

Chapter 17. Competitive Negotiation: Selecting a Vendor After Negotiations

Summary

This chapter establishes the procedures for selecting a vendor after negotiations have been conducted. The procedure at this stage of the process differs depending on whether goods or nonprofessional services or professional services, will be procured.

Essential Information in this Chapter

- On the basis of the evaluation criteria published in the RFP and all of the information developed through the negotiation process, the selection committee selects a vendor or vendors with whom to negotiate a contract.
- If goods or nonprofessional services are being procured, the selection committee shall select the vendor that, in its opinion, has made the best proposal and shall recommend that the contract be awarded to that vendor.
- If professional services are being procured, the selection committee shall select in the order of preference two or more vendors whose professional qualifications and proposed services are deemed most meritorious. Negotiations are then conducted with the vendor ranked first and if a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that vendor. If not, negotiations with the vendor ranked first shall be formally terminated, and negotiations are conducted with the vendor ranked second, and so on.

Key References to the Code of Virginia Applicable to this Chapter

Section 2.2-4301: Definitions of competitive negotiation and other key terms; award

17-1 General

On the basis of the evaluation criteria published in the RFP and all of the information developed through the negotiation process, the selection committee selects a vendor or vendors with whom to negotiate a contract.

17-2 Selection: Goods or Nonprofessional Services

If goods or nonprofessional services are being procured, the selection committee shall select the vendor that, in its opinion, has made the best proposal and shall recommend that the contract be awarded to that vendor. Before the selection is made, the following steps shall be complied with:

- Solicit best and final offers: After negotiations have been conducted with all of the vendors selected, the selection committee shall solicit best and final offers from each vendor. The request should inform the vendors that

the negotiations have been concluded and should include a notice that vendors now have an opportunity to submit a best and final offer and a common closing date for submitting the best and final offer.

- Evaluate best and final offers: The selection committee shall then evaluate the best and final offers and, if further negotiations and another round of best and final offers are not necessary, make a recommendation for award.
- Further round of best and final offers, if necessary: Best and final offers should be submitted only once, unless the purchasing agent makes a written determination that it is in the County's best interest to conduct an additional round. It is in the County's best interest to conduct an additional round of best and final offers if: (1) deficiencies in the initial best and final offers prevent their acceptance or (2) further negotiations are necessary, as provided below.
- Further negotiations, if necessary: Further negotiations may be necessary in the following situations: (1) substantial questions requiring further negotiations are raised by one of the best and final offers; (2) previously existing ambiguities are not discovered until after the best and final offers are received; (3) additional technical information is needed to evaluate the proposals; (4) the County's requirements change; or (5) the information available is inadequate to reasonably justify the vendor selection and award based on the best and final offers received. If negotiations are reopened, additional negotiations must be conducted with all vendors.
- Clarification, if necessary: The selection committee may contact a vendor to clarify any uncertainty in the vendor's best and final offer without reopening negotiations with all vendors remaining in the selection process.

If the purchasing agent, on the recommendation of the selection committee, determines in writing and in his sole discretion that only one vendor is fully qualified or that one vendor is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that vendor.

17-3 Selection: Professional Services

If professional services are being procured, the selection committee shall select in the order of preference two or more vendors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the vendor ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that vendor. Otherwise, negotiations with the vendor ranked first shall be formally terminated and negotiations conducted with the vendor ranked second, and so on until a contract can be negotiated at a fair and reasonable price. Once negotiations are terminated with a vendor, the selection committee may not return to negotiate with that vendor.

If the purchasing agent, on the recommendation of the selection committee, determines in writing and in his sole discretion that only one vendor is fully qualified, or that one vendor is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that vendor.

17-4 Price and Scope of Work Documents

All details of the procurement should be resolved by the time a vendor is selected and, consequently, there should be little need for negotiation after the vendor is selected. The selection committee may request the selected vendor to provide the following two documents, to be attached to the contract:

- Contract amount: Although the contract amount should be identified in the contract itself, a contract amount exhibit may be included when the vendor may use individual prices in invoices for goods or services. This document should be predicated on the agreed upon work statement. Unit prices may include hourly labor rates for various classes of workers, equipment rental charges, and percentage discounts that apply to materials used. Services of an indeterminate nature, such as surveys and investigations, regulatory agency permits, and other like matters should be included under a separate section for special services and contain caps of reasonable amounts on these tasks.
- Work statement: A work statement exhibit may be included to state in detail how a service will be performed and the duties and responsibilities of the vendor. The work statement should reflect the scope of work that was agreed upon by the County and the vendor at the conclusion of the interview and should identify each task to be performed by the vendor.

If these documents are prepared by the vendor, they should be carefully reviewed by the using department, the selection committee, and the purchasing agent to be certain that they reflect the agreement of the parties and, if either does not, the document must be revised or further negotiations must be conducted.