NEGOTIATED REQUEST FOR PROPOSAL (NRFP): A GENERAL OVERVIEW

July 9th and 10th 2019
## Negotiated RFP “Path”

<table>
<thead>
<tr>
<th>Date</th>
<th>Process Path and Utilization</th>
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<tbody>
<tr>
<td>2017 September</td>
<td>Approved PAC Work Plan Item</td>
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<tr>
<td>2017 November</td>
<td>PAC Accelerated Implementation</td>
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<tr>
<td>2018 February</td>
<td>Templates and their use approved but with Council Approval</td>
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<tr>
<td>2019 February</td>
<td>Council Approval and adoption of Procurement By-law amendments to use Negotiated RFP</td>
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<tr>
<td>2019 July</td>
<td>In use for 2 Council Approved “In Flight” projects and being considered for 2 “In Development” projects</td>
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<td>Beyond</td>
<td>Future use could include other complex projects which meet the criteria outlined herein including acquisitions of IT related requirements</td>
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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
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
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.
# The Processes

<table>
<thead>
<tr>
<th>TRADITIONAL</th>
<th>NEOTIATED</th>
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<tbody>
<tr>
<td><strong>CONTRACT “A”</strong></td>
<td><strong>CONCURRENT / BAFO</strong></td>
</tr>
<tr>
<td>I – Mandatory</td>
<td>I – Mandatory and Rectification Period</td>
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<tr>
<td>II – Rated Criteria</td>
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<tr>
<td>III – Pricing</td>
<td>III – Pricing</td>
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<tr>
<td>IV – Ranking and Selection of Top Ranked Proponent</td>
<td>IV – Initial Ranking and Concurrent Negotiations</td>
</tr>
<tr>
<td>V – Submission of Best and Final Offers (BAFO)</td>
<td></td>
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<td>VI – Final Ranking and Contract Negotiations</td>
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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
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.
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
Questions