

SEP-14 El Paso County, Black Forest Road Culverts Replacement Project STU P2C0-006 (19775)

WORK PLAN

The Process – Background:

The "Best Value" process being requested is not new within the public sector. In fact, the federal government uses this process as the primary process for major procurements, including capital projects, when it is necessary to select a contractor based on factors other than just low price and when negotiations may be advantageous. The process being requested can be found in part 15, "Contracting by Negotiation", of the Federal Acquisition Regulation (FAR). FAR 15.1 entitled "Source Selection Processes and Techniques" which is later described in 15.101 "Best Value Continuum", specifically allows agencies to use competitive negotiations to obtain best value.

FAR 15.002 (b) entitled "Competitive Acquisitions", states as follows: "When contracting in a competitive environment, the procedures of this part are intended to minimize the complexity of the solicitation, the evaluation, and the source selection decision, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to selections of the proposal representing the "best value" to the Government."

The EPC procurement process is governed by El Paso County's own procurement policy which is in accordance with State Statutes. The Board of County Commissioners of El Paso County established the Procurement Department in 1978. As a political subdivision of the State of Colorado, the Procurement & Contracts Department operates in accordance with the laws of the Procurement Code of the Colorado Revised Statutes. This statute states that there must be open and fair competition according to Colorado Revised Statutes (C.R.S.), Title 24, Article 103, Methods of Source Selection. These methods are:

1. Competitive sealed bidding (C.R.S. 24-202)
2. Competitive sealed best value bidding (C.R.S. 24-103-202.3)
3. Competitive sealed proposals (C.R.S. 24-103-203)
4. Small purchases (C.R.S. 24-103-204)
5. Sole source procurement (C.R.S. 24-103-205)
6. Emergency procurements (C.R.S. 24-103-206)

EPC uses a process similar to that used by the federal government and many other local entities. EPC solicits full and open competition using a Request for Proposal (RFP), also known as "Competitive Negotiations", as the procurement method. The RFP includes several components (criteria) in which respondents to the solicitation must include within their proposals such as: price, qualifications, schedule, quality control plan, subcontractors, including respective qualifications, and project approach as examples. The RFP also includes language which informs the respondents as to the order of importance of each of the specified criteria. In essence, all of the critical aspects of the project are evaluated to determine what firm is truly the overall best value to be awarded the project. Price is still a major factor; however, a firm that has the lowest overall price may not be awarded the project if his proposal does not adequately address all of the critical aspects of the project as described in the RFP.

There are significant advantages with some disadvantages to using the competitive RFP method to award a best value contract.

Advantage:

1. Reduces risk to EPC: Since EPC is selecting a contractor based on their complete and written understanding of all of the critical aspects of the project (price, quality, schedule, experience, capability, and understanding of project), rather than just price alone, EPC has increased its potential for selecting and awarding to the best contractor available. By selecting a contractor through this process EPC has significantly increased its chance for success, and reduced overall risk for an unsuccessful project.
2. RFP process is extremely flexible: By using the Request for Proposal (RFP) process it gives the flexibility to negotiate with all firms that are determined to be within the competitive range after proposal evaluations. (The normal approved method of using sealed bids does not allow for negotiations.) This is extremely important when dealing with projects that are on a very tight budget. Secondly, this process allows EPC to express to the contractor community in a competitive environment, the most important or critical aspects of the project, and have the contractor community tell EPC in the form of proposals how they plan to resolve these issues and the related cost.

3. **Best Value:** The evaluation process allows EPC to evaluate all of the critical aspects of the project rather than just price. Price will still be a major factor, but this process allows EPC to consider every critical aspect of the project prior to signing a contract. As an example; Schedule will be very critical. Firms will be required to submit detailed progress schedules for review. A firm that submits a schedule that is lacking sufficient detail, most likely would not score as high as a firm that submits a schedule that contains complete detail proving they are intimately familiar and completely understand the critical elements of the project. The contractor who best demonstrates their complete understanding of project, has a fair price, is qualified and has compiled a good team of subcontractors, through submission of their proposal, most likely will be selected through this highly competitive process as the Best Value. It is a win/win for everyone. Contractors can put their best foot forward and not having to worry about foregoing quality for a low price. EPC wins, by awarding the contract to a contractor that has proven capabilities, a fair price, the best team of subcontractors, and has proposed a schedule that allows for early completion.

Disadvantage:

1. **Preparation and submission of proposals is costly:** While the proposals preparation process by the contractor's is more time consuming and costly, the firms that have the most experience and best qualifications would have experience in preparing and submitting proposals as a normal business process for projects of this magnitude. A large project is worth the investment of a contractor's time and effort to obtain the contract award.
2. **Solicitation, Evaluation, and Award Process is longer:** The RFP process takes an average of 120 days, as compared to roughly 60 to 90 days for sealed bidding. However, the extra days are required to be able to evaluate and select the best value contractor. These days are more than made up in the improved day to day management of the project. Through this process the extra 30 days ensures that there is a complete understanding of the project by both parties and therefore eliminates all of the assumptions normally made by parties under a sealed bid scenario.

Scope:

The scope of the project EPC is requesting permission to pursue the best value methodology is the Black Forest Road Culverts Replacement project. Black Forest Road is a major north-south corridor in northern El Paso County. The project includes the replacement of existing failing culverts located 30 feet below the roadway. The complexity, and most importantly the disruption to the citizens of El Paso County during this project, make it critical that a "best value" contractor is selected to perform this work. It is imperative that all factors are considered in the selection and award of a contract such as cost, schedule, project approach and understanding, experience, value engineering, and any other critical factors, are they are all addressed by the competitors in the form of a written proposal for our consideration.

Schedule:

The estimated procurement process will be broken down in to a similar schedule based on receipt of final construction drawings. Total contract lead time from advertisement to contract award is plus or minus 120 days. The dates are estimated at this time but the time frames for each task are realistic;

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| Issue Request for Proposal | Nov. 4, 2015 |
| Pre-Proposal Conference | Nov. 16, 2015 |
| Proposal due Date | Dec. 10, 2015 |
| Evaluation of Proposals (2 to 3 weeks) | Dec. 17, 2015 |
| Oral Presentations (if necessary) | Dec 18-22, 2015 |
| Best and Final Offers (if necessary) | Dec 31, 2015 |
| Award of Contract | Jan 19, 2015 |
| Contract Notice to Proceed | Jan 25, 2015 |
| Completion of Contract | Spring 2016 |

Measures:

By using the "Best Value" method for capital projects of this magnitude, El Paso County expects to be able to measure as a minimum the three primary objectives of the project; (1) cost savings, (2) time, and (3) improved quality control as follows:

1. **Cost Savings:** Since the "Best Value" approach is not a low-bid procurement, the cost savings that are consistently realized on best value projects are in the areas of lower number of change orders, improved efficiencies, and value engineering measures associated with the evaluation process. The evaluation criteria will

also include the evaluation of such items as; qualifications, including subcontractors, project understanding and approach, schedule, quality control and traffic plans. Through this EPC hiring a quality contractor that has put together a team of qualified subcontractors and they have proven they completely understand the project. As a result EPC receives quality work and better understanding of the project which in turn leads to less change orders.

2. Quality: As stated above, using the "Best Value" approach EPC is able to evaluate each firm's past performance, experience, and capabilities and compare subcontractor's to each other in a competitive process. With all things being equal a firm that is able to put the best team together to build the project, will result in improved quality at a lower than average cost. The cost savings are seen in less change orders, increased project efficiency (very rare is there a need for repetitive work), and a project that is completed either on time or earlier than expected.
3. Time: In our experience with "Best Value", EPC has been able to reduce estimated project duration, by asking and evaluating project schedules as part of the best value process. As an example, most projects that are awarded using sealed bidding give the timeframe the contractors are to complete the work. In the best value process EPC provide the proposers an estimated amount of time it should take. EPC evaluates and award higher points to the firm that can submit a schedule which would result in shorter completion dates and can demonstrate that their schedule is realistic through experience and complete project understanding.

Reporting:

As part of the reporting process, EPC plans to provide the following reports:

Solicitation Report

1. Formal Advertisement of the project
2. Pre-Proposal Sign-In Sheet
3. Copy of the Request for Proposal specification with addendums (if any) the request for proposals will include specific detail on proposal preparation and submission along with our evaluation criteria and evaluation process.

Evaluation Report

1. Evaluation Matrix (contains criteria & weights)
2. Tab Sheet
3. Sample Disclosure Statement

Award Report

1. Winning proposer's technical and fee proposal
2. Contract

Periodic reports (after issuance of notice to proceed will provide quarterly)

1. Progress reports showing actual progress as compared to proposed schedule
2. List of change orders with description and dollar amount
3. Quality Issues – list of unacceptable items and quality related issues

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EL PASO COUNTY PROCUREMENT PROCESS

This is not new process to El Paso County. **Section 3, Methods of Source Selection** in the El Paso County Procurement Policies Manual addresses the process and contains procedures that must be adhered to in order to comply with the procurement regulations. Sections 3.70-3.98, pertaining to RFP's, are attached describing the process in detail that will be followed if this process is approved. The El Paso County Procurement Policies Manual can be provided if requested.

Request for Proposals (RFP) – Formal

The Request For Proposals (RFP) is an objective method of contracting for goods or services whereby proposals are solicited from qualified contractors. With the RFP, you are primarily soliciting an outcome; that is, your specifications describe the outcome you want and the vendors must propose how they will achieve it. Following submission of offers, changes in proposals and prices may be allowed and the offer deemed by the County to be most advantageous in terms of criteria as designated in the RFP as determined to be in the best interest of the County may then be accepted. An RFP should not be used when the service or equipment to be contracted is standard, routine or common "off the shelf" type items or if there is an industry standard associated with the service or commodity to be contracted. The RFP is a time consuming and costly method of procurement that should only be used when sealed bidding is not appropriate.

When Requests for Proposals are Practical

Factors to be considered in determining whether the RFP method are practical include:

- Estimated contract value is more than \$25,000.
- Requirement is highly technical, unusual, is not a standard "off the shelf" item, or there are little or no clear standards or specifications available to use in the solicitation.
- If the contract needs to be other than fixed-price type.
- If it may be necessary to conduct oral or written discussions with offerors concerning technical and price aspects of their proposals.
- If it may be necessary to afford offerors the opportunity to revise their proposals.
- If it may be necessary to base an award on a comparative evaluation as stated in the RFP of differing price, quality and contractual factors in order to determine the most advantageous offering to the County.
- If the primary consideration(s) in determining award may be factors other than price(s).

When Requests for Proposals are Advantageous

A determination will be made to use the RFP method if it is determined to be advantageous to the County. Factors to be considered in determining whether the RFP method are advantageous include:

- If prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the County.
- The requirement is highly technical or complex in nature and would be more advantageous to the County to use the RFP method of source selection.
- If the factors listed in this section are more desirable than necessary in conducting the procurement; if they are, then such factors may be used to support a determination that Requests for Proposals are advantageous.

Determinations

The Director of Procurement and Contracts or Procurement Specialist may make determinations by category of supply, service, or construction item(s) that it is either not practical or not advantageous to the County to procure specified types of supplies, services or construction by competitive sealed bidding. Procurements of the specified types may then be made by competitive sealed proposals based on this determination. The Director of Procurement and Contracts may revoke such determination at any time, and all such determinations shall be reviewed from time to time for current applicability.

Dollar Thresholds for RFP's

Formal Requests for Proposals shall be issued by the Procurement and Contracts Department for requirements that are estimated to exceed \$25,000. Solicitations in the form of informal RFP's may be issued for a requirement estimated to be less than \$25,000 if more than one vendor is known to exist that has the capabilities of providing the product or service. The Director of Procurement and Contracts may accept written justification from the using department for a sole source professional service contract, even though it may exceed \$25,000.

Evaluation Process

The RFP evaluation process shall be conducted as a fair and objective process that requires the evaluation committee to evaluate all proposals on the specific criteria in the RFP.

Complete confidentiality is an ethical and legal requirement, and is vital to fair and equitable evaluation. During the entire RFP process, the Procurement Specialist serves as the sole contact for vendors and provides all RFP procedures and communication. Technical issues will be addressed by the appropriate staff and relayed to vendors by the Procurement Specialist. After proposals are submitted, all vendor contact shall be made through the Procurement and Contracts Department. Vendor information, number of proposals received, results and other evaluation proceedings should be kept confidential at all times. Requests for this information shall be made in writing and its release will be in accordance with the Colorado statute (C.R.S. 24-72-203 and 24-72-204) for access to Public Records and County administrative policy.

Evaluation Committee members will be selected by the using department and the Procurement Specialist. Committees should consist of a minimum one (1) member that is not part of the using department. A Procurement Specialist may be a member of the committee, but it is preferred that procurement personnel only facilitate the evaluation process. A BoCC member should recuse him/herself from the final approval of a contract award if the member is also an evaluator. Committee members shall score each proposal individually and independently. However, group discussions are encouraged to discuss technical views to arrive at a better understanding of technical proposals during the evaluation process. The results of the scoring by the evaluating committee shall be totaled to determine the overall highest rated proposal. The suggested method for totaling scores is by each evaluator's rankings of the proposals.

If interviews are part of the evaluation criteria, the RFP must contain language that allows for them. The Evaluation Committee, prior to entering into discussions with any offerors, will make competitive range determinations. Any and all offerors determined to be within the competitive range may be given an opportunity to interview.

Best and final offers may be requested at the conclusion of discussions if discussions are determined necessary.

All offerors are allowed to schedule a debriefing with the Procurement Specialist to go over the weaknesses and strengths of their proposal. The strengths and weaknesses of other proposals will not be discussed outside the debriefing.

Competitive Range Determination

The Evaluation Committee, through the Procurement Specialist, shall determine which proposals' scores are in the competitive range for the purpose of conducting written or oral discussions/interviews. The competitive range shall be determined on the basis of criteria stated in the RFP. The determination shall include all proposals that have a reasonable chance of being selected for award. When there is doubt as to whether a proposal is in fact within the competitive range, the proposal shall be included.

If the RFP initially solicits unpriced technical proposals, they shall be evaluated to determine which are acceptable to the County or could, after discussion, be made acceptable. After necessary discussion of these technical proposals is completed, the Evaluation Committee shall request the price proposals from all offerors who submitted an acceptable technical proposal and make the award to the lowest responsible offeror.

Written Clarifications or Interviews

If a contract award cannot be made on initial offers as submitted, the Evaluation Committee, through the Procurement Specialist, may request written clarifications or interviews with all responsible offerors within the competitive range. The following guidelines may be used:

- Advise the offeror of deficiencies in its proposal so the offeror is given an opportunity to satisfy the County's requirements.
- Attempt to resolve or clarify any uncertainties concerning their proposal.
- Resolve any suspected mistakes.
- Provide each offeror a reasonable opportunity to submit revisions to both their technical proposals and price proposals as discussed by requiring submission of best and final offers by each offeror within the competitive range at the conclusion of discussions.

Note: Offerors should be reminded that Best and Final Offers are not mandatory. They are only an opportunity to revise if necessary.

- Provide the offeror a reasonable opportunity to discuss past performance information obtained from references. Names of individuals providing references information shall not be disclosed.

The purpose of discussions is not to engage in technical leveling (helping an offeror bring proposal up to the level of others) of proposals.

Do not use auction techniques such as indicating a cost or price an offeror must meet to be considered, advising an offeror of its price standing relative to the other offerors, or otherwise furnish information about other offeror's prices. It is permissible to inform an offeror that the proposed prices are unrealistic or too high.

Best and Final Offers

Upon completion of discussions, the evaluation selection committee may issue to all offerors still within the competitive range a request for best and final offers. Oral requests for best and final offers shall be confirmed in writing. The request shall include:

- Notice that discussions are concluded.
- Notice that this is an opportunity to submit a best and final offer.
- A due date for submission of the best and final offer.

Note that this is only an opportunity to revise their proposals. If they chose not to submit a best and final offer then their original proposal as submitted will be considered.

After receipt of best and final offers, the evaluation selection committee shall evaluate them accordingly and recommend award be made to the offeror whose best and final offer is most advantageous to El Paso County, considering price and the other factors included in the RFP.

Proposal Preparation Time

Proposal preparation time should be set to provide offerors 30 calendar days under normal circumstances to prepare and submit their proposals. The Director of Procurement and Contracts may modify this requirement to require less time on less complicated requirements, but in no event will the period be less than 21 calendar days.

Public Notice-Advertisement

Public notice shall be given by advertising the RFP in the same manner provided for the IFB.

Pre-Proposal Conference

Pre-proposal conferences may be held. Any such conference should be held after the final advertisement date, and a minimum of ten (10) calendar days prior to the submission of initial proposals.

Amendments to RFP

Amendments to RFPs may be made in accordance with amendments to IFBs prior to submission of proposals. After submission of proposals, any amendments shall be distributed to all offerors who submitted proposals.

Modification or Withdrawal of Proposal

Proposals may be modified or withdrawn by any offeror prior to the established due date and time.

Receipt of Proposals

The time and date for receipt of proposals will be included in the RFP and must state a specific time or "close of business" on a certain date. If a specific time is cited, then proposals must be received by the time or they are considered late and will not be accepted. If "close of business" is cited, then proposals may be accepted at any time during business hours on the date specified. **Proposals will not be opened publicly.** The list of the names of proposers or the number of proposals received shall not be released publicly until such time as the evaluation process is completed, or with the written authorization of the Director.

Late Proposals

Late proposals shall be handled in the same manner as "Late Bids" as described in the **Competitive Sealed Bidding** section of this manual.

Single Proposal Received

If only one (1) proposal is received in response to a RFP, the Procurement Specialist has the following options:

- Determine if there was sufficient time allotted for offerors to submit a proposal (if not, the solicitation may be amended to extend the receipt of proposal date and the only proposal received shall be returned unopened to the only offeror.
- Proceed with the evaluation of the proposal from the single offeror; if the offer meets the requirements of the County as stated in the RFP, and the cost is determined to be fair and reasonable through negotiations, an award may be made.
- If the evaluation determines that the only offeror does not meet County needs, or negotiations of the cost do not result in a fair and reasonable price, then the solicitation may be canceled and resolicited at a later date.

Note: If the solicitation is canceled, the proposal shall be returned to the offeror and the canceled solicitation file shall be documented as to why it was canceled.

Evaluation of Proposals

The RFP shall clearly define all evaluation criteria, including price. Numerical rating systems and/or weights may be used, but are not mandatory to be listed in the RFP. However, the criteria must be listed in the RFP and the weights or points must be assigned by the Evaluation Committee prior to evaluating proposals. The evaluators shall not consider criteria that are not specified in the RFP when evaluating proposals. Selection for the award shall be conclusive based on scoring criteria as specified in the RFP. The County reserves the right to enter into contractual negotiations with the highest ranked firm selected by the evaluation committee. If a mutual contractual relationship cannot be established that will meet the County's needs, then the County reserves the right to enter into negotiations with the second highest ranked firm and so on.

Proposal Discussions with Individual Offerors

Discussions are held to promote understanding of the County's requirements and the offeror's proposal, to facilitate arriving at a contract that will be most advantageous to the County taking into consideration price and the other evaluation factors set forth in the RFP. Offerors determined to be within the competitive range shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and prior to award, for the purpose of obtaining best and final offers. Auction techniques or disclosure of any information derived from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

Mistakes in Proposals

When it appears from a review of the proposal before award that a mistake has been made, the offeror should be asked to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn in accordance with rules governing mistakes in bids.

Award of Contract

Award shall be made to the responsible offeror whose proposal is determined to be most advantageous to the County, and in the best interest of the County, based on the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation.

Vendor Debriefing

Vendors submitting an unsuccessful proposal may, within five (5) business days of mailing of the notice of intended contract award, request a meeting for debriefing and discussion of their proposals. The request must be in writing addressed to the Procurement and Contracts Department. Debriefing will not include any comparisons of the vendor's unsuccessful proposal with any other vendor's proposal. The Procurement and Contracts Department will attempt to respond to questions and concerns in this debriefing.

Cancellation or Rejection of Bids or Proposals

The provisions of this policy shall govern the cancellation of any solicitation issued by the Procurement and Contracts Department under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part, whether rejected for being non-responsive or non-responsible.

Solicitations should only be issued when there is a valid procurement need. Solicitations should not be issued to obtain estimates or to "test the water". A solicitation is to be canceled only when there are valid and compelling reasons to believe that the cancellation is in the County's best interest.

Cancellation or Rejection of All Bids or Proposals Prior to Opening

Prior to opening of bids, a solicitation may be canceled in whole or in part when the Director of Procurement and Contracts and using department determine, in writing, that such action is in the County's best interest for reasons including:

- The County no longer requires the supplies, equipment, materials, or services.
- The County can no longer reasonably expect to fund the procurement.
- Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

Notice of cancellation

When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses solicited and posted on the Procurement and Contracts website. The notice of cancellation shall identify the solicitation, explain the reason for the cancellation, and where appropriate, explain that an opportunity will be given to compete on any re-solicitation.

After Opening

After opening, but prior to award, any or all bids or proposals may be rejected in whole or in part when the Director of Procurement and Contracts and using department determine in writing that such action is in the County's best interest for reasons including:

- The supplies, equipment, materials, or services being procured are no longer needed.
- Ambiguous or otherwise inadequate specifications were part of the solicitation.
- The solicitation did not provide for consideration of all factors of significance to the County.
- Prices exceeded funds available and it would not be appropriate to adjust quantities or qualities to come within available funds.
- All otherwise acceptable bids or proposals received are at clearly unreasonable prices or terms.
- There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive or may have been submitted in bad faith.

Documentation of cancellation

The reasons for cancellation or rejection shall be made a part of the procurement files and shall be available for public inspection.

Disposition of Documents

When bids or proposals are rejected or a solicitation canceled after bids or proposals are received, the bids or proposals that have been opened shall be retained in the procurement files, or, if unopened, returned to the bidders or offerors upon request or otherwise disposed of.

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SAMPLE PROJECT/PROCESS

The following documents from the previous construction RFP are attached to demonstrate our RFP process:

Solicitation Documents:

1. RFP Invitation Page
2. Pre-Proposal Sign-In Sheet
3. Rocky Mountain E-Purchasing System Invitation List
4. Specification Document

Evaluation Documents:

1. Evaluation Matrix Form
2. Disclosure Statement
3. Evaluation Tab Sheet
4. Evaluation Committee Memo

Contract Award Documents:

1. Contract
2. Notice to Proceed
3. BOCC Memo