NEGOTIATED REQUEST FOR PROPOSAL (NRFP): A GENERAL OVERVIEW

July 9th and 10th 2019

Negotiated RFP "Path"

Date	Process Path and Utilization
2017 September	Approved PAC Work Plan Item
2017 November	PAC Accelerated Implementation
2018 February	Templates and their use approved but with Council Approval
2019 February	Council Approval and adoption of Procurement By-law amendments to use Negotiated RFP
2019 July	In use for 2 Council Approved "In Flight" projects and being considered for 2 "In Development" projects
Beyond	Future use could include other complex projects which meet the criteria outlined herein including acquisitions of IT related requirements

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Benefits

- Non-binding / Flexible Format;
- Fix administrative matters or deficiencies through Rectification;
- Negotiations refine and enhance proposed solutions prior to award;
- Better shared understanding of project/solutions via discussion; and
- Negotiate over-budget bids to reduce exposures resulting from cancellation

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Risks & Challenges

- Bidders can withdraw their bid at any time;
- Compliance with and adherence to Trade Treaty Legislation;
- Pressures on the capacity of staff to manager and facilitate the process;
- Requires an adjustment to a more flexible process; and
- Complexity of the process and lack of certainty of the outcome could impact pricing

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How does it differ from Traditional RFP?

Traditional - Binding

- Best suited to projects with clear specifications, deliverables & evaluation criteria;

- Binding: No modifications to received proposals; "Contract A";

- Duty to Award with limited options; and

- Bidder (by submitting) is bound to provide the good or service.

Negotiated – Non Binding

- Best suited to projects with high complexity and uncertainty. (better outcomes could be achieved via negotiation and expertise from the market)

- Non-Binding: No expressed or implied obligations;

- Changes/clarifications can be considered – this flexibility extends to the contract stage

- Bidder can withdraw / not obligated to provide good or service until the process concludes.

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The Processes

TRADITIONAL	NEGOTIATED	
CONTRACT "A"	CONCURRENT / BAFO	CONSECUTIVE
I – Mandatory	I – Mandatory and Rectification Period	I – Mandatory and Rectification Period
II – Rated Criteria	II – Rated Criteria	II – Rated Criteria
III – Pricing	III – Pricing	III – Pricing
IV – Ranking and Selection of Top Ranked Proponent	IV – Initial Ranking and Concurrent Negotiations	IV – Ranking and Contract Negotiations
	V – Submission of Best and Final Offers (BAFO)	
	VI – Final Ranking and Contract Negotiations	

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Negotiation Principles

- Focus on the strengths/weaknesses of each proposal;
- Treat all Proponents/proposals confidentially and equally;
- Elimination of any proponent is on the basis of the published evaluation criteria
- Typically results in an increased number of higher-scoring proposals; and
- Improved contract and resulting opportunities

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What can we Negotiate?

- Not open ended / adhere to our process;
- We can clarify requirements;
- We can request improvements in:
  - Pricing; and/or
  - performance terms; and
- We can consider commercially reasonable adjustments to the legal terms and conditions contained in the standard form of agreement issued with the Negotiated RFP.

What can't we Negotiate?

- Everything and anything;
- Prescriptiveness in our requirements and mandatories will limit what is open to negotiation;
- Can't negotiate critical requirements or items deemed "non-negotiable"; and
- Final agreement cannot significantly depart from that define in the original RFP.

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Negotiation Process

- At the conclusion of initial Pricing evaluations:
  - Procurement with the Client will review the top ranked submissions; refine the negotiation strategy;
  - Invited Proponents are provided an Agenda; prepared;
  - Procurement would remain an active participant in the process supporting the Client as the subject matter experts throughout the negotiations; and
  - Record of the negotiations would be documented; contract awarded based on outcome of negotiations

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Questions