CHAPTER 6

Consultant 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 contractor. The proposal represents the consultant's best offer to the agency.

Proposals submitted in response to an RFP must demonstrate that the proposer understands the agency's problem by recommending a workable, feasible solution. The proposal should state how the consultant plans to solve the problem and fulfill the needs; should define specific, definite, measurable and obtainable objectives; establish a time frame for the project; suggest how and when progress reports and evaluations will be made; 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 consultant'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 consultants 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 consultants' proposals. It is prepared concurrently with the RFP and the major evaluation criteria are 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 results in a well thought out methodology for scoring and evaluating proposal elements, which 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 are higher. On a project where numerous qualified consultants are expected to bid, cost may be given the greatest weight.

The following types of criteria, not listed in order of significance, should be addressed in the proposal evaluation document contingent 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 (technical proposal).
- Feasibility of the schedule and ability to adhere to it.
- Description of proposed deliverables.
- 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 necessitates 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 scoring 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 reflects the requirements 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 evaluation panels or teams 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 form appears on page 6-4.

CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT

RFP NO. _____

(PROJECT TITLE)

CONFLICT OF INTEREST STATEMENT

To ensure a fair procurement process and to guard against protest by unsuccessful proposers, I have carefully evaluated my position with regard to possible conflict of interest. I certify that I am not aware of any issue that would reduce my ability to participate on the evaluation team in an unbiased and objective matter, or which would place me in a position of real or apparent conflict of interest between my responsibilities as a member of the evaluation team and other interests. In making this certification, I have considered all financial interests and employment arrangements (past, present or under consideration).

CONFIDENTIALITY STATEMENT

In anticipation of my participation in the evaluation process used to evaluate proposals, I certify that I will not disclose any information about the evaluation of this RFP, during the proceedings of the evaluation process or at any subsequent time, to anyone who is not also authorized access to the information by law or regulation.

Name _____

Date _____

6.4 Communicating with Consultants

Agencies must provide open communication with prospective proposers. The RFP, therefore, should designate an 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 consultant questions about proposals to the RFP Coordinator, as named in the RFP. Some agencies state in their RFPs that contacting any other agency individual for information may subject the consultant to a determination of non-responsiveness. Opportunities for communication and information must be equally available to all potential respondents. Agencies may provide this opportunity through a formal pre-proposal conference, e-mail, an on-site visit or other controlled communication forum.

6.5 Pre-Proposal Conference

The pre-proposal or pre-bid conference offers a setting where all potential respondents may ask questions and seek clarification and additional information about the Request for Proposals in a public setting without gaining competitive advantage in preparation of their proposals. The pre-proposal 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 should 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. No decision on complicated or sensitive matters

should be made at the pre-proposal conference.

Agencies should advise attendees that all answers are tentative and the agency will be bound only to the written questions and answers from the bidder's conference. The questions and answers from the bidder's conference must be sent to all who received the RFP. If the procurement was posted on the agency website, the questions and answers from the bidder's conference should also be posted on the agency website.

It may be helpful to tape-record the pre-proposal conference. The recording provides a ready reference and checklist for the staff in recalling all of the important points of the conference. A record of the information presented at the conference must be provided to all recipients of the RFP and distributed as an addendum to the RFP. This addendum could be distributed electronically to expedite delivery.

Attendance at the pre-proposal conference is generally not mandatory, but may be in some cases. The pre-proposal 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 pre-proposal 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 by the agency, 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 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. Generally, this is the RFP Coordinator.

This person will date, time stamp and initial each hard copy proposal immediately upon receipt. Written proposals should be kept locked in a secure location.

Only the delegated individual(s) should know which firms have

responded. Prospective proposers should not be told which firms have submitted proposals prior to the deadline as it could potentially affect their own submission.

Opening is usually done promptly due to time constraints within the project schedule; it is recommended that this occur within two business days of receipt of proposals.

6.7 Late Proposals

Late proposals should not be accepted and the RFP should state this. If received after the date and time indicated in the RFP, a late proposal should be returned unopened with a letter or e-mail stating why the proposal is being returned.

However, state agencies may consider the following guidelines used by the federal government, which allows receipt of late proposals under the following circumstances:

- If the proposal was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of proposals, the proposal is accepted.
- If the proposal was sent by mail, and it can be determined that late receipt was due solely to government (in this case, state agency) mishandling after receipt, the proposal will be accepted.
- It is the only proposal received.

Proposals may be withdrawn at any time prior to award by written or electronic notice or by request in-person by the proposer.

6.8 Responsiveness of Proposals

The 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.

The terms "responsive" and "responsible" should be clearly understood for evaluation purposes. "Responsive" is normally used to describe the proposal while "responsible" is used to describe the proposer. 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, satisfaction that the proposer is technically and financially responsible, satisfaction that the service will be completed in accordance with the project schedule, etc. A “responsible” proposer is one whose skill, ability and capacity demonstrate the capability to provide the service.

The first review for responsiveness addresses form as well as substance. It includes a determination of whether the proposal conforms to the requirements of the procedural and technical specifications of the RFP. A non-responsive proposal is obviously one that does not conform to the essential requirements of the RFP. Such a proposal is then rejected as non-responsive and is not forwarded to the evaluation committee.

Occasionally all proposals may be deemed non-responsive and are, therefore, all rejected. This could be the result of unreasonable qualification requirements, misunderstanding by the consultants 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, award can be made. If it is non-responsive, it may be rejected. The reason(s) for rejection of proposals must be included in the contract file.

Evaluation of proposals will be based on the information contained in the RFP. Brochures or other promotional presentations, beyond what is sufficient to present a complete and effective proposal, may be redundant. The RFP Coordinator is free to remove this material before submission to the evaluation committee.

A sample checklist of responsiveness appears on page 6-9. The sample checklist should be customized to incorporate all the appropriate provisions of an RFP.

SAMPLE CHECKLIST FOR RESPONSIVENESS
(Request for Proposal)

- ☐ Proposal was submitted by or before (enter the time required by schedule)
- ☐ Received required number of copies of proposal.
- ☐ 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 sections: Letter of Submittal, Technical Proposal, Management Proposal, and Cost Proposal.
- ☐ Proposer meets the minimum qualifications, which are: _____.
- ☐ Proposal demonstrates that the proposer is capable/responsible to provide the services.
- ☐ Technical Proposal is essentially responsive to the core work requirements of the RFP and does not impose conditions that would modify the RFP.
- ☐ Management Proposal is essentially responsive to core requirements of the RFP.
- ☐ Costs are not greater than $_____, the maximum amount disclosed as the project budget. **Note**: If the RFP did not state that proposed costs must not exceed a specific dollar amount, the proposal may still be responsive, but will receive fewer points when evaluated.
- ☐ 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).
- ☐ The proposal states that a “Certificate of Insurance” will be provided as a condition of award.
- ☐ Three business references were provided.

Note: Each item must be checked 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 consultants 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 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 teams or 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:

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

evaluation process.

6.9.1 Study the Criteria

Evaluators should study the selection criteria in the RFP and the evaluation 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 the evaluators.

6.9.2 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. Evaluators' scores may be totaled together for a final score, or evaluators may meet to develop a team score.

6.9.3 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.

6.9.4 Consensus

After the individual team members have separately evaluated the proposals, the team, under the leadership of a team chair, may meet and formulate its 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.

6.10 Blind Evaluation

If an agency decides to conduct a blind evaluation of proposals, the agency assigns a bidder code to each bidder. The bidder uses this code in the appropriate sections of the proposal, rather than the organization's name. Terms such

as "this organization" would be used in the coded sections of the proposal. Generally, the management section of the proposal would state the firm name, but would be scored separately from the other sections during the evaluation. This is another way to ensure objectivity in the evaluation process.

6.11 Reference Checks

Checking consultant 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 they can be checked only for 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?
- Did assigned consultant staff work well with agency staff? If not, explain.
- Are there any other comments you wish to provide?

6.12 Oral Presentations

To make a final selection from a field of highly qualified, close-scoring finalists, it may be advantageous to invite the top-scoring finalists for oral presentations. Oral presentations may be structured to allow a specified time limit for the presentation and time for questions from the evaluation panel. Individuals who evaluated the written proposals should also be part of the panel evaluating the oral presentations. The evaluators then have an opportunity to listen to the consultants' oral presentations of their proposals and to ask questions. Each oral interview is to be conducted in the same format. The oral presentations provide final input into the selection of the apparent successful contractor. The evaluators then score the oral presentations and arrive at a consensus decision for award.

The score from the oral presentation may be the determinant score for the procurement, or it may be added to the score of the written proposal for determination, whichever is specified in the RFP. However, the RFP language must describe how these scores determine the final result.

6.13 Determining the Apparent Successful Contractor

Based on the evaluation team's 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 consultant should be promptly notified by telephone, electronic mail or by letter. 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, preferably in writing. Letters should be sent electronically or by facsimile to hasten notification and to confirm receipt on a specific date.

6.14 Documenting the Selection

All agency actions taken to arrive at the award decision must be properly documented. This documentation should be comprehensive in order to substantiate that all bidders were treated equally and fairly and that an equitable and impartial competitive process was conducted, provide support of all decisions made, and present a complete picture of the award process to any interested party who reviews the file. Documentation, at a minimum, should include:

- Copy of the advertisement showing where it was published.
- Copy of the solicitation document.
- Names of firms that were directly sent the solicitation or notification regarding the solicitation.
- Names of firms that submitted proposals.
- Copies of all proposals submitted.
- Summary sheet of scoring for all proposals scored.
- Individual evaluator's score sheets for both the written proposals and oral interviews, if used.
- Copy of written notification to successful and unsuccessful bidders.

Other documentation forms that may be included are:

- Conflict of Interest and Confidentiality Statement signed by each evaluator.
- Pre-award Risk Assessment form.

This documentation must be retained in accordance with records retention schedules set by the Office of the Secretary of State and agency policy. Generally, records must be retained for six years.

6.15 Debriefing Conferences

Unsuccessful proposers are to be afforded the opportunity of debriefing conferences if they so request. The request for a debriefing conference is limited to the time period set forth in the RFP, such as that the request be made within three days of receipt of the written notification indicating that their proposal was not selected.

Discussions should be informal and limited to a critique of the requesting consultant's proposal. This feedback will assist the proposer in understanding the strengths and weaknesses of his/her proposal so that future efforts may be more effective. Agency representatives should be able to explain the scoring of a consultant's proposal in order to assure the unsuccessful proposer that the proposal received a fair and objective evaluation.

Debriefings may be conducted in person or by telephone and may be limited to a specific period of time.

6.16 Public Disclosure

Proposals are considered public records as defined in RCW 42.17.250 through 42.17.340.

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". The agency has the authority to decide whether any or all of the claimed exemptions are appropriate.

The proposal of the successful consultant generally becomes part of the contract that is subject to public disclosure. Data contained in the proposal, all documentation provided and innovations developed as a result of the contract become the property of the agency.

However, there are exceptions to the foregoing public disclosure guidelines. An agency should consult its Assistant Attorney General for clarification.

6.17 Protest of the Procurement

It is essential that proposers have confidence in the procedures for soliciting and awarding contracts. This can be assured by allowing an aggrieved party to protest the procurement. A protest procedure incorporated into the Request for Proposals provides benefit and protection to both the agency and the consultant community. In the event a protest of the procurement is submitted, the agency knows the steps to follow as outlined in the procedure to respond to

the protest. Conversely, the consultant is made aware of the process by which a protest may be submitted and the time frame under which a protest will be accepted.

For a protest to be considered, it must show an issue of fact concerning:

1. A matter of bias, discrimination or conflict of interest on the part of an evaluator;
2. Errors in computing the score; and/or
3. Non-compliance with procedures described in the procurement document or agency policy.

The agency will review the protest to determine if any of these three factors affected the solicitation.

Protests not based on procedural matters will not be considered. An agency should reject a protest as being without merit if the protest addresses issues such as an evaluator's professional judgment on the quality of a proposal or the agency's assessment of its own and/or other agencies needs or requirements.

Agencies may require a specified format for the protest. If an agency does not specify, the protest may be in any written format, but should be clearly designated as a protest document.

Some agencies require that protests may only be filed by firms which have first participated in a debriefing conference and require that protests be submitted within three to five business days of the debriefing conference. The agency should send the protester a written decision within a reasonable amount of time, for example, three to five business days. If the agency does include timelines in the protest procedure, they must strictly adhere to the timelines.