



PROPOSED POLICIES AND PROCEDURES

Policy # 005

Subj: Competitive Sealed Proposals – Cost Justification Statements

Effective Date: October, 2010

Ref: UCA Title 63G-6-408 & Admin. Rule R33-3-214

Purpose:

The purpose of this policy is to set forth the guidelines for completing cost justification statements when awarding contracts for goods, services, and construction under the competitive sealed proposals procurement methodology through the issuance of a Request for Proposals (RFP). This practice is known as the *Trade-Off Process*.

Background:

The Utah Procurement Code states:

1) 63G-6-408. Use of competitive sealed proposals in lieu of bids -- Procedure.

(1) (a) When, according to rules established by the Procurement Policy Board, the chief procurement officer, the head of a purchasing agency, or a designee of either officer above the level of procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not **advantageous to the state**, a contract may be entered into by competitive sealed proposals.

2) 63G-6-408. Use of competitive sealed proposals in lieu of bids -- Procedure.

(6) (a) Award shall be made to the responsible offeror whose proposal is determined in writing to be the **most advantageous to the state**, taking into consideration **price** and **the evaluation factors** set forth in the request for proposals.

Utah Administrative Rule states:

1) **R33-3-214. Award Documentation**

A brief written justification statement shall be made showing the basis on which the award was found to be most advantageous to the state taking into consideration **price** and the **other evaluation factors** set forth in the Request for Proposals.

Policy:

A. It is the policy of the Division of Purchasing & General Services to require cost justification statements to be submitted by the requesting agency recommending an award to other than the lowest priced technically acceptable offer. The perceived benefits of the higher priced proposal shall merit the additional cost, and the rationale for tradeoffs must be documented in the cost justification statements in accordance with the applicable statutes and rules. All awards shall be made to the responsive and responsible offeror whose proposal is determined to be the most advantageous to the State.

B. It is the policy of the Division of Purchasing & General Services to require the cost justifications be signed by the head of the requesting agency when the cost of the recommended award exceeds the cost of the lowest priced technically acceptable offer by 10%.

C. It is the policy of the Division of Purchasing & General Services to return to the requesting agency any award recommendation wherein the recommendation fails to contain a cost justification statement if so required.

Procedure:

Trade-Off Process:

If simply comparing the cost or price of proposals meeting or exceeding the solicitation's requirements for acceptability will not result in the best value to the State, then a trade-off process may be used. The trade-off process provides the requesting agency/evaluation committee the flexibility to recommend an award to the offer providing the best value that may not be the lowest price or the highest overall rated offeror.

While cost or price is always an evaluation factor in any source selection, other factors such as technical and management capabilities, qualifications, or experience that a low cost/price offeror may not possess may be considered. Although these factors may or may not be more important than cost/price, they do have a strong bearing on the source selection decision. The source selection decision will involve a comparison of the combination of non-cost strengths, weaknesses, risks, cost/price offered in each proposal, and judgment as to which provides the best combination. The cost/technical tradeoff and the source

selection decision, which must be consistent with the solicitation, require that the requesting agency exercise reasonable business judgment in recommending the offeror for contract award.

It is essential to document cost/technical tradeoff judgments with detailed narrative explaining the relevant facts and supporting rationale. Mere statements of conclusion based on ratings or scores alone are not acceptable. The cost/technical tradeoff documentation must explicitly give the reason for a price premium regardless of the superiority of the selected proposal's technical or non-cost rating. This justification is required even when the solicitation indicates that non-cost factors are more important than cost/price. The justification must clearly state what benefits or advantages the State is getting for the added cost/price and why it is in the State's best interest to spend the additional funds. Similarly, where it is determined that the non-cost benefits offered by the higher priced, technically superior offeror are not worth the price premium, an explicit justification is also necessary. In this case, the documentation must clearly show why it is reasonable in light of the significance of the differences to pay less money for a proposal of lesser technical merit.

Use the tradeoff process when it is essential to evaluate and compare factors in addition to cost or price in order to select the most advantageous proposal and obtain the best value. The tradeoff process is appropriate where the State's requirements are difficult to define or complex; measurable differences in the design, performance, quality, or reliability are expected; services are not clearly defined or highly skilled personnel are required; and the requesting agency is willing to pay extra for capability, skills, reduced risk, or other non-cost factors, if the added benefits are worth the premium. When recommending a proposal that is not a "lowest cost," describe **WHY** the added non-cost/price capability outweighs the cost differential from an absolute dollar value. It is not sufficient to simply say "Offeror B offers the best value to the Government."