

# Chapter 12. Competitive Negotiation: Elements of a Request for Proposals

## Summary

This chapter identifies the minimum elements of a request for proposals when procuring goods or services using the competitive negotiation procedure.

<b>Essential Information in this Chapter</b>
<ul style="list-style-type: none"><li>• The competitive negotiation procedure formally begins when the RFP is issued.</li><li>• The RFP must, at a minimum, describe the goods or services to be procured, and identify the applicable contractual terms and conditions, the minimum qualifications for the successful vendor, and the criteria by which each proposal will be evaluated.</li></ul>
<b>Key References to the Code of Virginia Applicable to this Chapter</b>
Section 2.2-4301: Definitions of competitive negotiation and other key terms Section 2.2-4303(A): When competitive negotiation required, generally

### **12-1 General**

The competitive negotiation procedure formally begins when the purchasing agent issues an RFP. The RFP defines the responsibilities of the vendor as well as those of the County, describes the requirements for performance, and establishes criteria against which the vendor will be measured. At a minimum, the RFP must contain:

- A description, in general terms, of the goods or services to be procured.
- The contractual terms and conditions applicable to the procurement, or incorporate those terms and conditions by reference.
- A statement of any requisite qualifications of the potential vendors.
- A statement describing the criteria by which each proposal will be evaluated, including any unique capabilities or qualifications which will be required of the vendor.

The following sections discuss in detail each of the elements of an RFP. The level of detail contained in an RFP depends in part on the nature of the particular procurement.

**Table 12-1**

## The Nine Elements of a Request for Proposals

1. The Introduction
2. General information
3. Description of the goods or services to be procured
4. The minimum qualifications of a vendor
5. Contractual terms and conditions
6. Minimum standards of a proposal
7. Required elements of a proposal
8. Submittal requirements
9. Evaluation criteria

### 12-2 The Introduction

The introduction to the RFP provides prospective vendors with general, but important, information pertaining to the procurement. The introduction should contain the following:

- Identifying information: Provide the full names of the County and the using department, the name of the project, and the RFP number assigned by the purchasing agent.
- Summary description of the goods or services: Briefly describe what is being procured.
- Summary explanation for the procurement: Briefly explain why the using department is procuring the goods or services. The explanation may include, as appropriate, information about the goals and objectives of the using department and how the procurement relates to the department's goals and objectives, a summary of the functions to be supported by the goods or services, or a statement that the goods will supplement or replace existing equipment.

The information provided in the introduction should be stated in clear, simple, concise language. Information that is not directly related to the procurement should not be included.

### 12-3 General Information

The general information section of the RFP should provide information about the procurement process and instructions as to how to respond to the RFP. This section should contain the following information:

- Anticipated procurement schedule: The anticipated procurement schedule, setting forth each milestone from the date proposals must be received to the date performance of the contract will begin.

- Procurement procedure: A brief description of the competitive negotiation procedure applicable to the procurement.
- Proposal requirements: A statement that the proposal must be prepared and submitted as provided in the RFP.
- Designate proprietary information: A statement that vendors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential in accordance with state law.
- Identify references: Identify all documents pertinent to the procurement, such as studies, feasibility studies, surveys, drawings, plans, configurations, specifications and standards, government regulations and correspondence, and when and where the reference documents are available to prospective vendors.
- Identify the contract: Identify the proposed contract that will be used for the procurement.
- Identify contact persons: Identify each County contact person and his mailing address, email address, telephone number and fax number. The purchasing agent should be identified as the contact person for procedural questions pertaining to the procurement, and a representative of the using department should be identified as a contact person for questions pertaining to the goods or services to be procured.
- Solicit comments: A statement soliciting comments from all prospective vendors about the RFP.
- Information pertaining to addenda: A statement informing prospective vendors that inquiries relating to the interpretation and technical details of the RFP must be in writing and must be received by the purchasing agent, not the using department, at least seven days prior to the date proposals must be received. The statement shall include a provision advising prospective vendors to contact the purchasing agent five days before the date proposals must be received to ascertain whether addenda have been issued.
- Right to waive informalities: A statement that the purchasing agent may waive informalities in any proposal.
- Right to cancel the procurement or reject all offers: A statement that, at any time prior to award of the contract, the purchasing agent may cancel for any reason the RFP, or reject any or all of the proposals, as provided by law.

The purchasing agent should include any other general information when appropriate for a particular procurement, such as anticipated funding or budgeting requirements.

#### **12-4 Description of the Goods or Services to be Procured**

The goods or services to be procured should be described in detail. If goods are being procured, the description should be in the form of a specification developed pursuant to chapter 7.

If services are being procured, the description should state in simple non-technical terms the services to be performed by the vendor. The description should include the following information:

- Deliverables: All items to be delivered and services to be performed by the vendor, including operating manuals, training, repair parts, software and reports. The services to be performed should be identified by each required task, set forth in a logical sequence.
- Mandatory approaches: If a service must be performed in a particular manner, it must be identified.
- Quality assurance: Identify quality assurance requirements applicable to performance of all items to be delivered and services to be performed.
- Questions requiring answers: Identify all questions that the County has that require answers.

This list is not exhaustive. The primary purpose of the description is to inform prospective vendors what the County desires to procure.

#### **12-5 Cost**

An RFP for the procurement of goods and nonprofessional services may request that prospective vendors include the cost of the goods or services in their proposals. However, cost should not be the sole determining factor when selecting those vendors deemed to be suitable for negotiation.

An RFP for the procurement of professional services may not request that prospective vendors include the cost of the services or even furnish estimates of man-hours.

#### **12-6 Minimum Qualifications of Vendors**

The RFP shall specify the requisite qualifications of the successful vendor by identifying the minimum necessary experience, background, or expertise in the

area of the procurement. The qualifications will vary depending on the goods or services to be procured. However, they may not be so onerous so as to restrict competition. The qualifications of vendors are discussed in more detail in chapter 23.

#### **12-7 Contract Terms and Conditions**

The contract terms and conditions contained in or attached to an RFP shall be only those terms and conditions developed by the purchasing agent and the county attorney. The using department shall not substitute any term or condition.

- General contract terms and conditions: The RFP shall contain general terms and conditions for doing business with the County that apply to all procurements by the County.
- Specific terms and conditions: The RFP shall also contain terms and conditions that are specific to the procurement.

These terms and conditions are set forth in the Appendix, and are subject to change from time to time by the purchasing agent and the county attorney.

#### **12-8 Minimum Standards of a Proposal**

The RFP shall include a section that sets forth the required standards of a proposal to assure that the County receives information from each vendor in a consistent format. The minimum standards of a proposal are as follows:

- Proposal must be in writing: The proposal shall be in writing, in legible text.
- Proposal must be in a standard format: The proposal shall be in a standard format, provided by the County. The reasons for this requirement are: (1) to place vendors of different sizes on a more equal basis; and (2) to assist the purchasing agent, the using department and the selection committee in its evaluation of the proposals, since all vendors will provide similar information and it will be easier to make comparisons and determine which vendors are less qualified.

The purchasing agent may impose other standards including, but not limited to, page limitations.

#### **12-9 Required Elements of a Proposal**

The RFP shall include a section that sets forth the required elements of a proposal to assure that the County receives relevant information from each vendor. The required elements of a proposal are as follows:

- Identification of vendor: The name of the vendor, the location of the vendor's principal place of business and, if different, the place of performance of the proposed contract.
- Identification and experience of key personnel: The names, abilities, qualifications and experience of all personnel who would be assigned to work on the project. This element is required for the procurement of services, but may be waived for the procurement of goods.
- Discussion of the project: A statement of the vendor's understanding of the problem, the work to be done, or the program, and the approach to be used to achieve the objectives of the procurement. For the procurement of services, this discussion should also include a plan giving as much detail as is practical explaining how the services will be performed. The plan should include a list of the key verifiable milestones in the project.
- Identification of prior experience: Identification of all other contracts under which goods or services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time.

Other elements may be required, in the discretion of the purchasing agent. In requiring additional elements, the purchasing agent should consider the evaluation criteria established for the procurement, in order to assure that the proposals will address all of the evaluation criteria.

## **12-10 Submittal Requirements**

The RFP shall identify all of the bid submittal and receipt requirements identified in sections 11-8 and 11-9.

## **12-11 Evaluation Criteria**

The RFP shall specify those criteria determined by the purchasing agent, the using department and the selection committee to be relevant and material to properly evaluate a proposal. For the procurement of goods and services other than construction and professional services, the evaluation criteria may include best value concepts, which allow consideration of the overall combination of quality, price and other elements that in total are optimal relative to the County's needs. The RFP should also indicate the relative importance of each criterion. Criteria that will not affect the determination of whether a vendor is qualified, that will preclude otherwise competent vendors from competing, or that the selection committee will be unable to judge, should not be included. In addition, the number of evaluation criteria should not be so numerous so as to make it impossible for the selection committee to determine whether a vendor has satisfied all of the criteria.

See chapter 13 for a detailed discussion on developing evaluation criteria and weighting those criteria.

