

Best Value Considerations

Best value considerations should also be included in the statement of work. The lowest cost is not necessarily the best value for all procurements. For example, a commodity or service of higher quality, such as a longer life span, may be a better value and investment for the State of Texas, even if the initial cost is more. Agencies need to think strategically when considering their procurement needs. Do not make the mistake of obtaining only what is necessary to meet the immediate needs of the agency. Ask “What is the desired outcome of the procurement” and “What is the best way to achieve this outcome?”

For example, consider the purchase of a heating and air conditioning unit. Agencies should consider the total cost of ownership when purchasing these units. Average life span of the unit, electricity consumption, maintenance record of the unit and parts availability are just a few considerations when looking at the total cost of ownership. In addition, agencies might consider the qualifications and availability of the service technicians and the vendor’s performance history. The Comptroller of Public Accounts (CPA) administers a vendor performance program for use by all ordering entities per Texas Government Code, Title 10, Subtitle D, section 2155.077. (See CPA Vendor Performance Tracking System)

<http://www.window.state.tx.us/procurement/pub/manual/2-50.pdf>

Several statutes refer to the use of best value in procurements.^{xv} Refer to these statutes before including best value considerations in your solicitations. Some items which may typically be considered under best value include:

- Installation costs;
- Life cycle cost;
- The quality and reliability of the goods and service;
- Delivery terms;
- Indicators of probable vendor performance under the contract such as past performance (see above), the contractor’s financial resources and ability to perform, the contractor’s experience or demonstrated capability and responsibility, and the contractor’s ability to provide reliable maintenance agreements and support;
- The cost of any employee training associated with a purchase;
- The effect of a purchase on agency productivity;
- The contractor’s anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment; and
- Other factors relevant to determining the best value for the state in the context of a particular purchase.

Proposal Submission Requirements

The solicitation document should include one section listing all of the required information that respondents must submit with their response. This will assist respondents in ensuring required documentation is submitted with the proposal. Additionally, recommended or required proposal formats should be specified in this section, such as page number limitations, size of paper, number of copies, etc. As stated previously, ensure that the solicitation document requests information on those items to be evaluated. For example:

Evaluation Criteria	Solicitation Requirement	Submission Requirement
Contractor Qualifications	Licensed Architect.	Copy of License.
Contractor Experience	Minimum of five (5) projects of similar size and scope.	Detailed information regarding building size, dollar amount and scope of project for each individual project and any additional information necessary to evaluate contractor experience.
Financial Capability	Financially capable of handling a project of this size and scope.	Copy of latest financial statements, including balance sheets, Dunn and Bradstreet report, etc.
Proposed Services	Business Plan for how proposed services will be performed.	Business plan should include, the number of staff resources and experience level, implementation strategy, reporting requirements, response times, etc.

Monitoring

The methods used to monitor contractor performance should be clearly stated in the solicitation. Forcing a contractor, without prior knowledge, to produce time-consuming reports or maintain stringent testing requirements outside normal industry parameters is grounds for legal challenge. It is important that agencies develop and include a monitoring strategy in the solicitation.

The amount of monitoring should be balanced and adequate to meet the need, but limited in type, scope and frequency sufficient to achieve the desired result without unnecessarily increasing costs. Overly restrictive oversight can interfere with the contractor's ability to accomplish the work and may unnecessarily and inadvertently increase the cost of the work.

The statement of work should set specific deadlines for completion of tasks and a schedule for submittal of deliverables, required meetings, presentations or other activities. The contract manager must consider monitoring methods to ensure the contractor performs as specified in the statement of work.

Additionally, different funding sources such as federal grants may have specific requirements for contract monitoring. The contract manager must be familiar with these requirements and include them in the statement of work.

Further discussion on contract monitoring is covered in Chapter 7 – Contract Administration.

Reporting

Status reporting, performance and activity reporting are terms used to describe information that a contractor must provide to show the status of a contract. These terms must be defined in the statement of work and the definition of each should include content, frequency and audience for each report.

A status report describes the level of completion of the work and/or the cost of the contract. Percent complete is often used to describe status. For the report to be useful, a baseline should be established for timelines and budgeting.

If deliverables are specified, include the format of the deliverable and the number of copies required. For example, if a deliverable is a final project report, state how many copies of the report are needed and specify the format of the electronic copy. State all items that must be included in the report. These requirements are usually addressed in the statement of work within the solicitation document.

If vendor provided information is anticipated to be reported as part of the agency's performance measures, ensure that there are requirements that allow for data verification and that the data corresponds with the data required for the performance measures.

If possible, include in the solicitation document the desired format or a sample of any required reports.

Inspection and Testing

The statement of work should provide for inspection and testing. The agency should include inspection and testing of goods and services purchased under the contract to ensure compliance with the specifications of the solicitation and the contract.

Test should be performed on samples submitted with the proposal and samples taken from regular shipments. All costs of inspection and testing should be borne by the contractor. In the event the goods tested fail to meet or exceed all conditions and requirements of the solicitation and contract, the goods should be rejected in whole or in part at the contractor's expense. Latent defects can result in cancellation of a contract at no expense to the state. Agencies should contact legal counsel regarding latent defects.

Final Acceptance

The statement of work should clearly define how the agency will determine that the contract has been satisfactorily completed. The statement of work sets a standard for acceptance of the deliverable and establishes a procedure to receive or reject the deliverable based on specific factors.

Tracking the status of several phases, segments and deliverables, where each deliverable may have multiple tasks, activities, and products, can be challenging. A formal acceptance process for each step in a contract allows a contract manager and the contractor to know the conditions of contract performances.^{xvi}

Additional Issues to Consider

Listed below are additional issues which agencies should consider when writing the statement of work. These items may affect pricing, so it is important that respondents are aware of these requirements. The statement of work answers – who, what, when, where, why and how. If these questions are answered, it is a reasonable assumption that the statement of work is complete.

- Licenses or permits required;
 - Use of state agency equipment;
 - Storage space for contractor materials/supplies;
 - Intellectual property/copyright issues;
 - Subcontractor requirements;
 - Insurance requirements; and
 - Conflict of interests/organizational restrictions;
-

i Texas Government Code, §2155.074, §2155.075, §2156.007, §2157.003 and § 2157.125, and Texas Administrative Code, Title 1, Chapter 113.6

ii See Tex. Bus. Com. Code §2.607. Effect of Acceptance; Notice of Breach; Burden of Establishing Breach after Acceptance; Notice of Claim or Litigation to Person Answerable Over (1967).