract file.

A sample checklist of responsiveness follows. The checklist should be customized to incorporate all the appropriate provisions of an RFP.

SAMPLE CHECKLIST FOR RESPONSIVENESS

☐ Proposal was submitted by or before __(the time required in the schedule)__.

☐ Required __(number)__ of proposal copies were submitted.

☐ The Letter of Submittal and the Certifications and Assurances are signed by an individual authorized to bind the Proposer to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the sole proprietor.

☐ Proposal was formatted into four major sections: letter of submittal, technical proposal, management proposal, and cost proposal.

☐ Proposer meets minimum qualifications which are:_____
_____
_____.

☐ Management Proposal is essentially responsive to core requirements of the RFP.

☐ Costs are not greater than $_____, the maximum amount disclosed as the project budget.

☐ Proposal conforms to the project schedule.

☐ Proposal provides at least 60 days for acceptance of its terms from the due date of proposals.

☐ Proposer submitted a timely Letter of Intent (if required).

☐T he proposal states that a Certificate of Insurance will be provided as a condition of award.

☐ ☐ Three business references were provided.

NOTE: Yes, answers must be given to each element above for the proposal to be considered responsive.

6.9 EVALUATING AND SCORING THE PROPOSALS

The purpose of the evaluation process is to assess the proposals offered by the proposers based on the criteria in the RFP. This phase of the procurement process is perhaps the one that requires the most knowledge, judgment and skill. While evaluation is a substantial and sometimes complex process, the purpose is to secure the most favorable result for the state through conduct of an objective and thorough evaluation. The formal evaluation lends integrity to the competitive process and ensures service providers of fair and equal treatment. Also, an important correlation exists between the degree of precision in the evaluation process and the ultimate satisfaction with the results of the contract.

The use of an evaluation team to evaluate proposals is the preferred method of ensuring objectivity. It is important that the evaluation team collectively offer the overall knowledge and expertise to evaluate the proposals effectively and objectively. Evaluators should certify that they will not disclose any information available to them as evaluation team members. Many agencies require evaluators to sign conflict of interest statements that certify their lack of conflict in the process. (See Conflict of Interest and Confidentiality Statement in Section 6.3.)

An evaluation committee generally consists of three or more members (preferably an odd number), depending on the complexity and scope of the service. For complex procurements, an agency may use separate evaluation committees for the technical

proposals, management proposals and/or the cost proposals, each committee containing specific expertise applicable to the evaluation.

In briefing the evaluation team, the following points should be emphasized:

1. Adhere strictly to the evaluation criteria set forth in the RFP.
2. Follow the evaluation and scoring methodology that has been developed.
3. Provide strong, clear, substantive comments supporting determination of acceptable and unacceptable proposals.
4. Use numerical weights for ranking purposes.
5. Assess proposals against the RFP requirements and evaluation criteria, not in relation to each other.
6. Maintain complete confidentiality throughout the evaluation process.

Study the Criteria: Evaluators should study the selection criteria in the RFP and the evaluation and scoring form before beginning the actual evaluation. A proposal evaluation form for scoring should be provided to all evaluators with instructions for its use. This form will serve as a means of articulating the specific methodology to be used and will make it easier to combine the findings of two or more evaluators. Appendix D provides an Evaluation Score Sheet.

Explain the Ratings: As the evaluator reads, evaluates and rates each proposal in terms of the agreed upon ratings and numerical equivalents, the evaluator may want to prepare a written explanation for the ratings reached. Evaluator scores may be totaled together for a final score, or evaluators may meet to develop a team score.

Independent Evaluation: By having each team member first independently evaluate all the proposals, the agency receives the benefit of having several opinions on the relative merits of the proposals. The true value of the team approach is a balanced conclusion reflecting the differing viewpoints and contributions of the team members.

Consensus: After the individual team members have separately evaluated the proposals, the team under the leadership of a team chair may meet and formulate it s collective decision. The recommendation for an award is then provided to agency management for ratification. Where the team is unable to reach agreement, the evaluation report should include the majority conclusion and the dissenting view, each with supporting rationale.

Another possible approach to instructions for evaluators:

- • Meet with the evaluation panel before proposals are distributed to the panel members to discuss their mission and correct any misunderstandings about their role.
- • Discuss the time commitment required and the requirement that all panel members **MUST** attend all meetings.
- • Encourage panel to appoint a chair and secretary.
- • Review the evaluation process and documents.
- • Caution the panel that the evaluation process established in the RFP **MUST** be followed.

- • Discuss how the panel is expected to reach a decision *e.g.,* independently, consensus, or hybrid.
- • Discuss the wide latitude the bidder's have to describe their performance.
- • Discuss the process for proposal clarifications.
- • Discuss the process for reference checks.
- • Discuss the process for site visits and/or presentations if necessary.
- • Encourage the panel to keep accurate record of meetings, presentations and evaluations.
- • Discuss security and confidentiality
    - • Iowa Code § 72.3--prohibits divulging contents of sealed bids; and provides criminal and civil liability for any violation.
    - • Discussions **MUST** occur only during the organized evaluation meetings.
- • Encourage panel members to avoid and report inappropriate contact from a bidder.
- • Discuss what should and should not be included in the panel's final written report and recommendation.
- • Inform panel members that scoring sheets, comments and other working papers will be public documents and may be discoverable in litigation.
- • Discuss the conflict of interest disclosure statement.
- • Encourage the panel members to contact the Issuing Officer/RFP Coordinator for assistance and guidance if necessary.

REFERENCE CHECKS

Checking service provider references can be a useful tool in assessing the capabilities of the firms and the individuals to be assigned to the project. The timing at which references are checked and the number of references required depend on the needs of each contract and the RFP instructions. References can be checked as part of the evaluation process and points awarded accordingly or upon selection of the top finalist(s). The most important factor is that references are checked in accordance with the RFP requirements.

Examples of the types of questions that references may be asked are:

- • What type of work has this firm done for you?
- • How would you rate work performed by this firm on your project(s)? Why?
- • Was the project completed on time? If not, why not?
- • Was the project completed within the budget? If not, why not?
- • What was the quality of deliverables submitted?
- • Was staff responsive to solving problems that may have occurred on your project? Explain.
- • What was the extent of staff turnover?
- • What are the strengths and weaknesses of the firm?
- • Would you be willing to contract with this firm again?

6.11 ORAL PRESENTATIONS

Oral presentations are often a part of the RFP process. The oral presentations provide an opportunity to meet the bidders personnel, to assess their interpersonal skills, and to clarify the proposal. They can provide information not easily determined from the written proposal. For example, the project manager from one of the bidders may demonstrate a depth of knowledge and experience that far exceeds the description of the proposal.

In considering including oral presentations in your RFP process, you should be aware that there are several approaches available to you. You will want to consult with the Department of General Services or the assistant Attorney General assigned to your agency.

6.12 DETERMINING THE APPARENT SUCCESSFUL SERVICE PROVIDER

Based on the evaluation teams recommendation for award, an apparent successful contractor is selected. Agencies may then have an internal approval process to complete prior to ratification of the award decision by management. Once the agency approval process is completed and the apparent successful contractor is selected, the service provider should be promptly notified in writing. Sample Notices' of Intent to

Award are found at Appendices K and L. A meeting can then be scheduled to begin contract negotiations, if required, or a draft contract can be initiated.

Unsuccessful proposers should be notified promptly in writing and, if desired, by telephone. Letters should be sent electronically or by facsimile to hasten notification and to confirm receipt on a specific date.

6.13 DOCUMENTING THE SELECTION

All agency actions taken to arrive at the award decision must be properly documented. This documentation should be comprehensive, provide support of all decisions made, and present a complete picture of the award process to any interested party who reviews the file. This documentation should be managed and retained in accordance with the requirements prescribed in the Records Management Manual developed by the State Records Commission.

The Records Management Manual specifies minimum retention periods recommended for preservation of records. Certain circumstances, however, may warrant retaining records longer than the times recommended in the Records Management Manual. The Attorney General's Office recommends that you retain contract documentation, including RFPs, vendor proposals and other documents that may be incorporated as part of a vendor contract, for at least ten years after the date the contract has been completed, expired or terminated (notwithstanding the shorter retention period stated in the Records Management Manual) to coincide with the ten year statute of limitations applicable to actions on written contracts. See Iowa Code Section 614.1.

6.14 PUBLIC DISCLOSURE

Generally, all proposals received are considered confidential until the notice of intent to award the contract is released. Thereafter the proposals are considered public records as defined in Iowa Code chapter 22.

In the event a proposer desires to claim portions of its proposal exempt from public disclosure, the proposer must identify those portions in the proposal transmittal letter.

Each page of the proposal claimed to be exempt must be clearly identified as confidential. There are a several ways to deal with the prospect of public disclosure in the RFP if the agency does not want to try to sort out whether there is a sufficient basis under the open records law to refuse to release the confidential portions of the vendor's proposal. One is to require the vendor to get a court injunction preventing the agency from releasing the information if the agency gets a request for the vendor's proposal. Another is to provide in the RFP that the agency will return the proposals to the vendors if all bids are rejected. Examples of these types of provisions are included in the annotated RFP in Appendix P. The proposal of the successful service provider generally becomes part of the contract and is subject to public disclosure.

There are exceptions to the foregoing public disclosure guidelines. An agency should consult its assistant attorney general for clarification.

Appendix D: http://das.gse.iowa.gov/procurement/AppD_EvaluationScoreSheet.pdf
Appendix P: http://das.gse.iowa.gov/procurement/AppP_RequestforProposalAnnotated.pdf