

# **Best Value Procurement Guide**

## **Part 2 – The RFP Process**

**Issued by:**

**General Services Department  
State Purchasing Division  
State of New Mexico**

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## I. INTRODUCTION

This Guide to competitive requests for proposals has been prepared by the State Purchasing Division (SPD) of the General Services Department (GSD) of the State of New Mexico (State) and is intended solely as reference material for state agencies and local public bodies within New Mexico. This Guide does not supersede local, state, or federal laws.

Best value procurement is the preferred method for considering evaluation factors in addition to cost/price for use by any State agency for selecting a firm or contractor to provide services, goods, or tangible personal property. The Guide has been organized into two primary areas, the first to describe the overall procurement process and the second, to provide examples of required documents to be used to ensure attention is given to all the required steps and processes. These document samples can be tailored to specific procurements without requiring new document creation.

The Quick Reference Glossary of terms, Section II, provides formal procurement term definitions that are reflected throughout the Guide in *italics*. These definitions reflect statute or other legal resources use and pertain only to this Guide. The statutory language should be used to interpret any ambiguity.

Please direct any questions, comments about this Guide, or requests for assistance with any aspect of the Best Value Procurement process to SPD at (505) 827-0472.

### II. QUICK REFERENCE GLOSSARY

- *Best Value Procurement*: Procurement method implemented by issuing *Request for Proposals (RFP)* where evaluation factors in addition to cost/price are considered in the selection of a firm or *contractor* and encompasses the total benefits a State entity expects from the acquisition.
  - *Code of Conduct*: Governmental Conduct Act. NMSA 1978, §10-16-1, et seq.
  - *Competitive Qualifications-Based Selection (QBS)*: Procurement method using an *RFP* but, because price is not an evaluation factor for selection of a firm or *contractor*, does not qualify as *Best Value Procurement*.
  - *Confidentiality Agreement*: Written covenant governing how *procurement* activities should be carried out by the evaluation committee. See also, *Non-Disclosure Agreement*.
  - *Confidential information*: “Any information which is available to an employee because of the employee’s status as an employee within a *state agency* or a *local public body* which is not a matter of public knowledge or available to the public on request.” NMSA 1978, §13-1-39
  - *Conflict of Interest*: A situation in which a person has a duty to more than one person or organization, but cannot do justice to the actually or potentially adverse interests of both parties. Black’s Law Dictionary 363 (10<sup>th</sup> Ed.) 2014
  - *Construction*: “Building, altering, repairing, installing or demolishing in the ordinary course of business any:
    - (1) road, highway, bridge, parking area or related project;
    - (2) building, stadium or other structure;
    - (3) airport, subway or similar facility;
    - (4) park, trail, athletic field, golf course or similar facility;
    - (5) dam, reservoir, canal, ditch or similar facility;
    - (6) sewage or water treatment facility power generating plant, pump station, natural gas compressing station or similar facility;
    - (7) sewage, water, gas or other pipeline;
    - (8) transmission line;
    - (9) radio, television or other tower;
    - (10) water, oil or other storage tank;
    - (11) shaft, tunnel or other mining appurtenance;
    - (12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners;
    - (13) air conditioning conduit, heating or other similar mechanical work; or
    - (14) similar work, structures or installations.
- Shall also include:
- (1) leveling or clearing land;
  - (2) excavating earth;
  - (3) drilling wells of any type, including seismographic shot holes or core drilling; and
  - (4) similar work, structures or installations.” NMSA 1978, §13-1-40
- *Contract*: “Any agreement for the *procurement of tangible personal property, services or construction*.” NMSA 1978, §13-1-41
  - *Contractor*: “Any business having a *contract* with a *state agency* or *local public body*.” NMSA 1978, §13-1-43

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- *Design/Build*: Type of project in which the *contract* includes design and *construction services*. NMSA 1978, §13-1-119.1
- *Goods*: Tangible and consumable personal property having a physical existence, i.e., durable, commercial off-the-shelf products such as vehicles, computers, and equipment; products of economic output.
- *Invitation for Bids*: All documents, including those attached or incorporated by reference, used for soliciting sealed bids.
- *Local Public Body*: “Every political subdivision of the state that expends public money from whatever source derived, including but not limited to counties, county institutions, bureaus or commissions; incorporated cities, towns or villages, drainage, conservancy, irrigation or other districts; charitable institutions for which an appropriation is made by the legislature; and every office or officer of any of the above.” NMSA 1978, §6-6-1
- *Low-Bid Procurement*: Procurement process for selecting a firm or *contractor* based exclusively on price obtained by verbal or written quotes or issuing an official *Invitation for Bids*. Also referred to as *Low* or *Lowest-Priced Procurement*.
- *Non-Disclosure Agreement*: see *Confidentiality Agreement*.
- *Nonresponsive*: Proposal or bid that does not conform to requirements set forth in the *Request for Proposals* or *Invitation for Bids* and is not evaluated by the evaluation committee.
- *Procurement*:
  - “A. purchasing, renting, leasing, lease purchasing or otherwise acquiring items of *tangible personal property, services or construction*; and
  - B. all procurement functions, including but not limited to preparation of specifications, solicitation of sources, qualification or disqualification of sources, preparation and award of *contract* and contract administration.” NMSA 1978, §13-1-74
- *Procurement Manager*: Individual responsible for purchasing or otherwise acquiring items of *tangible personal property, services, or construction* or for managing and coordinating procurement agents, buyers, or purchasing agents; the primary point of contact for a firm or *contractor*.
- *Professional Services*: “Services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, *construction* managers and other persons or businesses providing similar *professional services*, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.” NMSA 1978, §13-1-76
- *Qualifications-Based Selection (QBS)*: *Procurement* process for selecting architects, engineers, landscape architects, surveyors, and *construction* management professionals on the basis of qualifications and subsequent negotiations as to price rather than price being an evaluation factor.
- *Request for Proposals (RFP)*: “All documents, including those attached to or incorporated by reference, used for soliciting proposals.” NMSA 1978, §13-1-81. “Material respects of a request for a proposal include, but are not limited to, price, quality, quantity or delivery requirements.” NMSA 1978, §13-1-85

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- *Resident Preference*: “Business with a valid resident business or contractor certificate issued by the NM Taxation & Revenue Department.” NMSA 1978, §13-1-22(A)
- *Responsible Bidder*: “Bidder who submits a *responsive bid* and has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the *services, construction* or items of *tangible personal property* described in the *Invitation for Bids*.” NMSA 1978, §13-1-82
- *Responsible Offeror*: “Offeror who submits a responsive proposal and has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the *services* or items of *tangible personal property* described in the proposal.” NMSA 1978, §13-1-83
- *Responsive Bid*: “Bid which conforms in all material respects to the requirements set forth in the *Invitation for Bids*. Material aspects of a bid include, but are not limited to, price, quality, quantity or delivery requirements.” NMSA 1978, §13-1-84
- *Responsive Offer*: “Offer which conforms in all material respects to the requirements set forth in the *Request for Proposals*. Material respects of a proposal include, but are not limited to, price quality, quantity or delivery requirements.” NMSA 1978, §13-1-85
- *Scope of Work*: Specific details of work to be performed in completion of a project under a *contract*.
- *Services*: “Furnishing labor, time or effort by a *contractor* not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance; includes the furnishing insurance but does not include *construction* or the *services* of employees of a *state agency* or a *local public body*.” NMSA 1978, §13-1-87
- *State Agency*: “Any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state; includes the purchasing division of the general services department and the state purchasing agent but does not include local public bodies.” NMSA 1978, §13-1-90
- *Subcontractor*: “Individual who takes a portion of a *contract* from the principal *contractor* or another *subcontractor*.” Black’s Law Dictionary 1651 (10<sup>th</sup> Ed.) 2014
- *Tangible Personal Property*: “Tangible property other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials.” NMSA 1978, §13-1-93
- *Vendor*: Entity providing a *service* or *tangible personal property* to a *state agency*.
- *Veterans Preference*: Business with a valid resident veteran business certificate issued by the NM Taxation & Revenue Department. See NMSA 1978, §13-1-22(A). See also, State Purchasing Division (SPD) Policy Memo FY13-001: Application of Veterans Preference, attached as Exhibit H to Policy Memo.

### III. THE RFP PROCESS

The *RFP* Process consists of the period from when the *RFP* is issued to the due date for proposals. This phase of *Best Value Procurement* is handled exclusively by the *procurement* manager and does not require work by the evaluation committee.

- A. Issuing Public Notice:** New Mexico State Statute requires that public notice be provided when an *RFP* is issued. The minimum requirement is a legal notice published once in a newspaper of general circulation in the area where the *state agency* is located. The legal notice must be published at least ten (10) days before proposals are due. SPD handles the publication of legal notices pertaining to *procurements* it oversees.

For *construction* and complex IT projects, a *state agency* or SPD should issue public notice at least thirty (30) days before proposals are due. This longer notice period is recommended because it allows time to hold a pre-proposal conference and enables more offerors to submit proposals, thereby increasing the choices available to the *state agency*. Notice in newspapers with statewide circulation is also recommended, so that a wider range of firms and *vendors* can have an opportunity to submit a proposal.

For projects and *services* that do not require a pre-proposal conference, such as routine *services*, simpler IT projects, and *professional services* that are not *QBS procurements*, a fourteen (14) day notice period may be adequate. In addition to a legal notice, *state agencies* should consider notifying their *vendors* on file, posting their *RFP* announcements on their respective websites as well as any relevant professional periodicals, websites, and trade journals that might help disseminate information about the *RFP*.

A sample legal notice is provided in Figure 4. The legal notice should clearly state that it is announcing an *RFP*, a description of the project (title), some basic information potential offerors should know about the project, and instructions on how to obtain a full copy of the *RFP* along with the deadline for proposal submissions. If attendance at a pre-proposal conference is required, this should also be mentioned in the legal notice.

Figure 4: Sample Legal Notice of a Request for Proposals

REQUEST FOR PROPOSALS
For designing, producing, delivering and installing ten (10) interactive multi-media kiosks at ten different sites throughout New Mexico for the New Mexico State Parks Division, a division of EMNRD.
Interested parties with the following qualification are encouraged to review the full RFP details: <ul style="list-style-type: none"><li>- Have experience in working with specialized software and hardware to design, produce, deliver and install customized interactive kiosks with touch screen technology</li><li>- Be able to work with client for a period of one year after installation to troubleshoot technical problems and train staff on the technical aspects of the kiosks</li><li>- Be able to appear before selection committee during the selection process as described in the RFP</li></ul>
Please contact Mr. Sample RFP Ad for a full copy of the RFP at 555-555-5555 Proposals must be sent by postal service or courier and postmarked no later than April 15, 2013.

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Preparing proposals in response to an *RFP* can be a very resource-intensive process for offerors and represents a significant opportunity cost for them. A potential offeror will want to know if qualifying offerors will have to go through an interview as part of the *procurement* selection process. If an interview will be required, the legal notice as well as the *RFP* should so indicate. The legal notice and *RFP* should contain enough information to encourage competitive proposals as well as to enable potential offerors to determine if they have the capability and time to complete the entire selection process and successfully execute the *contract*.

- B. Holding a Pre-Proposal Conference:** *Construction* projects and complex *professional services* projects may include a pre-proposal conference, which gives offerors a chance to ask questions about the *RFP* and project in a public setting, so that all potential offers receive the same information. Schedule the conference no later than one (1) week after the release of the *RFP* so that offerors can incorporate into their proposals the information obtained from the conference.

Include in the *RFP* the time and date of the pre-proposal conference if it is to be held. If held, attendance must should be mandatory; therefore, vendors that do not attend cannot submit proposals. Maintain a sign-in sheet to track offerors in attendance. The *procurement* manager should answer all questions; evaluation committee members need not attend.

- C. Issuing Amendments:** The *state agency* may issue amendments to the *RFP*. Substantive amendments or those that could alter the response to the *RFP* must be issued no later than 7 calendar days before the proposal due date. Amendments that only extend the proposal due date may be issued any time prior to the deadline, although one (1) week notice is recommended.

As shown in Exhibit B, the *state agency* must develop a standard *RFP* Amendment Form that contains the *RFP* number, *RFP* title, date of the amendment, and the section and wording of the *RFP* that is being amended.

- D. Opening Proposals:** Stamp the date and time of receipt on all unopened proposal envelopes as they are received by the *state agency*. This evidences receipt in a timely manner prior to the closing date and time required in the *RFP*. Return to offerors all proposals received after the required date and time with a cover letter of determination of *nonresponsive*, because of receipt after the date and time required in the *RFP*.

Open timely proposals as soon as possible after the closing time in the presence of a witness and record on a control sheet the *RFP* number and name, the time of proposal opening, the person and witness opening the proposals, and the name of all offerors. Those *nonresponsive* submissions returned to the offerors must also be recorded on the control sheet. Place the completed Proposal Control Sheet in the *procurement* files. See Exhibit F for a sample Proposal Control Sheet.

- E. Determining Proposal Responsiveness:** Screen all proposals to ensure they are responsive to the *RFP*. This means ensuring that proposals include all material requirements stated in the *RFP*, such as quality, quantity, and delivery requirements as well as a separate submittal for price. List material requirements on the Proposal Control Sheet and check off each as they are confirmed. The witness should conduct a second review to verify the accuracy of the first review.

The *procurement* manager may deem a proposal *nonresponsive* if it does not address one or more of the material requirements in the *RFP*; the *state agency* is not obligated to evaluate *nonresponsive* proposals. *Nonresponsive* proposals differ from proposals with minor errors or omissions, such as typos or a missing signature. Proposals with errors that do not alter the substance of the proposal can be accepted, and the *procurement* manager and *procurement* officer may allow the offeror to correct the problem prior to review by the evaluation committee as outlined in the Procurement Code.<sup>1</sup>

## IV. MANAGING THE *PROCUREMENT* PROCESS

### **Best Practices: Managing the *Procurement* Process**

1. The Procurement Code permits revisions of proposals after submission and prior to award for the purpose of obtaining best and final offers (NMSA 1978, §13-1-115), but the practice of negotiating through best and final offers is strongly discouraged to avoid a situation in which a reverse auction takes place.
2. The Procurement Code permits the *procurement* manager to waive technical irregularities that do not alter the price, quality, or quantity of the *services*, *construction*, or items of tangible personal property bid or offered as long as the irregularities are insignificant mistakes that can be waived or corrected without prejudice to other offerors (NMSA 1978, §13-1-132, and Rule 1.4.1.42, NMAC). Avoid when practical allowing revisions to submitted proposals, which can lead to the appearance of impropriety.
3. Consider all proposals received after the deadline, regardless of how late, as *nonresponsive* unless the tardiness was the fault of state personnel directly serving the *procurement* activity (Rule 1.4.1.21(B), NMAC).
4. *Procurement* managers should ensure that all stages of the *procurement* process are well documented.
5. Instruct offerors to submit technical proposals and price proposals in separate, sealed packages.
6. The *procurement* manager must withhold Price Proposals from the evaluation committee until after the Technical Proposal evaluations have concluded. Under no circumstance shall Price Proposals be handled by the evaluation committee prior to the finalization of the Technical Proposal evaluations.

- A. Responsibilities of the Procurement Manager:** A *state agency* representative or staff member manages the *procurement* process and assists the evaluation committee with its duties. This individual may be assigned to manage all *state agency procurements* as full-time responsibilities or may be assigned to handle a specific *procurement* because of project familiarity. The staff person may have many titles but will be called the *procurement* manager in this document.

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<sup>1</sup>Irregularities in bids or proposals, NMSA 1978, § 13-1-132

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The *procurement* manager must be familiar with the *procurement* policies of the involved *state agency* and is not a voting member of the evaluation committee. Responsibilities include:

- Developing the final draft of the *RFP* and ensuring review by the appropriate authorities in order to execute it according to law;
- Working with the *procurement* manager to issue the legal notice to release the *RFP*;
- Scheduling meetings for the evaluation committee;
- Leading the pre-proposal conference, if scheduled;
- Receiving and responding to questions from potential offerors regarding the *RFP*;
- Receiving and date/time-stamping envelopes of proposals received for *procurements* not handled by the SPD;
- Screening proposals for responsiveness and documenting results in a Proposal Control Sheet;
- Training the evaluation committee (See Training of the Evaluation Committee section)
- Distributing proposals and evaluation forms to committee members;
- Contacting potential offerors for clarifications or negotiations, if needed;
- Drafting the evaluation committee report in concert with members of the evaluation committee and submitting it to the *procurement* officer for approval; and
- Overseeing *contract* negotiations in conjunction with the project manager.

**B. Training Evaluation Committee Members:** The *procurement* manager will develop a training session to be done in person for the evaluation committee, schedule the training, communicate the training date simultaneously to all evaluation committee members, and distribute written materials, including the handouts and a template of the Evaluation Committee Training Presentation, Exhibit E.

The purpose of evaluation committee training is to ensure that proposals are evaluated consistently with two important outcomes:

- selecting a *responsible offeror* that will provide the best value to the *state agency*,
- ensuring an environment of open and fair competition for the *responsible offerors*.

Evaluation committee training should cover, at a minimum, the following areas:

1. Overview of the *Procurement* Process and Responsibilities of the Evaluation Committee: Inform the evaluation committee that they will be using *Best Value Procurement*, because the *contractor* for the project should be chosen on price as well as non-price criteria. Note: the standardized *procurement* process is not designed to completely eliminate subjectivity in the selection method but to insert value judgments based on objectively determined criteria into the *procurement* process.

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Explain thoroughly to the evaluation committee all the primary steps in the *procurement* process. The evaluation committee's responsibilities include:

- a) Evaluating proposals;
- b) Selecting a short list of *responsible offerors* to interview, if necessary;
- c) Conducting interviews with *responsible offerors*, if necessary; and
- d) Recommending a *responsible offeror* with which the *state agency* should enter into *contracts*.

The *procurement* manager, project manager, and *procurement* officer have responsibility for legal review of pertinent documents, negotiating, and entering into *contracts*.

2. Overview of the Project: The *procurement* manager should provide the evaluation committee with a draft *scope of work* for the project. The draft *scope of work* should contain the background/need, description, technical/professional specifications, and budget for the project. The *scope of work* will become part of the *contract*.
  - For *Construction* Projects: Design documents such as preliminary engineering plans or architectural drawings are typically developed before a *construction RFP* is issued. These documents should become part of the *scope of work* in the *RFP*.
  - For Complex *Professional Services*, IT, and Technical Projects: Technical reports and studies are often developed before issuing *RFPs* for complex *services*, IT, and technical work. Information from these reports and studies should become part of the *scope of work* in the *RFP*.
3. Code of Conduct and Confidentiality Agreement: All members of the evaluation committee must read and sign a *Code of Conduct and Confidentiality Agreement* containing the guidelines and requirements for professional conduct, *conflicts of*
4. *interest*, and *non-disclosure* of information. *Code of Conduct and Confidentiality Agreement*, Exhibit B, and its sections are defined as follows:
  - *Professional Conduct*: Behavior that will ensure a fair and consistent evaluation of proposals in a manner that is defensible and in accordance with the parameters set forth in the *RFP*.
  - *Conflicts of Interest*: Undue influence on the selection process due to personal interests.
  - *Non-Disclosure Agreement*: Covenant outlining the manner in which information is handled during and after the selection process. Committee

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members shall not discuss information pertaining to the *RFP* selection process with non-committee members, even after a selection has been made. Proposals can contain sensitive or proprietary information that *responsible offerors* do not want shared with competitors or the public.

5. Evaluation Criteria: *Best Value Procurement* uses well-defined criteria to evaluate proposals. Points are assigned to each criterion to help the evaluation committee rank the proposals and ultimately determine which *responsible offeror* to recommend for a project. For these reasons, it is critical to train the evaluation committee on core elements of the criteria and how to apply them.
6. Technical vs. Price Proposals: According to legal requirements, *responsible offerors* must submit a Technical Proposal and a Price Proposal, each in separate sealed packages, for the evaluation committee to review. Price Proposals are not reviewed until the Technical Proposal containing all the non-price factors is fully evaluated. This process ensures that non-price factors are evaluated in their own right, without being influenced by a *responsible offeror's* price. To ensure the proper evaluation sequence, the *procurement* manager must withhold Price Proposals from the evaluation committee until after the Technical Proposal evaluations are concluded. Under no circumstance shall Price Proposals be handled by the evaluation committee prior to the finalization of the Technical Proposal evaluations.
7. Evaluating Against the Criteria: Ensure the evaluation committee understands that they are not comparing proposals; scoring is not done on a relative scale. Instead, they are evaluating each proposal individually, against the evaluation criteria. This is important to achieve fair and impartial scoring of each proposal.
8. Independent Review, Discussion, Consensus: Explain the process to review proposals to the evaluation committee:
  - Independent Review: Evaluation committee members should read and review independently upon receipt each proposal based on stated evaluation criteria. The individual scores of committee members are preliminary assessments and may be modified during the consensus period of the evaluation deliberations.
  - Evaluation Committee Discussion: The entire committee will meet and discuss the proposals. Group discussion allows committee members to receive input from one another as well as from technical experts on the committee. Each committee member will assign and record scores for the proposals, and the *procurement* manager will total the scores.
  - Consensus: When scoring, the committee should attempt to reach consensus on the tier or range (see Scoring Guidance, below), although the numerical

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scores they individually assign to each criterion would likely be different. The ultimate scoring of proposals should be based on a mutually agreed upon score, rather than, on a median.

9. Standard Evaluation Criteria and Points: Instruct the evaluation committee of the criteria that are standard requirements of an *RFP*. While non-price criteria are flexible and can be tailored to specific projects, most *procurements* use the following standard criteria:
- a) past performance
  - b) experience relevant to the project
  - c) project staffing or project team
  - d) management plan or approach to the project
  - e) health and safety record (for *Construction* and Facility Maintenance projects)
  - f) price.

Variations can be used depending on the type of project. Other criteria and corresponding points can be added to meet the needs of the project.

The New Mexico Administrative Code permits *Best Value Procurement* to assign a weight of 30-70% to pricing. This percentage weight will vary with the complexity, specificity, and urgency of each individual project.

The evaluation process is simplified by having the points for all criteria total 100, 1000, or another multiple of 10.

10. Scoring Guidance: Without guidance, each committee member might interpret each criterion and score each response subjectively. This could result in a wide range of scores with no clear consensus. The *procurement* manager must prepare a Scoring Matrix for the evaluation committee similar to the sample provided in Exhibit F. Include in the Matrix each criterion, points assigned to each criterion, and tiers or ranges to help the committee evaluate the proposals consistently and to facilitate consensus.
11. Preferences: Inform the evaluation committee when preferences must be used in the *procurement* process. *State agencies* must assign up to 5% additional points for local businesses located in New Mexico.<sup>2</sup> To be eligible for the additional points, *responsible offerors* shall be required to submit with their proposal a copy of their Resident Business Certificate or Resident Veteran *Contractor* Certificate to substantiate their status as a local enterprise. All preference certificates, including Resident Business Certificates and Resident Veteran *Contractor* Certificates, are issued by the New Mexico Taxation &

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<sup>2</sup> Application of preferences requirements, descriptions and applications, NMSA 1978, §§13-1-21, 22 and 14-2.

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Revenue Department upon approval of an application. See Exhibit G, Application for Resident Business Certification.

Preferences are mandatory when state and/or local funds are exclusively involved in the purchase. Federal funds typically prohibit the use of a local, state, or *veterans preference*.

12. **Interviews:** As stated earlier, the legal notice and the *RFP* should clearly state if interviews will be conducted as part of the selection process and the impact on the overall scoring procedures. If the evaluation committee will be selecting the top *responsible offerors* based on proposals and then conducting interviews with this short list of *responsible offerors*, the *RFP* should clearly state if the interview will be part of an aggregate score that will include the written proposal or if the interview will be the sole set of criteria on which the evaluation committee will select a *contractor*, which is known as a two-step process.

In deciding what information to obtain through interviews, the evaluation committee must objectively consider its ability to evaluate adequately information. In addition, the evaluation committee should consider the costs associated with conducting interviews, both to the evaluation committee and the *responsible offerors* (e.g. time, travel, and opportunity costs). Consider alternatives to on-site interviews when feasible, such as teleconferencing, video conferencing, etc.).

Finally, the evaluation committee must develop a way to standardize the interview assessment. All *responsible offerors* should be asked the same questions and follow up questions. Facilitate scoring by making questions as specific as possible.

## V. SELECTING THE EVALUATION COMMITTEE

### **Best Practices: Selecting the Evaluation Committee**

1. Choose three to five qualified voting members.
2. Select committee members with knowledge or expertise relevant to the project.
3. Identify and select committee members early in the *procurement* process.
4. Request committee members to sign a *Code of Conduct* and *Confidentiality Agreement* affirming they have no *conflicts of interest* and will agree to a *non-disclosure* clause pledging confidentiality during and after the selection process.
5. Provide training to committee members before they begin to evaluate proposals.
6. The *state agency* should offer to pay committee members not employed by the *state agency* a per diem in accordance with its per diem policies.
7. The Procurement officer or staff member should assist the evaluation committee.

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Establish the process for selecting members of the evaluation committee prior to *RFP* release. If scheduling conflicts cannot be resolved after setting meeting dates convenient for all members, allot time to seek alternate members. Ideally, the make-up of the evaluation committee will not change during the *procurement* process. Once proposals are received, this group will conduct all activities of the standardized *procurement* process, including:

- confirming proposal responsiveness;
- evaluating *responsive offers*;
- identifying a short list of *responsible offerors* to interview, if necessary;
- conducting interviews with *responsive offerors*, if necessary; and
- making a recommendation to the *state agency* on which *responsible offeror* they determine can provide the *state agency* with the best value and complete a specific project according to pre-set criteria.

An evaluation committee typically consists of three to five members with some level of subject matter expertise or knowledge regarding the project. Achieve diversity on the evaluation committee by selecting members with different types of expertise and members representing different areas depending on the size and complexity of the *procurement*. When necessary, the *procurement* manager should ensure that non-voting subject matter experts are on hand to provide their expertise, analysis, and recommendations to the evaluation committee so that they are able to make informed decisions. For example, the *state agency's* accountant can confirm that a *responsible offeror's* financial statements are in order.

Evaluation committee members might need to attend several meetings and should be aware of the time commitment required. As a result of their critical responsibilities, evaluation committee members must be trained on the *procurement* process, maintain confidentiality during and after the *procurement* process, have no *conflicts of interest* or benefit personally by the selection outcome. These requirements are described in more detail in the following sections.

Figure 5 details the composition of an evaluation committee and the role that each member might have in the *procurement* process.

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**Figure 5: Sample Composition of Evaluation Committee**

VOTING MEMBER	DESCRIPTION OF COMMITTEE MEMBER
<b>Project Manager</b>	Staff person to manage the process once a <i>contract</i> is finalized. The project manager may provide expertise to assist in the drafting of the <i>scope of work</i> .
<b>State agency Representative</b>	Staff person (other than the project manager) or <i>contractor</i> with in-depth knowledge of the background and need for the project. This person may draft or assist in drafting the <i>scope of work</i> and provide input on the relationship between this project and others in the <i>state agency</i> .
<b>Technical Expert</b>	Expert in the project's specific field to provide technical review. Experts may be staff members, <i>contractors</i> , members of professional organizations, or professionals living in the community.
<b>Specialty Technical Expert</b>	Additional specialty experts may be warranted for projects with specific technical requirements, such as hospitals, auditoriums, or disaster recovery centers.
<b>User Representative</b>	Representative on evaluation committee from a <i>state agency</i> using the project deliverable provided by another <i>state agency</i> . User group representatives are especially important for large, visible community projects.

## VI. EVALUATING PROPOSALS

Once a date has been selected for the evaluation committee to meet and review the proposals, the *procurement* manager must ensure the members of the evaluation committee will have all of the necessary resources available to them during the evaluation session. To expedite the evaluation process, provide each member with a copy of each proposal (the *RFP* can require that offerors submit multiple copies of the proposal). As reference material, the *procurement* manager should distribute handouts of the training presentation as well as a copy of this guide.

Prior to the evaluation meeting, appoint one member of the evaluation committee to check references as opposed to relying upon past performance as provided in the proposals. Although the New Mexico State statute does not specifically govern the details of how references are to be evaluated, as a best practice, handle all communication through e-mail in order to generate a public document and to keep the process consistent. Ask the same questions of all reference contacts. Sample areas on which to focus these questions include:

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- Working Relationship: Did the *contractor* collaborate and work as a partner with the best interest of the client in mind?
- Communication by *Contractor*: Were there clear, open, and responsive communications with the owner throughout the project?
- Performance History Meeting Milestones and Deadlines: Were important project milestones met; was the project completed on time?
- Cost of Control Measures: How well did the *contractor* work with the project owner to control costs from bid through project completion, and was the project completion within budget?
- Accuracy of Billing and Documentation: Was invoicing timely, accurate, and correctly classified? Were billings supported by adequate documentation? Were errors corrected promptly by the *contractor*?
- Customer Satisfaction and Impression: How satisfied is the owner overall with the completed project and the process the *contractor* followed on the project? What is the owner's lasting impression of the *contractor*?

Provide a copy of the reference responses to each evaluation committee member. Address the manner to score the references in the training presentation. One way to generate a score from the references is to have the evaluation committee rank each area on a scale of 1 to 5, where:

- 1 = Poor
- 2 = Below Average
- 3 = Average
- 4 = Good
- 5 = Excellent

If preferences are to be used in the *procurement*, instruct a member of the evaluation committee to check the validity of every offeror's preference status prior to the evaluation session. This can easily be done online by entering the offeror's name and preference certificate number in the New Mexico Taxation & Revenue Department's preferences validation website: <https://secure.mvd.newmexico.gov/residentcertificate/default.aspx>.

If the evaluation committee will be selecting a short-list of candidates to interview, remind members whether the interview is part of an aggregate result that will include their current evaluation scores or if it is a two-step process, in which the successful *contractor* will be selected from the short list of candidates interviewed based on interview responses alone. Encourage evaluation committee members to take detailed notes during the interview and specify, in writing, what they relied upon in making the source selection decision.

Identify one committee member to be responsible for summarizing the committee members' input during the evaluation sessions. This summary, along with the scores, will become part of the public record as a Committee Report.

Retain all documents pertaining to the *procurement* process in a file that must be kept for three years by the *state agency*. If the *procurement* was done by SPD, the file is kept by SPD.

Prior to award, the *state agency* shall ensure award documents and *contracts* have been reviewed by the *state agency's* legal counsel to ensure legal sufficiency of the *procurement*.

### VII. DEBRIEFING POST AWARD

Once the evaluation process has concluded and an award has been made to a successful offeror, the offerors not selected have ten (10) business days to request in writing a debriefing session with the *procurement* manager. In no case shall a debriefing be held prior to the expiration of the protest period, which is fifteen (15) days after an award has been made.<sup>3</sup>

Debriefings are an opportunity for unsuccessful offerors to learn more about the *procurement* process, how a decision was made, and how they can improve future proposals. Discuss only the strengths and weaknesses of the proposal submitted by the offeror being debriefed.

Debriefings not only afford offerors an opportunity to receive feedback, they also allow offerors to submit their input. Be open to receiving constructive feedback on how the *procurement* was perceived and how future improvements to the *procurement* process can be implemented.

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<sup>3</sup> Right to protest, NMSA 1978, §13-1-172.

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### Exhibit A

#### **Sample Code of Conduct and Confidentiality Agreement**

I, the undersigned, a member of the Evaluation Committee for Request for Proposal #[Insert RFP #] for [Insert RFP Title] will perform the evaluation under the guidelines and requirements set forth below:

##### **1. Professional Conduct**

I have a professional interest in ensuring that the scoring and evaluation of the *offeror* responses to the above named Request for Proposal can be supported and defended, and that the recommendation of the Evaluation Committee will lead to the selection of the proposal most advantageous to the [Insert State agency Name], taking into consideration the evaluation factors set forth in the RFP.

##### **2. Conflict of Interest**

- a. I hereby affirm that I shall not accept any favor, gratuity, or any other thing of value from any person, firm, corporation or other entity that has submitted a proposal for funding or is in the process of negotiating a *contract* with the [Insert State agency Name]. Such favors, gratuities, or things of value shall include, but not be limited to, the seeking of or acceptance of gifts, favors, *services*, promises of future employment, and/or honorariums, from [Insert State agency Name] suppliers, *contractors*, regulated enterprises or individuals, interested parties or people seeking to do business with [Insert State agency Name].
- b. I also agree that I shall disqualify myself from participating in any aspect of the proposal review and/or negotiation process directly or indirectly affecting a business in which I or a member of my immediate family has a financial interest.
- c. I may not participate in the development of proposals in response to this solicitation.

##### **3. Non-Disclosure of Information**

- a. I understand that *offeror* responses to the above named RFP will be provided to me upon the receipt of this signed *Code of Conduct and Confidentiality agreement*. The responses are being shared with me as a member of the Evaluation Committee with the understanding they are confidential and should be treated as such. They are for the sole use of the members of the Evaluation Committee and alternates, as a part of their confidential information. Review of material is intended only for the individuals within the evaluation committee and mentioned within this *Code of Conduct and Confidentiality Agreement*.
- b. I affirm that I shall maintain the strictest level of confidentiality regarding all aspects of the proposal review and/or *contract* negotiation process. I shall not discuss with any person, or disclose, at any time, to any person, the contents or scoring of proposals, and/or decisions of the evaluation committee throughout the proposal, review, protest, and/or *contract* negotiation process.

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I understand and agree to abide this *Code of Conduct and Confidentiality Agreement* and all applicable [Insert State agency Name] policies and laws and further agree to take full responsibility for the copies of all proposals delivered into my care. I will not disclose, or make available the contents therein to competing *offerors* or persons not involved in the evaluation process.

If I should become aware of any situation, which might arise, that could alter any of the representations above, or that might otherwise create the appearance of a conflict or other impropriety, I will notify the Purchasing Officer and committee chair immediately.

\_\_\_\_\_  
Procurement Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Member, Evaluation Committee (signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Member, Evaluation Committee (print)

### Exhibit A: Sample Code of Conduct and Confidentiality Agreement

# Best Value Procurement Guide – Part 2

## Exhibit B: Sample Evaluation Committee Training Presentation

**RFP #**

**RFP Title**

**Evaluation Committee Training**

**Date**

### 1. Purpose of the Training

Ensure proposals are evaluated in a consistently to:

- 1) Select the *offeror* that will provide the best value to the state agency
- 2) Ensure an environment of open and fair competition for the *offerors*

*NOTE: Oversee introductions of committee members*

### 2. Overview of Procurement Process/ Responsibilities of the Committee

*Best Value Procurement* allows committee members to consider qualifications and other criteria along with price.

Steps in the process include:

- 1) Draft and approve Request for Proposals
- 2) Issue RFP and receive proposals (staff only)
- 3) Evaluate proposals
- 4) Select short list or single *offeror*
- 5) Interviews (optional)
- 6) Negotiate and enter into contract

### 3. Code of Conduct and Confidentiality Agreement

- Professional Standards
- No Conflicts of Interest
- *Non-Disclosure* of Information
  - All information contained in proposals will be treated confidentially
  - Cannot be shared with other *offerors* or persons not participating in the evaluation process
  - Terms of confidentiality do not end once the evaluation process has concluded

*NOTE: Distribute and review Code of Conduct. Ask committee members to sign Code of Conduct before they leave the training.*

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## Exhibit B: Evaluation Committee Training Presentation

### 4. Overview of Project

- Background and need for the Project
- Description
- Technical Specifications
- Project budget

*NOTE: Provide committee with draft Scope of Work to review*

### 5. Evaluation Process

- Technical vs. Price Proposals
- Scoring against the criteria
- Independent review, discussion, consensus

### 6. Evaluation Criteria

- Past Performance or qualifications
- Experience relevant to the Project
- Project Staffing or Project team
- Management Plan or approach to the Project
- Health and Safety record
- Price
- Resident Preference or Veterans Preference

### 7. Guidelines on How to Score References

#### Definition:

1 = Poor

2 = Below Average

3 = Average

4 = Good

5 = Excellent

## Best Value Procurement Guide – Part 2

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### Exhibit B: Sample Evaluation Committee Training Presentation

#### 8. Short List

#### 9. Interviews

#### 10. Contract Negotiations

#### 11. Committee Report

### Exhibit B: Sample Evaluation Committee Training Presentation

# Best Value Procurement Guide – Part 2

## Exhibit C: Sample Proposal Control Sheet

All responsive proposals submitted in response to RFP#12345678 for Sample Services were opened on:

Date\_\_\_\_\_ At:\_\_\_\_\_AM/PM

Offeror Name	Name of Contact Person	Contact email	Responsive or Non-responsive (Date & time Received)	Opened by (Print)	Opened by (Signature)	Witness (Print)	Witness (Signature)

## Best Value Procurement Guide – Part 2

### Exhibit D: Scoring Matrix

Note: Tiers and points provided as examples only

Insert RFP Number and Title

Offeror 1	Offeror 2	Offeror 3
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Insert Name of Evaluator

#### 1. Past Performance or Qualifications : 15 points

[Insert criterion description from RFP]

##### Tier 1: 1-15 points

Certain that *offeror* can perform project successfully, based on:

- Experience significantly exceeds minimum standards
- Strengths outweigh weaknesses, if any

Offeror 1	Offeror 2	Offeror 3

##### Tier 2: 6-10 points

Possible that *offeror* can perform project successfully, based on:

- Experience meets minimum standards
- Strengths offset by weaknesses, if any

Offeror 1	Offeror 2	Offeror 3

##### Tier 3: 1-5 points

Uncertain that *offeror* can perform project successfully, based on:

- Questionable if experience meets minimum standards
- Weaknesses outweighed by strengths

Offeror 1	Offeror 2	Offeror 3

## Best Value Procurement Guide – Part 2

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### 2. Experience Relevant to the Project: 15 points

[Insert criterion description from RFP]

#### Tier 1: 11-15 points

Certain that *offeror* can perform project successfully, based on:

- Two or more projects of similar size and complexity
- Three positive references, if required

Offeror 1	Offeror 2	Offeror 3

#### Tier 2: 6-10 points

Possible that *offeror* can perform project successfully, based on:

- One project of similar size and complexity
- Two positive references, if required

Offeror 1	Offeror 2	Offeror 3

#### Tier 3: 1-5 points

Uncertain that *offeror* can perform project successfully, based on:

- One project of similar size
- One positive reference, if required

Offeror 1	Offeror 2	Offeror 3

### 3. Project Staffing or Project Team: 15 points

[Insert criterion description from RFP]

#### Tier 1: 11-15 points

Certain that *offeror* can perform project successfully, based on:

- Experience and qualifications significantly exceeds minimum standards
- Documented experience of past collaboration
- Clear organizational structure

Offeror 1	Offeror 2	Offeror 3

## Best Value Procurement Guide – Part 2

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### **Tier 2: 6-10 points**

Possible that *offeror* can perform project successfully, based on:

- Experience and qualifications meet minimum standards
- Some past collaboration
- Organizational structure adequate but could be improved

Offeror 1	Offeror 2	Offeror 3

### **3. Project Staffing or Project Team, (Continued): 15 points**

#### **Tier 3: 1-5 points**

Uncertain that *offeror* can perform project successfully, based on:

- Questionable if experience and qualifications meet minimum standards
- Minimal to no evidence of past collaboration
- Organizational structure unclear or confusing

Offeror 1	Offeror 2	Offeror 3

### **4. Management Plan: 15 points**

[Insert criterion description from RFP]

#### **Tier 1: 11-15 points**

Certain that *offeror* can perform project successfully, based on:

- Detailed understanding of project requirements
- Project management approach exceeds performance and quality requirements for the project
- Project schedule meets or exceeds deadlines, may introduce some efficiencies

Offeror 1	Offeror 2	Offeror 3

## Best Value Procurement Guide – Part 2

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### **Tier 2: 6-10 points**

Possible that *offeror* can perform project successfully, based on:

- Adequate understanding of project requirements
- Project management approach meets performance or quality requirements for the project.
- Project schedule meets deadlines

Offeror 1	Offeror 2	Offeror 3

### **Tier 3: 1-5 points**

Uncertain that *offeror* can perform project successfully, based on:

- Limited understanding of project requirements
  - Project management approach does not meet all or some performance or quality requirements for the project
- Questionable if project schedule meets deadlines

Offeror 1	Offeror 2	Offeror 3

## **5. Health and Safety Record (15 points)—if applicable**

[Insert criterion description from RFP]

### **Tier 1: 11-15 points**

Certain that *offeror* can perform project successfully, based on:

- Comprehensive health & safety plan
- History of exceeding health & safety targets
- High safety rating
- Evidence of *subcontractor* involvement in firm's health & safety management system

Offeror 1	Offeror 2	Offeror 3

## Best Value Procurement Guide – Part 2

### Tier 2: 6-10 points

Possible that *offeror* can perform project successfully, based on:

- Comprehensive health & safety plan
- History of achieving health & safety targets
- Average safety rating
- Evidence of *subcontractor* involvement in firm's health & safety management system

Offeror 1	Offeror 2	Offeror 3

### Tier 3: 1-5 points

Uncertain that *offeror* can perform project successfully, based on:

- Comprehensive health & safety plan
- Below average safety rating

Offeror 1	Offeror 2	Offeror 3

## 6. Price (25 points)

### Tier 1: 11-15 points

Certain that *offeror* can perform project successfully, based on:

- Price is responsive to RFP requirements and instructions
- Price is realistic in respect to project plans and specifications
- Methodology provided for all components
- Price includes base price and alternates—if applicable

Offeror 1	Offeror 2	Offeror 3

### Tier 2: 6-10 points

Possible that *offeror* can perform project successfully, based on:

- Price is responsive to RFP requirements and instructions
- Questions about price being realistic in respect to project plans and specifications
- Methodology missing for some components
- Price includes base price and alternates—if applicable

Offeror 1	Offeror 2	Offeror 3

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**Tier 3: 1-5 points**

Uncertain that *offeror* can perform project successfully, based on:

- Price is not responsive to RFP requirements and instructions
- Price is not realistic in respect to project plans and specifications
- Methodology not provided for all components
- Price does not include base price and alternates—if applicable

Offeror 1	Offeror 2	Offeror 3

- **7. Resident preference (5 points)**

**Exhibit D: Scoring Matrix**