

## **FLORIDA BAR FOUNDATION PROFESSIONAL/CONTRACT SERVICES PROCUREMENT POLICY**

March 9, 2018

To extend the capabilities of the Foundation, specially-trained consultants, consulting organizations and technical assistance providers may be contracted. Consultants and technical assistance providers may be retained for ongoing or time-limited projects including but not limited to facilitation, technical assistance, data collection and research.

The policy set forth in this document establishes standards and guidelines for the procurement of professional services to ensure that they are obtained as economically as possible through an open and competitive process, and that contracts are managed with good administrative practices and sound business judgment.

### **Solicitation and Competition**

All procurement transactions will be conducted to provide – to the maximum extent possible – free and open competition among professional services providers.

Request for Quotes (RFQs) must be sought from three bidders for professional services equal to or exceeding \$25,000 per engagement (*Small purchase threshold*).

Request for Proposals (RFPs) must be sought from three bidders for professional services equal to or exceeding \$75,000 per engagement (*Large purchase threshold*).

Procurement files must include the following:

- Basis for contractor selection.
- Justification for lack of competition when competitive bids or offers are not obtained.
- Basis of award cost or price.

Selection price should be one of the factors in the evaluation of responses, but the Foundation is not required to take the lowest price if other factors are important to the decision.

There should be an objective method for selection, and any factors for evaluation and selection should be listed in the procurement documents.

Awards shall be made to the bidder or offeror whose bid is responsive to the solicitation and is most advantageous to the Foundation (price, quality and other factors considered).

A bid may be rejected when it is in the Foundation's interest to do so.

## **Sole Source Procurement**

Sole source procurements of services are:

- 1) Those procurements which, by virtue of the performance specification, are available only from a single source and cannot be competitively procured, or
- 2) If there is more than one source from which the goods or services could possibly be procured but it is determined that the normal competitive bidding process is not in the best interest of the Foundation for a given situation.

Sole source procurement may be used to retain Contractors based on staff's determination of budget and timeline considerations, as well as the unique qualities, skills and abilities a provider brings to the project.

For sole source procurements equal to or over \$75,000, Foundation staff must submit a one (1) page or less Sole Source Justification Memo ("Memo") that shall:

- Indicate the reason(s) the proposal has been awarded without the benefit of competitive bidding.
- Indicate how the services being provided by the contracts are unique and therefore competitive bids are not applicable.
- Indicate why the price of the goods or services is considered fair and/or reasonable.
- Indicate if services are being paid for by specifically directed, conditional and/or restricted funds.
- Include attachments of any communication(s) with other sources contacted or used in support of your explanation.

The CEO will review and approve sole source procurements under \$75,000.

If the sole source procurement is equal to or over \$75,000, the Memo will be submitted to the Executive Committee for its approval. Once approved, a copy of the memo indicating approval will be provided to the COO for inclusion in the contractor's file.

Once sole source procurements are approved, staff should proceed with the normal procurement procedures.

## **Procurement Exceptions**

Selection of the Foundation's Investment Advisor, external Accounting Firm and/or Independent Auditor will be conducted under the oversight of the Investment and/or Audit Committees with final approval by the Board of Directors.

## **Contract Authorization**

Any contract for professional services with a board or staff member or a member of their immediately family, regardless of the dollar value of the contract, must be reviewed and approved by the Executive Committee before execution.

*Ongoing, significant contractor relationships* (more than a total of \$100,000 for a period of 24 or more months) will be reviewed every 2 years.

*Small purchase threshold contracts.* Contractor selection recommendations will be made at the staff level with final approval by the CEO.

*Large purchase threshold contracts.* RFP responses are to be reviewed by a team of at least three, which may include external reviewers with specific expertise. Staff will recommend selection to CEO who will present to the Executive Committee for approval during its monthly call.

## **Contractor Agreement**

Consultants or professional service providers will be required to enter into a "Contractor Agreement" with the Foundation. A fully executed Contractor Agreement is required for on-going or time-limited consultant and professional service relationships. The Agreement should specify the scope of services, deliverables and timelines where appropriate, payment rate(s), and duration of the engagement.

Contractor agreements are to be signed by the CEO.

## **Contract Administration**

The Foundation has an overall system of contract administration to ensure proper oversight and management of procurement actions. The Foundation is responsible for evaluating contractor performance and documenting, as appropriate, whether contractors have met the terms, conditions and specifications of the contract. This may include regular status update calls or meetings, interim reports, final reports, inspection of deliverables, and other such methods that provide assurance that the services purchased are being delivered within the scope of the contract. The Foundation's contract administration system must ensure that:

- The method of procurement is documented and records maintained for five years after final payment is made;
- All activities are carried out and costs are incurred in compliance with applicable requirements; and

Before any payment is made, services performed are determined to be adequate and consistent with the contract scope of services.

## What is a Request for Quote (RFQ)?

An RFQ is a type of procurement solicitation in which an organization asks outside contractors to offer a quote for the completion of a specific task or project. An RFQ generally means the same thing as an invitation to bid.

What are the Standard Steps in the RFQ process?

### 1. Preparation

Florida Bar Foundation policy calls for RFQs to be sent to a minimum of three (3) contractors to bid. RFQ documentation is the set of documents that are sent to bid participants. The actual documents may vary, but this list includes the most common RFQ documents.

- **Invitation and description:** Description of company, the project, and any other necessary background information. Make sure the purpose of the RFQ is clearly laid out.
- **General terms and conditions (GTC):** State clearly which terms are negotiable and which are not.
- **Pricing template:** When possible, you should use a pricing template which will give participants specific guidelines they must follow in order to submit a bid. Using the same format for all participants will make it easier to compare bids and more easily find the best one.
- **Awarding selection criteria and weights:** In order to keep the RFQ process transparent and easily understood by participants, you will need to describe the awarding criteria and weights you plan to use when selecting an RFQ winner. You should distribute those to the participants in order to reduce disputes.

Some example criteria that can be used in awarding:

- Cost
- Selected contractors'
  - Current financial stability
  - Likelihood of sustainability through life of the contract, contract extensions and/or post contract adjustments
  - Capacity for

- quality assurance measures
- meeting delivery deadlines
- compliance with known requirements

Qualitative, monetary, and risk aspects of the service needed should be weighted according to how critical they are to business objectives. When you have put together your set of documents you are ready to send the entire RFQ documentation package to participants.

## **2. Management**

While the RFQ is underway all participants should be treated equally. Share the same information with everyone. Questions from any one supplier should be answered and distributed to all participants.

It is against business ethics to leak price information or other supplier-specific info to other bidders. Sometimes, if you have not reached your price targets in the first round, you can decide to undergo a second round with limited participants. In this case you should give the participants the price target you are hoping to reach.

## **3. Awarding**

Collect the bids and compare them. For the awarding decision, write up a memo and include how many bids you received, how many were qualified, what were the disqualification reasons, what were the awarding criteria and weights and what was the final decision. Awarding decisions are one of the steps that auditors like to see, and it is useful to have documentation available.

## **4. Closing**

After selecting a winner, set a meeting for closing the deal and signing the contract. However, do not announce the final decision before you have signed a contract. Once you announce the winner closing the contract may become difficult. Keep your options open until the contract is signed with best conditions possible and only then announce bid results to all participants. Thank everybody for their participation. It is up to you whether you decide to announce the winning company or not, but it is not ethical to publish the winning bid.

## REQUEST FOR PROPOSAL (RFP) FAQ<sup>1</sup>

### What is a Request for Proposal (RFP)?

An RFP is a document that describes a project's needs in a particular area and asks for proposed solutions (along with pricing, timing, and other details) from qualified vendors.

### Why use an RFP Process?

- **Find the vendor best suited to the needs of your organization.** Casting a wide net and letting companies compete increases the likelihood of finding just the right vendor.
- **Accountability and good governance.** Due to its open nature, the standard RFP process encourages fairness and transparency while minimizing the likelihood of corruption or favoritism.
- **Needs assessment.** The process of writing an RFP provides an opportunity to interview key stakeholders and bridge the gap between the vague aspirations that launch a project and the concrete, measurable requirements that guide it to successful conclusion.

### When do you need an RFP?

When your policies require it.

- RFPs are more frequently issued for complex, highly customized products and services.
- For simpler products and services, organizations often circulate a Request for Quotations (RFQ). An RFQ is shorter and less labor-intensive than an RFP and is best to use for a project with a fairly small, well-defined scope.

### What Are the Standard Steps in the RFP Process?

1. Establish the project's boundaries.
2. Identify key stakeholders and advisors.
3. Talk to stakeholders and define your project needs.
4. Write the RFP.
5. Create a draft of your scoring criteria.
6. Circulate the RFP.
7. Review responses.
8. Research as necessary when a vendor suggests a solution that you haven't encountered before,

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<sup>1</sup> Synthesized from An Overview of the RFP Process for Nonprofits, Charities, and Libraries

<http://www.techsoup.org/support/articles-and-how-tos/overview-of-the-rfp-process> and Ultimate Guide For The Nonprofit RFP Process, With Examples & Templates <https://www.wholewhale.com/tips/nonprofit-rfp-examples-templates/>

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9. Research the vendors' track records.
10. Score the responses and select a vendor.
11. Negotiate and sign a contract.

### What Information should be included in an RFP?

- **Purpose overview:** Purpose & Objectives with summary statement of what are you looking to do
- **Org Background and mission**
- **Project Background:** Stakeholders and history of need.
- **Project Goals**
- **Target Audience:** Who are you trying to reach, include primary, secondary, tertiary stakeholders
- **Existing Challenges:** Share an overview of any skeletons and internal issues that might impact the process
- **Requirements:** Skills, Expertise, Experience, Attributes and Characteristics
- **Reporting, data and analytics needs:**
- **Timeline:** Proposal due date, decision date, and estimated project completion date.
- **Budget:** Adding a range instead of a number allows the RFP recipient to get a better idea of the level of complexity you think the project will have.
- **Proposal Instructions to Recipient**
  - Include a sample project plan
  - Itemize project budget
  - Describe your approach
  - Detail project management process
  - Summarize pertinent experience
  - Provide existing client references – ideally related to this project
  - Identify who will be involved on project team, including their relevant experience and credentials

### How Should You Score and Evaluate RFP Responses?

- As you discuss project requirements, ask your colleagues which features and requirements should receive the highest priority and use this input to craft a list of scoring criteria.
- Assign a 1 to 10 value to each vendor's response and adjust those scores according to the weight you've given
- On large projects, ask more than one person to participate in scoring the responses. Average the scores of all team members for each vendor's response. Award the contract to the vendor with the highest average score.

## Examples of RFQs, RFPs and SOWs (Scope of Work)

### Michigan Poverty Law Program RFP for Development of Legal Aid Technology toolkits

[http://www.mplp.org/Jobs/rfp\\_for\\_legal\\_aid\\_technology\\_toolkits\\_michigan\\_advocacy\\_program](http://www.mplp.org/Jobs/rfp_for_legal_aid_technology_toolkits_michigan_advocacy_program)

### Legal Services Corporation Request for Proposals: Microsoft Statewide Legal Access Portal Project

<http://www.lsc.gov/sites/default/files/attach/2016/11/MS-statesidePortalProject.pdf>

### Request for Proposals to Provide Anti-Bias Training, With a Particular Emphasis on Anti-Racism and Anti-Oppression, For the Legal Aid Society in New York City

<http://www.legal-aid.org/media/180549/antibiastainingproposal.pdf>

### Evaluation of the Legal Aid Services of Oklahoma Expungement Project Request for Proposals

<http://www.legalaidok.org/wp-content/uploads/2015/04/2015-Expungement-Evaluation-RFP.pdf>

See also <http://impactrising.org/resources-tools/resources-and-tools/sample-rfps/><sup>2</sup> for Sample Templates of Request for Proposals (RFP), Request for Quotes/qualifications (RFQ) and Scopes of Work (SOW) noted below:

- **Strategic Planning RFQ for The CBO Center** - Request for Qualifications (RFQ) for a strategic planning consultant to design and facilitate a participatory planning process
- **Strategic Planning RFP for the Women and Girls Foundation** - Request for Proposal (RFP) for consultants experienced in strategic planning to lead the Women and Girls Foundation's Board of Directors and staff through a long-range strategic planning process.
- **Organizational Growth Scope of Work for Muslim Advocates** SOW to seek non-profit consultants with expertise in the "start-up" phase of non-profit growth, including managing organizational growth, strategic planning and board and executive director training and development.
- **Strategic Planning RFP for Grantmakers of Western Pennsylvania** RFP for a consultant to facilitate development of a strategic plan for Grantmakers of Western Pennsylvania (GWP).
- **Strategic Planning Scope of Work for BioOne** SOW for consultant to evaluate BioOne's strategic alternatives as it moves into the next stage of its evolution.

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<sup>2</sup> ImpactRising.org - In recent years, through the rapid growth of the philanthropic sector and increased investments in capacity building, the consulting industry has grown, expanded and evolved into having market-driven, broadly accepted norms and implicit standards of practice. ImpactRising.org helps to make these norms and standards explicit, so that social sector organizations like nonprofits, NGOs and foundations don't have to reinvent the wheel. Designed to support social sector organizations and consultants with tools and resources to get ready for engagement in capacity-building projects.