
CHAPTER 7

Competitive Proposals



Contents

- Competitive Proposals (RFPs, RFQs)
- Procurement of Specific Services



Introduction

- Competitive proposals allow for:
 - Consideration of technical factors other than just price
 - Discussions with offerors
 - Negotiation of price and terms
 - Revision of proposals prior to final selection
 - Withdrawal of offer by the PHA up until point of award
- Authority: 2 CFR §200.320(d)



When are Competitive Proposals Used?

- When requirements are such that PHA has to evaluate factors other than price
- PHA wants to consider various approaches to the work



Method of Solicitation

- Use method that creates full and open competition between qualified vendors
- Best to run advertisements for at least once a week for two consecutive weeks
- State or local regulations may have additional advertising requirements
- Direct notice sent to known potential respondents is most effective and efficient manner to obtain offers



Components of a Typical Solicitation

- Cover page
- Table of contents
- Introduction
- Statement of work (SOW)
- Submission requirements and pricing instructions
- Evaluation factors
- Attachments



Amending and Canceling a Solicitation

- Amendments before proposal date:
 - Must notify all potential offerors who obtained a solicitation
 - Post on website or bulletin boards where procurement information is disseminated
 - If changed conditions are so substantive that they affect offeror's responses or discourages potential offerors, PHA should extend submission deadline
- Amendments after proposal due date (i.e., is really a “notice” as requirements cannot be amended or revised after proposal due date)
 - Must be delivered to all offerors who responded with a proposal



Amending and Canceling a Solicitation, cont.

- Amendments after determination of competitive range (i.e., is really a “notice” as requirements cannot be amended or revised after the competitive range is established)
 - Provide notice to all offerors in competitive range
- Canceling the RFP:
 - If RFP changes are so substantial that new requirements are created, CO must cancel and issue a new RFP



Important Considerations

- Receiving Proposals and Confidentiality
 - Date- and time-stamped
 - Unopened until deadline passes
 - Kept confidential and must not be opened publicly
- Results of proposal evaluation may or may not be made public depending on local laws
- Late submissions:
 - Not considered unless the only submission or under conditions specified in Section 6 of form HUD 5369-B



Evaluating Proposals

- Requires certain elements to ensure process is fair and transparent and selected proposer offers the best value
- Evaluation criteria, weighting, and scales must be clear to offerors and evaluators
 - Must be published in the RFP with all relative weights



Evaluation Factors—Non-price

- RFP must indicate criteria to be used to award solicitation and weight given to each factor
- Typical evaluation factors:
 - Understanding of work required
 - Technical approach
 - Quality of work plan
 - Technical capabilities
 - Experience performing similar work
 - Successful past performance of similar work
 - Proposed cost (not a technical factor but is objective)



Evaluation Factors—Price

- Evaluate price
- Points assigned to price
 - Solicitation structured such that points are awarded for price and non-price factors



Factors and Weighting Combined

- CO prepares evaluation template for each solicitation
 - Provides clear direction for evaluators of criteria to be used to select best proposal
- Each factor is given a maximum point value
- Evaluation sheet typically contains, at a minimum:
 - Criteria
 - Point system
 - Adequate space for evaluators to fully justify scores



Evaluation Committee

- Comprises people with subject matter knowledge
- Recommended: odd number of three or more members
- Potential members must disclose conflicts of interest
- Members sign Conflict of Interest Certification and Non-disclosure Certification



Evaluation Committee Tasks

- Individual Review
- Consensus Review (if necessary)
- Ranking
- Negotiation (if necessary)



Evaluation Report

- Prepare a report of bid process and evaluation
- Reports typically include:
 - Narrative explaining process and how scores are derived
 - Methodology for ranking proposals
 - Strengths and weaknesses of each proposal
 - Documentation and justification for award
- All documentation related to evaluation process must be maintained in RFP file



Determining Competitive Range

- After Evaluation Report, CO determines which proposals move forward to next phases
 - These proposals are in the competitive range
- CO's review of the report includes:
 - Which offerors have proven capability to perform technical requirements
 - Which costs offered are reasonable
- Offerors meeting both standards are kept in the running



Classification of Proposals in the Competitive Range

- CO classify proposals into three categories:
 - Acceptable
 - Potentially acceptable
 - Unacceptable



Negotiation

- Award without Negotiations
- Negotiations and Discussions
 - Negotiations: CO enters into negotiations with offerors deemed acceptable
 - Discussions: Occur after competitive range has been established



Negotiation, cont.

- Profit
 - Calculated separately when:
 - When there is no price competition
 - When cost analysis is performed
 - CO determines fair and reasonable profit based on:
 - Complexity of work
 - Risk
 - Contractor's investment
 - Amount of subcontracting
 - Past performance
 - Industry profit rates



Best and Final Offer

- After initial negotiations, offerors in competitive ranges invited to submit revised proposals, including revised costs
- Evaluation conducted the same way as initial evaluation by Evaluation Committee
- Must be fully documented
- Submitted pursuant to hard deadline like initial offers
 - Offerors who fail to submit on time will have initial offer used as the best and final offer for purposes of this evaluation



Contract Award

- Contracts awarded according to terms of solicitation
- Notification is in writing
- Unsuccessful offerors receive:
 - Name of awarded offeror, each offerors' final placement, all costs proposed
 - Basis for not being selected, i.e., description of weaknesses (if debriefing is requested and given)
 - Opportunity to request debriefing by CO by a certain date
 - Debriefing explains how offer was unsuccessful but does not reveal information about other offers
 - Reminder of right to protest



Procurement of Specific Services

- Architecture and Engineering Contracts (A/E)
 - Request for Qualifications (RFQ), a.k.a. Qualifications-based Selection (QBS) (NOTE: Cost is not an evaluation factor)
 - PHA uses RFQ to solicit proposals
 - PHA selects highest-ranked respondent and negotiates price with top-ranked firm only
 - Typically used only for A/E or developer contracts
 - RFQ method required by most states for A/E Services (HUD allows RFQ or RFP method)
 - RFQ must have clear scope of work
 - Typical A/E Evaluation Factors
 - Ability of firm to perform work in timely manner
 - Past performance
 - Knowledge of local building codes and federal building alteration requirements
 - Other factors important to PHA



Procurement of Specific Services, cont.

- Architecture and Engineering Contracts (A/E), cont.
 - Solicitation and Contracting Methods
 - Direct Approach/Service-specific Contract
 - Pool of A/E Firms
 - For ongoing projects and awarded as needed
 - Other Considerations
 - HUD-51915, Model Form of Agreement Between Owner and Design Professional is required when small purchase threshold is exceeded
 - Contract is firm fixed price, not percentage of construction costs
 - If PHA receives less than three proposals:
 - PHA analyzes and files reasons for inadequate response and rejects, rebids, or evaluates proposals



Procurement of Specific Services, cont.

- Legal Services
 - Procurement Methods
 - Small-purchase procedures
 - Sealed bidding
 - Competitive proposals (the most typical recommended method)
 - Non-competitive proposals
 - Contracting for Legal Services
 - Time and Materials Contract: pre-priced, services ordered in unit amounts until funds expended
 - Employment: PHAs can hire in-house attorney or can contract with an attorney or firm



Procurement of Specific Services, cont.

- Litigation Services and HUD Approvals
 - PHA must have HUD approval for spending on legal matters
 - Fixed price litigation contracts less than \$100,000 can be approved by PHA

Expected Fee for Litigation-related Matters	Level of Approval
> \$100,000	HUD Regional Counsel
> \$300,000	Regional Counsel and Headquarters Program Associate General Counsel



Procurement of Specific Services, cont.

- Contract Addendum
 - Protocols for relationship with legal-service provider described in HUD-approved addendum to engagement letter
 - Most legal firms won't execute addendum because they feel it violates attorney-client privilege



Procurement of Specific Services, cont.

- Employment contracts not considered procurements
- Employment contracts governed by PHA personnel policies
- Hiring independent contractors considered a procurement
- Executive Directors can be hired as employees or independent contractors
- HUD requires local HUD approval for contract terms greater than 2 years
- HUD recommends contract awards of 2 years with three 1-year renewal options

