

# Procurement Resource Abstract



<b>Title</b>	<b>FNS Model RFP White Paper</b>
<b>Sponsoring Organization(s)</b>	United States Department of Agriculture, Food and Nutrition Service
<b>Author</b>	N/A
<b>Publication Date</b>	Pending
<b>Synopsis</b>	<p>The Food and Nutrition Service (FNS) and its State agencies cooperate in large and complex information system projects for both Supplemental Nutrition Assistance Program (SNAP) and Women Infants and Children (WIC) programs' eligibility certification systems. FNS consulted with the information system vendor community to provide leading practices in this Model RFP Guidance. The Guidance is intended to assist States with clearly defining the scope of work, deliverables, and performance expectations, with emphasis on areas where FNS observed that States struggle.</p> <p>The first section (approximately 40% of the length of the White Paper) consists of a very detailed list describing the elements that ought to be included in a Request for Proposals. These are grouped under twelve major headings: (1) RFP Introduction; (2) Statement of RFP Purpose; (3) Project Overview; (4) Performance Specifications; (5) Project Timeline; (6) Detailed Description of Services Requested; (7) Standard Conditions; (8) Proposal Instructions; (9) Cost Proposal; (10) Selection Criteria; (11) Key Assumptions and Client Responsibilities; (12) Appendices.</p> <p>The next section (approximately 30% of the length) discusses key considerations for managing procurement. Subsections cover effective communication with the vendor community from before the RFP to after the award; the composition and work of the evaluation/selection team; the procurement timeline; oral presentations, questions and answers from bidders, and bidders' conferences; and printing of proposals.</p> <p>The paper then advances its "Top 10 RFP Leading Practices" and its "Top 10 RFP Mistakes", and closes with a list of common terms and conditions in RFPs that pose problems for vendors and can even lead to a dearth of bidders.</p> <p>This paper effectively describes many of the informal dynamics of the procurement process. It has a strong focus on the advantages of open communication between the State and vendors. It makes a powerful case for distinguishing between lowest price and best value when evaluating proposal.</p>
<b>Topic Areas</b>	Procurement Guides
<b>Web Reference</b>	Not available on web – document attached herein.

## **FNS Model RFP White Paper**

### ***Executive Summary***

The Food and Nutrition Service (FNS) and its State agencies cooperate in large and complex information system projects for both SNAP and WIC eligibility certification systems. These projects and system designs are very specific in nature. Too often the State's procurement documents are developed using generic clauses and terms which are not explicit or reflective of the true nature of the complexity of the project. In many cases, States use boilerplate language designed for more general construction and commercial purchases provided by their State Procurement office. At the same time, States may also be using clauses and conditions that add cost to the contract unnecessarily. The use of vague or restrictive language drives pricing, may reduce competition, and inhibit innovation.

The quality of the solicitation document may affect the number of offerors who respond, the quality of the proposals received, and the prices bid to do the work. The more ambiguity in the solicitation, the higher the project risk, the higher the cost, and the greater likelihood of problems and conflicts. A well-written solicitation which clearly communicates the State's intent will facilitate competition and promote the consistent interpretation of the requirements after contract award. The thoughtful articulation of the State's plans should also minimize the need for contract modifications, saving time and money.

In order to provide improved support to State agencies seeking contractor assistance with system development, modifications/enhancements, and maintenance and operations activities, FNS has consulted with the vendor community to provide leading practices in this Model RFP Guidance. This Guidance is intended to assist States with clearly defining the scope of work, deliverables, and performance expectations, with emphasis on areas where FNS has observed that States struggle.

Staff working on procurements need to remember that part of their responsibilities involve providing stewardship for the administration of program operations, including compliance with contracting requirements. Although the procurement process may not seem expedient at times, it is an effective means to maximize the use of government funds.

### ***Recommended RFP Elements***

The Request for Proposals (RFP) is essentially comprised of common components which usually provide standard solicitation boilerplate language and the Statement of Work (SOW) which serves as the core of the document. Presenting information in a logical manner throughout the document, and including a table of contents for direct reference to specific sections of the document, will help offerors better comprehend the request and also help the State when the RFP is incorporated into the contract documents.

Following are the major components of typical RFPs.

#### **1 RFP Introduction**

This section should summarize the highlights of the major parts of the RFP—the Who, What, When, Where, Why, and How of the procurement.

Some suggested items to include:

- Identify the State agency and its current business/mission/function
- Provide definition and background information to orient the reader
- Identify agency(s) and program(s) that will use the system
- Delineate organizational responsibilities

- Provide placeholders for potential future partners
- Indicate relationship(s) of proposed system to agency mission/function and to other systems and organizations
- Provide major objectives of the proposed system (e.g. improved service delivery, accountability, operational efficiency)
- Indicate the type of contract anticipated (e.g. fixed price, cost reimbursement)
- Indicate the contract period of performance and any extension options or optional bid components
- Indicate the preferred method of payment for equipment (rental, lease, purchase)
- Provide a procurement schedule with realistic time frames for pre-proposal conferences, Q&As, proposal deadline, benchmarking, evaluation, date of award, contract negotiations, and initiation of work.
- Provide registration qualifications – how vendors are qualified to do business with the State

## 2 Statement of RFP Purpose

This section should communicate the purpose and intent of the RFP, explain why the solicitation is being issued, and provide background information.

Some suggested items to include:

- Identify the business problem and major objectives to be addressed by the solicitation
- Explain the need for services
- Present the purpose and scope of the proposed system
- Project the expected useful life of the proposed system

## 3 Project Overview

This section should briefly describe the current system, the technical environment, and operating constraints.

Some suggested items to include:

- Describe Current Processing Environment
  - Existing methods, procedures, systems, applications, hardware configurations, and components that the current system supports
  - Current business and technical organizations and their respective responsibilities now and in the new environment
  - Operating system(s), system utility routines, database management, applications development, and other software currently in use
  - Existing methods, procedures, systems, applications that the proposed system will support, supplement, change or replace
  - Portions of current system environment that are expected to remain in place and interface with the new system, and portions that will be replaced
  - Identify incumbent vendors if applicable
  - Although it is a best practice not to proscribe the desired technology, list any mandatory or desired state technology standards and if applicable, strong preferences for specific technologies
- Provide Workload Data

- Statistics of online transactions
- Volumes of regular and peak loads
- Current and projected forecast for various workload data
  - Timesharing sessions or connections
  - Online transactions
  - Batch Jobs
  - Demand Jobs
  - Daily, weekly, and monthly processing schedules
  - Production vs. development environments, if applicable
  - Incremental growth forecast for various workload data over the expected life of the system
- Describe New System Environment or Impact on Existing Environment
  - Describe/itemize improvements that the agency expects to gain
  - Database management requirements
  - Associated constraints
  - New capabilities
  - Upgraded existing capabilities
  - Elimination of deficiencies
  - Illustrate proposed data flow and overall view of planned capabilities
  - Functions required in qualitative and quantitative terms
  - Requirements for interfaces with the operating environment (equipment, communications network, software)
    - Flexibility in design to provide interfaces with other software and hardware and allow for future growth, changes, and improvements
  - Itemized equipment required
  - Relationship of proposed equipment with other systems
  - Proposed integration of new equipment with currently installed equipment which the State expects to retain
  - Requirements for provision of operating software, performance of operating software, and implementation of operating software modifications and revisions
  - Security and privacy requirements
  - Safeguards against fraud, waste, and abuse
  - Performance requirements including Service Level Agreements
    - Data and accuracy standards (mathematical, logical, legal, transmission)
    - Data validation
    - Timing (response time and processing time)
  - Requirements of the system for:
    - Throughput
    - Storage capacity
    - Transaction, input/output volumes, frequency
    - Telecommunications transmission rates
    - Data or processing sequencing requirements
    - Timing or turnaround restrictions
  - Other performance requirements
  - Commitment to OSI standards to minimize negative effects of proprietary systems
  - Constraints and limitations in terms of program requirements, organization, and cost
- Bidders library
  - Reference/include pertinent documentation regarding the proposed system

## 4 Performance Specifications

Some suggested items to include:

- Installation, Conversion, and Maintenance
  - List specific requirements for installation and onsite maintenance as well as staffing requirements
  - Address specific support requirements for the startup phase, system transition, routine operations, maintenance, and system changes.
  - Location of the service or product to be delivered
  - Any tasks that must be done on site vs. at contractor's offices
  - Site conditions and limitations
  - Bidder must provide configuration details regarding space, weight, size, and other physical requirements for the system
  - Specify who is responsible for site preparation
  - Plan/schedule for orderly delivery, install and testing of equipment
  - State's requirements for parallel processing, phased implementation, caseload conversion, and uninterrupted service to users and/or clients
  - Requirements for data and application conversion or reprogramming
  - Responsible party and cost for conversion or reprogramming
  - Conversion plan including: issues, requirements, tasks, services, vendor/state responsibilities facilities, equipment, and personnel
  - Training requirements – skills to be taught, number of users, location
  - Documentation requirements – user manuals, operating instructions, design descriptions, standards, numbers of copies, electronic format
  - Specify operational use time in terms of equipment availability and minimum downtime
  - Requirements for on-site maintenance, on-call, and availability of replacement parts
  - Requirements for onsite field modification of equipment
  - Need for operations or facilities management
  - Need for additional hardware, software, maintenance or support
  - Specify the period of availability for services required
  - In some cases, it is useful to identify what is not included in the procurement (e.g. business process reengineering)
- Management Plan
  - Describe project oversight provided by the State and the contractor reporting requirements
  - Identify management requirements
    - State agency project manager/lead State agency to whom the contractor will report
    - Type and frequency of expected project status reports
    - Process for State review and approval of work performed
    - Billing method contractor is to use to ensure identification of costs for each Federal and State program
    - State vs. Contractor responsibilities
      - Specify who is to provide space, facilities, and system support to contractor staff
  - Describe the State's required change control process or allow the vendor to propose one which complies with State standards

- Document all requested changes to the system and track their status, to help control scope creep and ensure that all requests (implemented now or in the future) are documented
- Personnel Requirements
  - Key project personnel (contractor) clause
    - State should specify upfront which roles may be “key”
    - State’s right to approve replacements
    - Requirement that bidder disclose all other project assignments and their timeframes of any staff proposed for this project
    - State cannot prevent termination of employees by the contractor, but can have stipulations on replacements
    - Replacements must meet or exceed qualifications of proposed staff
  - Specify minimum personnel and experience requirements for development, maintenance, facilities management, or other contractor staff
  - Provide estimates of the level of effort anticipated in terms of person years or other reasonable indicators
  - Describe resources the State will make available

## 5 Project Timeline

This section should provide the projected duration of each applicable stage of the project. The timetable should match project milestone target dates. Timeframes for activities should be reasonable based on the complexity of the work and the State staffing resources needed. Sufficient time should be provided for State agency review and coordination of comments on deliverables, and for FNS review of relevant documents.

Some suggested items to include:

- Desired Schedule
  - Planning
  - Requirements Analysis
  - Design
  - Development
  - Integration and Testing
  - Implementation
  - Maintenance and Operations
  - Transition
  - Disposition

## 6 Detailed Description of Services Requested - Tasks/Deliverables

This section contains the tasks and deliverables that comprise the scope of work. Most tasks should be clearly linked to the deliverable(s) that will result from that work. This section should include acceptable performance criteria or measurements for each deliverable. Provide a detailed summary of expectations and requirements during the life of the contract. Most deliverables should clearly be linked to tasks.

Some suggested items to include:

- Products and services the State expects contractor to deliver

- Explain project phasing and how phases relate to deliverables
- Allow for incremental installation of equipment where appropriate
- Identify documentation and operation standards expected
- Requirements for user training, caseload conversion, and system implementation and acceptance when applicable
- Stipulate contractor's responsibility for deliverables
- Require a schedule of proposed work with defined milestones and dates or timeframes
- State the review and approval period for each deliverable, based on complexity

## 7 Standard Conditions

This section should itemize all conditions that will be imposed in the resulting contract.

Some suggested items to include:

- Any Mandatory State and Federal Clauses
- Standards for Subcontractors; stipulation that subs are the responsibility of the prime
- Contract period
- Modification and renewal clause
- Turnover provision or non-transferability
- Contract termination provisions/procedures (both parties)
- Penalties for failure to deliver any required products
- Notice to Cure
- Hold harmless
- Force Majeure
- Dispute Resolution Process
- Governing law/jurisdiction
- Taxes
- Contract is subject to availability of Federal funds
- State's right to waive technicalities
- Order of Precedence of documents
- Any restrictions on bidder publicizing their involvement
- Insurance
- Conflict of Interest
- Confidentiality
- Other system contractors or providers with whom bidder must agree to cooperate
- Performance Measurements
- Liability
- Bond Requirements
  - Performance Bond
  - Other Bonds (Bid, etc.)

## 8 Proposal Instructions

This section should describe specific procurement processes and requirements related to the submission of proposals.

Some suggested items to include:

- Issuing office and agency manager responsible for procurement

- Submission requirements
  - Time and date proposals due
  - Means of transmission
  - Physical address and/or Internet address to which proposals must be sent
  - Number of copies required
  - How proposals must be separated and sealed
  - Requested structure of bid responses - Describes general proposal appearance and organization, as well as required attachments, supplements, and other supporting documentation.
  - Bidding rules
- Details on additional events and processes
  - Pre-proposal conference
  - Presentations/demonstrations
  - How questions may be submitted, when and how State will respond
  - Access to system documentation/bidders library
  - Bidders prohibited from contacting State staff other than procurement office
- Limitations/stipulations imposed on all bidders
  - Data disclosure and confidentiality
  - Cost of preparing proposals
  - Rejection of proposals
  - Late proposals
  - Period of validity for proposals
  - State's right to negotiate "best and final"
- Whole RFP may be canceled
- State may contact secondary references
- Contractor must disclose if they've ever been terminated (for "cause" or for "convenience")
- Offered solutions should use tried and tested state-of-the-art technology (unless a unique, untested option is specifically sought)
- Alternative proposals allowed or not allowed
- Clearly delineate between mandatory requirements and optional features sought
- Bidders must disclose any proprietary tools needed to read or modify system code
- Bidders must disclose cost history/trend of licensing fee changes for any products proposed which involve such fees
- Provide a description of the format and organization for the technical and business proposals, ensuring it is aligned not only with the required services but also with the evaluation criteria.
  - Inclusion of personnel background and experience information, of the contractor's proposed project staff.
  - Inclusion of corporate financial resources, a history of prior involvement in similar projects, and information regarding pending litigation, debarment or suspension
  - Provide copies of all specific forms, charts, and worksheets that the bidder is required to submit for both the technical and business proposals
  - Organization and flow
  - Vendor's response must demonstrate an understanding of State requirements
  - References match within the document
  - Dates and dollar figures in text must coincide with schedule or budget
  - References to figures and appendices must coincide with their titles



- Headings and Titles (do not construe content)

## 9 Cost Proposal

- Sample cost proposal template or pricing sheet
  - Clearly indicate the type of pricing to be provided (e.g., firm fixed price, fixed price level of effort, time and materials)
    - Milestone billing or Time and Materials are fair methods of compensation for transition periods or for work that lacks enough background information or the vendor can't control the inputs/decisions/scope.
    - If the vendor can control systems, processes, handle times, it is reasonable to go for a fixed price structure. The more control the vendor has and the better the information (i.e. forecasting volumes) the more attractive a performance-based contract is for both parties. A fixed price contract is high risk for both parties. The more risk the vendor assumes (fixed price, performance-based) the less exposure the state can expect to have over the actual expenditures and margins. However, the State should expect to pay a premium for the transference of risk to the vendor when compared with Time and Materials pricing.
  - Indicate the preferred method of payment for equipment(e.g. rental, lease, purchas)
  - Line-item cost estimate, covering both developmental and operational costs, for the expected life of the system
- Specify if a mandatory minimum technical score must be achieved before Cost Proposal will be evaluated
- Include total cost of ownership analysis to allow equitable cost comparison among solutions

## 10 Selection Criteria

This section should provide the factors which will be used to evaluate the proposals, and the relative weights or points associated with each scored criteria.

Some suggested items to include:

- Offeror's understanding of project (Offeror demonstrates they understand the purpose and goals of the project).
- Project experience in providing similar services (Offerors should provide samples of past work experience and qualifications relevant to the RFP).
- Project personnel (Offerors should submit resumes of the staff that will participate in the project).
- Project management plan and methodology to accomplish tasks
- Proposed system documentation
- Technical skills (Offerors should map staff skills to the functional areas identified in the RFP).
- Cost (one time and recurring as applicable)
- Provide formula for how cost evaluation points are awarded
- References (Offerors should provide valid references and points of contact, including telephone numbers, email addresses, and mailing addresses).
- Other factors (e.g., current relationship with the contractor and ability to accept incremental funding and Subject to Availability of Funds orders)
- Company stability (e.g., cancelled contract history, financial stability).

- Provide a description of the method and criteria for evaluating the technical and business proposals.
  - Describe the method the State will use to evaluate proposals
  - Provide details on requirements for benchmarks and system demonstrations and on how the results will be factored into the evaluation process
  - Provide evaluation factor weight distribution for technical proposal components and business/cost proposal
- Provide a description of the method for negotiating and awarding technical and business proposals.
  - Describe the general contract negotiation and award process, which includes:
    - Issuing letters of intent
    - Negotiating contract language, if necessary
    - Signing the contract

## 11 Key Assumptions and Client Responsibilities

This section should provide information that may either not be inherently clear in other parts of the document or merits reiteration. It may also state or clarify the roles and responsibilities of the State/State agency in administering the contract and partnering with the contractor(s) on the project.

Some suggested items to include:

- Ensure that long and short term needs are met through the acquisition process

## 12 Appendices

This section should include any supplementary documents that the State and/or State agency think appropriate to provide as an appendix rather than within the body of the RFP/SOW, or only as a link to a website.

Some suggested items to include:

- Copies of required forms/certifications
- Any documentation/reference material stated in the RFP
  - Functional Requirements Document (FRD)
    - Describe what the new system and/or hardware should do. Break definitions down into functional components in a logical sequence with proposed inputs, outputs, and processes.
    - It is recommended that that requirements be defined to a level to make clear the desired system functionality without over-engineering the solution or constraining system design
- Template for the list of deliverables
- Template for performance requirements
- Cost proposal template

### ***What does a good RFP/proposal response look like and contain?***

The better the RFP describes the current situation and the desired outcomes, the more likely respondents will produce good responses. A good response will include: the solution, governance (how the vendor will interact with the clients), issues/risk management (critical to know that the vendor will have open communication), transparency and accountability. A good response should have costs that reflect the solution. In order to open up competition, it is worth considering evaluating transition on a leveling basis - such that an incumbent does not have an unfair advantage for being their first. A good response should be reflected in references - both disclosed and researched by the state. Questions to ask during reference checks are critical: how did they transition? will they disclose issues/problems? Do they share goals with the state? do they get defensive if the state questions reports/data? have they missed service levels? If so, were there mitigating circumstances? Often, clients managing contracts lack contract management expertise and fail to recognize two sides of the coin. Is the client reasonable? Do they deliver enough information for the vendor to be successful? Do they over-govern rather than evaluate on results, etc.

### ***Key Considerations for Procurement Management***

- 1 Effective Communication with the Vendor Community –
  - Concern – Limited or only formal vendor communication inhibits vendors’ understanding of your business and technical challenges
  - Recommendations - Vendors consider open and frequent communication before and during the procurement cycle to be a good predictor of the potential partnership with the state. There are sometimes statutes (or perceptions to that effect) or past experience that makes states hesitant to engage the vendor community for fear of a failed procurement. Suffice it to say the vendors will never complain or protest an award where there is fair and open communication to all interested parties throughout the procurement. In fact, when states are reluctant to engage the vendor community, vendors often assume they are at a ‘knowledge disadvantage’ to any vendor who is currently or has recently worked with the procuring organization. There are many ways to foster communication while adhering to state rules and customs.
    - Pre-RFP - The Request for Information (RFI) process is the most formal means of engaging the vendor community in a written and sometimes in-person dialogue to solicit ideas and solutions. Responding to an RFI does incur expense on both sides. Vendors prefer that it is not mandatory to respond in order to qualify for a future bid (too many things can change in the interim). Depending on the size of the procurement, setting aside time to meet with vendors during the requirements and Statement of Work (SOW) development is also a positive step where both sides can learn. This can be done as a formal “industry day” event or simply agreeing to meet with vendors who contact the state and show interest in the procurement. Vendors must make a decision that it is worth investing in an opportunity based on the cost of proposing and the potential rewards. A lack of communication means more ‘unknowns’ or assumptions, which leads to lower likelihood of bidding, higher prices – and reduced competition. Open dialogue allows for a deeper understanding of context, environment, what the state is contemplating, what the preferences are, if any, and the budget situation/time line. The state will learn ‘what is out there’ that may be of interest them to include or exclude from the RFP. They can also learn about particular aspects of their desires that might impact price, schedule, or competition allowing them to hone their RFPs. Both vendors and the state waste time and money when ‘off-target’ proposals are submitted. Vendors can make better bid decisions – getting closer to the desired ‘target’ if they do bid and avoiding the waste of their (and your) time and money if there is no synergy. Some vendors simply will not bid if there has been no pre-RFP communication permitted.

- Post-RFP - Despite all the effort that goes into writing an RFP, it rarely contains ‘everything you need to know’ to submit a viable bid. That makes the bidder’s conference and question and answer period critical. Posting answers as soon as they are written is especially encouraged so that vendors have time to adjust their proposal responses accordingly. It is recommended that a minimum of two to three weeks be provided between the posting of answers to vendor questions and the due date for the proposal. More complex bids will require additional time.
- Post Proposal Submittal – during the evaluation, issuing written requests for clarification are a good way to be sure the evaluation team understands the vendor response. Conducting oral presentations or key staff interviews is also a means for learning more about your potential vendor’s solution and the team they plan to bring to your project. Providing an update on the status of the evaluation is also suggested if the posted timelines for a decision will not be met – this relieves the procurement organization from having to respond to individual vendor inquiries and provides consistent information to all bidders. Permitting negotiations with the apparent winner prior to contract signing is sometimes a ‘must’ for certain vendors to bid and is often mutually beneficial.
- Post-award Debriefings - Through a debriefing, a vendor should be able to develop lessons learned that helps them improve their bid and proposal process, which ultimately should lead to better solutions for customers.
  - ◆ Vendors would like to see any documentation you can provide on the evaluation process. This includes evaluator’s notes, comments and scores. Like any assessment, scores alone don’t do much to help vendors improve. The notes and comments let them know what they need to do differently. Sometimes they propose the wrong thing, sometimes they propose the right thing but it is not clear to the evaluator.
  - ◆ Vendors like honest feedback and impressions on our proposals. Was it clear? Was it readable? Did the organization of the proposal match your expectations?
  - ◆ Although some evaluation teams may have concerns that vendors want to be debriefed to find grounds for protest, most vendors would tell you that is not the case. Although state level data is hard to come by, there is evidence at the federal level that protests are rare. According to the Federal Procurement Data System, the federal government issued more than 11 million contracts each year. For the last reported year (FY10), the Government Accounting Office reported 2299 protests, of which only 441 merited a decision.

## 2 Evaluation/Selection Team Composition–

- Concern - Serving on an evaluation team is very often a completely new role and in any case, rarely one for which training or practice time has been provided. However, the evaluation team has an enormous amount of power and influence on the selection of the winning vendor and the success or failure of the project.
- Recommendations –
  - Team Composition - Obviously, the more knowledge and experience the evaluators have, the better the outcome – in terms of a successful procurement *and* a successful project. Depending on the size of the procurement, evaluators with expertise in the following areas should be considered: contract management, systems, business process, call center management, project management, and economic/financial modeling. In order to determine best value, the panel should have enough expertise in its composition to be able to objectively evaluate whether the proposals and teams will meet service objectives, quality, reliability, and represent fair cost for those criteria. The tendency is to staff panels with policy and program experts who then pick based on price and possibly vendor relationships. Lowest price will not usually mean best value: the team needs a modeler who can baseline what the solution should cost - so that

the pricing can be evaluated objectively. It is as important to be able to identify a price that is too low (and therefore impossible to deliver) as it is one that is over-priced. Beyond that, the evaluation team composition should reflect the future governance of the project and whether it is a new or on-going maintenance and operations project. In other words, the program and technical sides should be proportionally represented and there should be representation from those experienced in software project management. The evaluation team lead should have relevant and successful experience in evaluation team leadership and/or participation. An open mind to new ideas beyond 'what we have always done' is a plus.

- Training - A well-reasoned process and scoring mechanism (and training the team in using it) are also critical success factors. See Selection Process Do's and Don'ts below for more specifics on training.
- Leadership/Facilitation – appointing an evaluation team leader with experience in the process and has successfully completed one or more prior evaluations is recommended. It is also a plus to engage an evaluation team leader with proven facilitation skills to encourage objective evaluation and set/maintain the appropriate tone for the team.
- Work Space/Environment - Ensure the evaluation team has a quiet place to work, preferably in the same location, away from their 'day' jobs so they can focus on the job at hand and have ready access to evaluation team leadership and each other for questions that may arise.
- Records and Documentation - Keeping consistent evaluation documentation is important for many reasons, not just in case of a protest or to justify the selection to state decision-makers. Since most, if not all, of the competitors will have interest in improving their current and future bids, having a set of organized objective items (scores, etc.) and more subjective evaluator notes can be very valuable during a debrief or when a vendor requests access to those records. This is also helpful information to the state's project delivery team whose expectations will be more realistic if they have an understanding of why the vendor was chosen. Evaluators should be instructed that these records could become public and the team should be provided with clear direction in what should or should not be included in the records.

### 3 Procurement Timeline -

- Concern – The procurement timeline is often under pressure – in a squeeze between legislated or settlement deadlines, the ability to acquire funding, shifting political reality/priorities and the time it takes to make a valid business case. Compromise on the needed timeline is fraught with risk.
- Recommendations –
  - General timelines
    - Large IT procurements (multi-year and/or >\$20M) – 90 days proposal/60-90 days evaluation (including orals, negotiations) plus any agency/federal approval cycle time
    - Smaller IT Procurements – 30-60 days proposal/30-60 days evaluation (including orals, negotiations) plus any agency/federal approval cycle time
    - Task Orders (where Pre-Qualified Vendors have already agreed to terms, conditions and/or rates) – 15-30 days proposal/15- 30 days evaluation
  - Vendor timeline - Vendors have to receive permission to bid, prepare a response, and navigate varying approval levels to submit a bid. If the time frame to respond is too short, the assumption is that the procurement is 'wired' and competition will be limited. Consider how long it takes to write the RFP and how much information you are requesting. Give the vendors time to understand your RFP and develop a comprehensive and understandable response.
  - Evaluation Team Timeline - the evaluation team will need sufficient time to deal with situations where more bids or questions are received than had been planned. There also

may be unforeseen circumstances such as stakeholder/decision-maker availability and seamlessly exercising an evaluation process that may not be familiar to all the participants. Evaluators are entrusted with a significant responsibility to complete due diligence and should be set up for success.

### ***Selection Process Do's and Don'ts***

- DO:
  - Ensure Format for Proposal Response includes a place to respond to each and every stated requirement AND easily aligns with the Scoring Criteria. This assists the vendor in responding and the evaluation team in scoring. In nearly every RFP vendors review, there are requirements that have no place in the requested format for a response and/or there are multiple places the response could logically be placed. This can result in the vendor or evaluator missing a required response. It may also result in a response in multiple places to make sure the response is compliant. Furthermore, make sure the scoring applies appropriately to each response section. Some RFPs that call for sections that appear to have no bearing on the evaluation. Sometimes there are RFP revisions that change one reference without the other(s) and response sections either have no points associated with them or it is unclear where they apply. To provide evaluation team training and validate the scoring, it is suggested that you conduct a pre-RFP release exercise to create 'compliance matrix' like the vendors will do to ensure there is a 'home' in the response outline for every stated requirement. This should include any statement within the RFP that contains a 'shall' or 'will' including non-functional requirements that relate to performance, logistics, proposal format/content, etc. . Then create the evaluation sheets based on the results, awarding points to those requirements that will be scored. This exercise will point out 'holes' or inconsistencies that can be corrected prior to RFP release and cut down on the number of questions submitted. It will also provide a consistent model/checklist that can be shared with the vendors so everyone is clear on the relative importance of all of the requirements. The federal government often provides such information.
  - Include a 'Cost Realism' component in your evaluation process – comparing the robustness of the technical solution with the reasonable ability to deliver that solution for the quoted price. Where the technical and cost evaluations are viewed as completely independent of each other, there is a high risk of awarding to a vendor who did not really understand the magnitude of the requirements and cannot deliver. So although the state 'wins' with a low cost, when the vendor cannot deliver, the state 'loses' in that the project is never completed and/or they end up in court. In states where there is a high (>25%) emphasis on cost, a low price from a high-risk vendor can easily beat a qualified vendor with a fair and reasonable price. What typically happens is that cost scores are mathematically calculated whereas technical scores are subjective. The tendency is for the subjectively made technical scores to be relatively closely grouped. For example, Vendor A was regarded as the best so they got 75 points but Vendor B was regarded as significantly inferior and is given 65 points. This may seem to the evaluator as a reasonable "spread" since vendor B is getting significantly less points. If, however, Vendor B offers an extremely low price, for example 50% less than vendor A, Vendor B would win when combining both scores:

$$\text{Vendor A} - 65 + 25 = 90$$

$$\text{Vendor B} - 75 + 12.5 = 87.5$$

Adding a step to determine whether the solution proposed can feasibly be delivered for the quoted price can help avoid the situation where the procurement was a 'success' (winning bid chosen that was a very low price and no protests were filed) but the vendor was unable to complete the work for that price so the project failed. This process is often included in federal procurements.

- Include time in the procurement cycle for contract negotiations. A period that is one-third to half the time set aside for the proposal response is suggested. Although this might be considered a subset of the communications topic, it is deserving on its own. Having a set of standard terms and conditions provides consistency across contracts within a state, however, ‘one size does not fit all’ (i.e. IT contracts are not like highway contracts) and the inability to negotiate can result in a ‘no bid’ resulting in fewer competitors.
  - To the maximum extent possible, keep to the published procurement process and timelines. Vendors will want to do business with states that are well-managed and operate in a professional manner as they will view that as a good predictor of how the project will be executed and supported by the state stakeholders. However, if the state receives requests for time extensions on proposal responses from multiple vendors, the State should consider granting the extension. A lack of extension is sometimes construed by vendors as an indication that a procurement is wired particularly when combined with an aggressive procurement schedule.
- 4 Making the Most of the Oral Presentation - Oral presentations should be an interactive venue where you can get to know the key staff proposed to work on your project and observe how they work with each other and respond to your questions. It may also be a time for the vendor to demonstrate the solution they proposed. Since this is another form of communication, make the most of it. Although it is a formal part of the procurement process, try to maximize the informal interaction and minimize the formal presentation – set the process so you can learn more about the people with whom you may be working long and hard hours for months and perhaps years in the future. Other considerations:
- Give the vendor time to prepare for the presentations. A least some of the key staff will be engaged on other projects and they will need to coordinate their absences with current customers. For a full or multi-day presentation, allow a minimum of two week’s notice with a minimum of one week’s notice for shorter presentations.
  - Don’t require a presentation that repeats what was in the proposal. The attendees should have read the proposal. Identify the specific questions or clarifications you need. Give the vendor some time to tell you what they think are the highlights or unique aspects of their offer.
- 5 Bidders’ questions and answers - Once an RFP is issued, the state typically allows vendors to submit questions. RFPs for major system implementations are usually both complex and large. They typically take a team of people months or even years to research, plan, and write. Any undertaking that large is bound to have some ambiguity, inconsistency, and even errors. States normally allow a period of time after RFP release during which vendors can submit questions so they can fully understand both the requirements of the job and the requirements of the response. We recommend that states allow a minimum of two rounds of questions. Depending on the size of the RFP and material referenced in the RFP, the initial question period should be between one and three weeks after RFP release. When determining the timeframe, consider the amount of material you have provided and how that material impacts a bidder’s response and the work they’ll do if awarded the contract. Once you’ve answered the first round of questions, you should allow vendors at 3-5 days to absorb the answers and respond with additional questions. After you provide the final round of answers, you should allow vendors at least two weeks before proposal submission. This allows vendors the time necessary to adjust their technical and cost proposals to reflect those answers. It also allows the time necessary for the series of internal management reviews that most companies require before making a fixed-price offer. Some vendors are reluctant to ask questions out of fear of ‘revealing’ something to their competitors. When a question is not asked, a vendor will normally make a proposal ‘assumption’. Typically, they will assume an answer that agrees with their current solution. We recommend that questions and answers be posted without identifying who asked the question to encourage more questions.
- 6 Bidder’s conferences - The ideal bidder’s conference would accomplish the following:
- Allow vendors to identify partners that would strengthen the value of their proposed solutions

- Provide insight into the customer's needs and expectations beyond what can be conveyed in the written word
  - Provide clarity and reduce ambiguity of what is written in the RFP
  - Cause vendors who cannot provide credible, complete responses to make a no-bid decision
  - What occurs too often is a formal, high-level presentation of an RFP summary attended by whomever the vendor can 'spare' on the day that the mandatory conference is held. If any questions are answered, it is usually with the caveat that the answers aren't valid until they are in writing. Many vendors are reluctant to ask questions in the settings so as not to 'reveal' anything to potential competitors.
  - Some methods that might improve the value of bidder's conferences:
    - Conduct virtual conferences using web meeting tools. This reduces vendor travel costs (expenses and travel time) and makes it easier to include more individuals.
    - Record conferences and post the recording to the web. This allows individuals who had a scheduling conflict to view the conference at another time.
    - Record and distribute/post attendees' names, company names and contact information. (Do not rely on scribbles on a sign-in sheet.)
    - Provide information that goes beyond what can be written, for example demonstration of systems being replaced, interfacing systems or ancillary systems.
- 7 Printing - Depending on the size of the proposal, it can take days to weeks to print, bind, and ship a proposal. Most vendors have a process where each printed copy is reviewed to make sure it printed and collated properly. Most vendors begin printing a back-up copy of their proposal once the primary copy is complete – just in case the original is lost during shipping.
- Some RFPs that attempt to be 'green' by requiring 2-sided printing on recycled paper – while at the same time expecting 12 printed copies of an 1800 page document.
  - Allowing electronic submission is better for our environment, reduces vendor costs (and price), and gives vendors more time to spend developing solutions that better meet customer needs rather than spending it on non-value added paper production.

### Top 10 RFP Leading Practices

- 1 Set aside 10-15% of budget for changes and enhancements
- 2 Dictating proposal outline and clearly aligning it with the requested services and the evaluation criteria – this makes it easier for the vendors to respond and evaluators to score as it provides a consistent model for the proposal response.
- 3 Recommending page limits by section also controls how much material must be written, read, and evaluated
- 4 Define deliverables and require vendors to identify the tasks they will undertake to create those deliverables. Clearly delineate between work products (e.g. status reports) and deliverables that have review and approval cycles and clearly define the state's commitment to the timely review and approval of deliverables.
- 5 Identifying state staff roles, skills and numbers committed to the project so the vendor's are not forced to guess (and guess differently).
- 6 Release draft RFP for comments
- 7 Answer questions at least three weeks prior to proposal due date to allow time for vendors to adequately adjust their solution and proposal.
- 8 Inclusion of an electronic pricing spreadsheet to ensure uniformity in response and evaluation.
- 9 Provide budget, scoring and weighting criteria to vendors. Without this information, vendors are guessing when they have to balance the robustness of the solution against affordability and desirability. Instead of asking vendors to 'play the game' without the rules, give them all the rules and they are more likely to hit the mark.



## Top 10 RFP Mistakes

- 1 Lack of clearly defined requirements - As the author of the RFP you know what you had in mind when listing a requirement, but don't assume that the responders will. Use clear language, no jargon and no acronyms unless clearly defined in a definition section. Bid prices can vary wildly if requirements are not clearly defined.
- 2 Broad task descriptions - Like unclear requirements, broad task descriptions will make evaluation and scoring difficult. It too can lead to misunderstandings and price variations. The more precise you can be with your task descriptions the better the proposals you receive will be. Also, avoid implying a desired approach to a task solution i.e., waterfall vs. agile or transfer vs. COTS, unless you really mean it. In that case, you should be up front with that information in the overview.
- 3 Unclear/lack of deliverables with descriptions - Like the requirements and tasks, there can be no guess work in what is wanted in the deliverables. If you do a good job in defining the requirements and narrowing down the tasks, writing good deliverables should not be a problem.
- 4 Scoring criteria that places too much weight on team/project manager - While it is important to seriously weigh the experience of the company you are evaluating, it is not as much so the experience of the team or the project manager. On most new bids, you won't know these people personally anyway and trying to judge their value based on your impression of them at orals won't give you a total picture. It is important that you know the level of experience you want at each position and as long as the proposal provides that level, the evaluation can almost be a pass/fail situation. While it is tempting to provide a higher score when a company proposes a 20 year veteran at a certain position when only ten years is expected, you don't always get the person who you evaluated. Some companies may deploy bait and switch, but even those who would not consider it have difficulty because procurements can take so long that a company cannot afford have their talent waiting around for the contract to start. Finally, over-reliance on individuals and their experience rather than proven, repeatable software engineering business processes is risky business.
- 5 Balanced cost comparisons - It is obviously important that cost evaluations compare apples to apples. Well defined deliverables, requirements, and tasks will facilitate this comparison. It is extremely important to not be swayed by a relatively low bid on a deliverable which does not realistically reflect the expected level of work. This is a sure formula for a boatload of change orders coming down the road, and you could end up paying more for the deliverable than bid by the losing vendors. Another mistake to avoid is trying to compare a Fixed Price Design, Development and Implementation project bid with a Time and Material Hourly Rate type of bid. You should make it clear from the beginning your expectation on the type of bid you are soliciting.
- 6 Mismatched proposal response format/evaluation criteria - It is important that you clearly spell out the evaluation criteria in your RFP so the responding companies are clear about what you value in a proposal. It is necessary to format the proposal and the evaluation template so that it is easy for the evaluators to award points in a decisive and direct manner without needing to determine how they fit together. Likewise it is necessary that this relationship is clear to the responding vendor as well. It will make the evaluation process so much easier and you will most likely make a better selection.
- 7 Closing communication period with the vendor community to soon prior to the release of the RFP - Most states do not have enough exposure to what is available nationwide when it comes to state-of-the-art systems, especially now that state budgets are restricting travel to conferences which highlight these systems. The best available avenue to this information can be talking to qualified vendors prior to the release of the RFP. States which cut off this conversation months before its release can miss out on the opportunity to encourage the RFP responses to provide the best possible option. This lack of communications can also lead to a reduction in the number of responses, because it can lead some vendors to conclude that this is not an open procurement, since the only access to the state is the incumbent vendor.
- 8 Not doing a pre-proposal vendor conference or providing answers to the Qs and As too close to the final proposal submission date - You want the vendor community to understand your wants and needs

as clearly as possible. This is the only way you will get a proposal which meets your requirements. You need to eliminate as much guess work as possible. A pre-proposal conference for a large size project is definitely beneficial. If this is not feasible, clearly providing sufficient time after providing answers to vendors Qs and As is even more important. States which provide answers one or even two weeks prior to the due date for the proposal do not provide the vendors sufficient time to modify their proposal if deemed appropriate by the answers provided.

- 9 Not providing sufficient time for a thoughtful vendor response - Speaking of sufficient time, a short turn around on any RFP stymies the creativity of the vendor community. If you want a thoughtful response you need to give the vendor community the time to do so. Preparing a RFP response in most cases is a time intensive task, not to mention an expensive proposition. A vendor may decide to not respond to an RFP if it feels the state is not providing sufficient time for it to prepare a competitive bid. Additionally, an extremely short turn around signals (correctly or not) to the vendor community that this procurement is wired for a certain company. This can lead to non-bids which limit competition and drives up price.
- 10 Awarding based on low price not best value - If you can define the specifications to such detail that it is clear that you want an orange widget, then taking the low bid is probably appropriate. Most of the IT systems being procured for FNS and HHS today are not orange widgets, however. Lowest price is often not the best solution. Technical scoring should carry as much weight, if not more, than price scoring. Remember that the balanced cost comparison mistake above. Change orders can drive up total price to the point that you end up paying more for an inferior technical solution with a low ball bid that beat out a more pricey, but superior solution. Also, do not forget that low price on the short term design, development and implementation contract can be offset by a maintenance and operations relationship that is expensive and that you cannot easily terminate. If you buy a solution and are not given the source code, no other vendor will ever be able to maintain this solution for you (or state staff either) and you will be at the mercy of the incumbent vendors' price demands.

### ***Common Terms and Conditions Issues and Challenges***

Often vendors will make a decision to bid, or not bid, based solely on the terms and conditions presented in an RFP and an issuer's flexibility in allowing exceptions to be taken. In fact, there have been recent examples where states have received no bids on major enterprise initiatives due to unusual terms and conditions that are out of synch with industry standards. In fact, some vendors are prohibited by their insurance carriers from entering into contracts with certain terms and conditions.

In general, vendors are going to expect the ability to have limitation of liability, opportunity to cure, paid transition out costs (for termination for convenience). Terms need to be somewhat reciprocal to attract the most competitive procurements. To ensure continuity of service, it is important to have careful language around transitioning out of a contract (for any cause).

These first three issues are critical issues that can kill a procurement and result in many large established vendors not bidding:

- 1 Limitation of liability – A lack of a limitation of liability is often a show stopper for particularly the larger and more established vendors. A state that issues an RFP without a limitation of some kind can expect to receive few if any credible bids. The most common limitation in the industry is for the limitation to be capped at the fees the vendor is charging for the engagement (aka 1X fees). Some vendors, but not all, will accept a limitation that is some multiple of fees (i.e. 2X or 3X fees).

- 2 Indemnification – Overly broad indemnification is also often a show stopper for larger and more established vendors due to the litigious nature of the industry. It is recommended that that indemnification include reasonable limitations.
- 3 Licenses and work product ownership – In order to ensure that an issuer has the broadest available options in terms of potential solutions, it is important to pay attention to what is required in terms of licenses and work products. There are many solutions on the market that can be purchased via license and then modified or extended to meet a state’s needs. A state should not try to impose a license requirement that would put a vendor in a position of giving up its intellectual property as most vendors will not agree to such a provision and as a result would not bid a potentially strong solution. Similarly, vendors will bring to an engagement intellectual property that may be included in work products. States can expect that vendors will provide a perpetual license to the state to use that property in conjunction with their use of the deliverable however will not permit a state to reuse that property on another project. States can, however, expect that any custom developed code, extensions, or work products are works made for hire and will become the property of the state once payment for such products is made.

Below are some of the other common issues which often adversely impact a procurement:

- 4 Alternate Dispute Resolution – In today’s litigious society, vendors will often be able to provide lower fees for an engagement that would be executed under a contract with an Alternative Dispute Resolution (ADR) clause. Essentially, an ADR provision provides a formal channel for the vendor and/or the state to resolve any disputes or disagreements without resorting to costly court proceedings.
- 5 Payment Terms – It is important that states put careful thought to the payment terms required. For example, payment terms that require vendors to float significant capital for extended periods of time will result in higher cost bids when compared with payment terms that provide for appropriate progress billings throughout the engagement. For example, payments based on the cost to prepare deliverables and achieve milestones is preferable to hard-coded percentages assigned in the RFP that do not align with the effort to complete the work. Payment for acquired hardware and software should be received shortly after delivery.
- 6 Performance and Bid Bonds – Performance and bid bonds are another common term that unnecessarily drive-up the bids presented to states as vendors are forced to include the cost of the bond in their cost structure for the engagement. If the state does not have a history of collecting on these bonds then the money is being spent with no return on investment. Should these be a mandatory statute, the bond values should be minimized.
- 7 Unreasonable withholding – Excessive withholding (i.e. greater than 5-10%) also results in increased bids as vendors must factor in the cost of carrying the withholding until release as part of their engagement pricing.
- 8 Unreasonable liquidated damages – Liquidated damages are a costly and difficult to enforce provision as usually the cause of a delay or other trigger that might result in damages being applied is difficult to ascertain. A better method to ensure performance is a well structured set of payment terms with progress billings tied to the achievement of specific milestones throughout the life of the project. For example, having billings tied to milestones and deliverables that occur frequently provide a better

measure of progress than those that only happen infrequently (e.g. completion of the construction phase of the project). The cost of incurring the liquidated damages will be included in the vendor's proposed price so if the state has no history of collecting on them, they are an unnecessary cost with little or no return on investment. If liquidated damages provisions are state-mandated, they should apply only to items for which the vendor has 100% responsibility/control and which are objectively measurable otherwise they are unenforceable. For example, assessing liquidated damages against service levels like application response time are unenforceable if the vendor is not responsible for the state network on which an application runs unless the state can measure those items separately and accurately. On many large IT projects, especially those which are conducted as an integrated project team, there is very little that meets that criteria. Solid governance and partnership on the part of the state and vendor are a much better insurance policy.

- 9 Key Staff replacement clauses need to allow vendors to replace key staff with equal or better qualifications with appropriate notice and an approval cycle. Terms that only allow replacement of staff due to death, illness or termination of employment with the vendor can violate labor laws as they prohibit employee promotion and career growth. For example, requiring a Project Manager to have completed three of the same or similar projects before the one in the RFP means the proposed staff member is probably not moving in their career path or has only been marginally successful. A Project Manager who has successfully led three similar projects before has likely been promoted to a more responsible position.