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Determining Vendor Responsibility

The competitive procurement guidelines applicable to governmental entities often specify that awards must be made to responsive and responsible vendors. The National Institute of Governmental Purchasing (NIGP), The Institute for Public Procurement, recommends:



[b]efore making the recommendation for award, the evaluation committee must determine if a proposer is responsible. **A responsible proposer is a business entity or individual who has the financial and technical capacity to perform the requirements of the RFP (Request For Proposal) and subsequent contract [emphasis added].** The evaluation committee may determine if a proposer is responsible during the evaluation process. A formal review of the top-ranked proposer may also be performed as a final step before award recommendation.¹

There are multiple definitions of a “responsible vendor.” Governmental entities should consult their applicable guidelines for its definition of “responsibility.” For example, Florida statutes, applicable to state agencies, defines a responsible vendor as a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.²

Governmental entities may use various methods to determine vendor responsibility. Such methods should be applied based on the key risk factors of the procurement, such as: commodity type, contract type, cost, contract deliverables, scope of the contract, and project complexity.

Governmental entities may collect information to determine responsibility, to include RFP questionnaires that are completed by the vendor and returned with the proposal; other information obtained through vendor presentations and interviews; and a verification of the vendor’s resources.

¹ The National Institute of Governmental Purchasing, The Institute for Public Procurement, 2018, “The Evaluation Process for a Request For Proposals”. *Principles of Public Procurement*, page 5.

² Section 287.012(25), Florida Statutes.

“Enhancing Public Trust in Government”

A vendor responsibility determination may include the review of:

- The vendor's facilities.
- The vendor's access to necessary equipment and personnel resources.
- The vendor's ability to comply with required delivery/performance schedule.
- Supply chain stability.
- Vendor's record of performance.
- Qualifications and/or technical knowledge of key management and support personnel.
- Financial stability and resources for the vendor and any associated entities.
- Acceptable check of business references.
- Record of integrity including any suspensions, debarments, findings, lawsuits, documented violations of applicable laws and rules relating to the procurement process, and judgements against the company or any official of the company.
- Required certifications and licenses.
- Audit findings and accounting controls.
- Conflicts of interest for the company, its officers and employees, and any associated entities.
- Whether the vendor is otherwise qualified and eligible to receive an award under applicable laws and regulations.



The governmental entities' procurement professional may seek the expertise of a subject matter expert to confirm vendor responsibility, e.g., consulting with the vendor's auditor, treasurer, or comptroller regarding the vendor's financial viability.

Federal guidelines provide that when evaluating vendor responsibility, consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.³ Sufficient records detailing the history of the procurement must be maintained, including the rationale for the selection or rejection of vendors.⁴

Governmental entities should consider maintaining records relating to its determination of responsibility for all its competitive procurement awards. Such information will be useful in future evaluations of a vendor's history of performance, minimize the risk of legal challenges and protests, and increase public trust in the public procurement process. The determination of vendor responsibility can mean the difference between a procurement's success or failure.

³ 2 CFR §200.318 (h)

⁴ 2 CFR §200.318 (i)

Suggestions

We recommend that local governments:

- Review their procurement policies regarding the determination of vendor responsibility prior to award.
- Review their procurement policies regarding the basis for selection or rejection of solicitation responses.
- Review each solicitation prior to issuance to determine the necessary proposal information required for a responsibility determination.
- Establish the responsibilities and outline the process for the determination of vendor responsibility of the Evaluation Committee and the procurement personnel.

