



Memorandum of Negotiation: Acquisition Template

A Mandatory Reference for ADS Chapter 300

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USAID
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MEMORANDUM OF NEGOTIATIONS ACQUISITION TEMPLATE

BUREAU FOR MANAGEMENT (M)
OFFICE OF ACQUISITIONS AND ASSISTANCE
TEMPLATES SERIES

MAY 2012

Introduction

A Memorandum of Negotiations is a comprehensive document that records the key elements of an acquisition award decision. This document captures and summarizes the entire history of the procurement process and documents it permanently so that any person working in an official capacity can read the document and know exactly why the award decision was made and legitimizes who it was made to. It serves to establish the reasonableness of the acquisition award, and as a permanent written account of the decisions made. This document should be clear, concise, complete and accurate.

Audience

- | | |
|--|--|
| <input type="checkbox"/> Agreement Officer | <input type="checkbox"/> Agreement Officer's Representative |
| <input checked="" type="checkbox"/> Contracting Officer | <input checked="" type="checkbox"/> Contracting Officer's Representative |
| <input checked="" type="checkbox"/> Contract Specialist | <input checked="" type="checkbox"/> Program Analyst/Activity Manager |
| <input checked="" type="checkbox"/> Agreement Specialist | <input type="checkbox"/> Budget Officer |

Acronyms

ADS	Automated Directive System
AP	Acquisition Plan
CO	Contracting Officer
COR	Contracting Officer Representative
CPFF	Cost Plus Fixed Fee
CRB	Contract Review Board
FAR	Federal Acquisition Regulations
FBO	Federal Business Opportunities Website
JOFOC	Justification for Other than Full and Open Competition
PPT	Performance Price Tradeoff
RCO	Regional Contracting Office
RFP	Request for Proposal
SBA	Small Business Administration
TEC	Technical Evaluation Committee
TO	Task Order

Key Roles and Responsibilities

Contracting Officer (CO) is responsible for coordinating with the Activity Manager to define the acquisition requirements; entering into, administering, and terminating USAID-direct contracts in accordance with the limitations of their delegated authority, policy directives, and required procedures.

Contracting Officer's Representative (COR) is designated by the Contracting Officer, and is responsible for technical oversight and administration of the activity during contract performance.

Contract Review Board (CRB) is comprised of a CRB Chairperson, a senior procurement analyst, a representative of the Office of General Counsel (GC), a representative from the M/OAA Evaluation Division, virtual members from the field, and others as needed. The CRB is responsible for reviewing documentation for acquisition actions (pre-solicitation, competitive range determination, and pre-award) that are expected to exceed \$25M. This includes basic Indefinite Quantity Contracts (IQCs) where the total estimated ceiling is expected to exceed \$25M for single or multiple awards.

Definitions

Automated Directives System (ADS) is a source of agency policy guidance [see www.usaid.gov/policy/ads]

Justification and Approval Document (J&A) is a document that explains why there is an exception to using a full and open competitive procurement process.

Request for Proposal (RFP) is a solicitation issued to inform suppliers of the Government's intent to conduct a complete procure to acquire goods or services. It is an invitation to suppliers to respond to the RFP with their proposed price/cost and their technical approach for an activity or methodology that supports or is in keeping with USAID's program objectives. .

Offeror is a term used interchangeably to identify an organization that has submitted a proposal in response to a RFP.

(Template)

MEMORANDUM OF NEGOTIATIONS

I. CONTRACT/TO SUMMARY

TITLE OF REQUIREMENT:

TECHNICAL OFFICE:

REQUISITION NUMBER:

SOLICITATION NUMBER:

CONTRACT NUMBER:

CONTRACT TYPE:

NAICS CODE:

CONTRACTOR NAME & ADDRESS:

CONTRACTOR DUNS NUMBER:

CONTRACTOR REPRESENTATIVE NAME, PHONE, EMAIL:

BASE PERIOD OF PERFORMANCE:

OPTION PERIOD(S):

GOVERNMENT ESTIMATE:

TOTAL ESTIMATED COST OR PRICE:

PLACE OF PERFORMANCE:

COR NAME:

CONTRACTING OFFICER NAME AND OFFICE:

II. AUTHORITY TO CONTRACT

Provide the legal or regulatory authority to support this action. As an example:

For Contract Awards:

The Foreign Assistance Act of 1961, as amended and Executive Order 11223, and {insert proper FAR reference}.

III. PURPOSE OF THIS NEGOTIATION

As an example:

The purpose of this negotiation is to {explain the action i.e. award contract for, extend period of performance, determine equitable adjustment, change the COR etc.}

IV. RATIONALE FOR CHOICE OF INSTRUMENT

*Specific guidance on determining the use of a contract can be found in **FAR Part 16** provides guidance on what specific type of contract vehicle to use for a given acquisition.*

See the acquisition plan at Section I, Tab C of the contract file for information on the rationale for choice of instrument.

V. CONTRACT/TO BACKGROUND

Your goal is to provide sufficient information about the project so that the reader has a basic understanding of what it involves. You should always strive to make the narrative brief and concise. An example of a one-paragraph narrative:

*The objective of this program is to provide expert technical services to the Government of **XXX** to improve **XXX**. This Contract will be the principal mechanism for implementing **XXX**, whose central emphasis is to support systemic reforms and capacity building in **XXX**. Support will be provided through expert technical assistance and training for public sector institutions and civil society organizations, at the national, regional and local levels.*

VI. CHRONOLOGY OF EVENTS

*Include under this entry the action events: (NOTE: The following events are the standard PALT events used by GLAAS for a Definitive Contract – Competitive. **Include the PALT events for the type of action being awarded.**)*

Event Description	Event Date
Requisition Released	MM/DD/YYYY

Event Description	Event Date
Buyer Assigned	MM/DD/YYYY
Accepted Request	MM/DD/YYYY
Obtained OSDBU Clearance	MM/DD/YYYY
Issued Advertisement	MM/DD/YYYY
Reviewed Comments	MM/DD/YYYY
Finalized SOW	MM/DD/YYYY
Solicitation Creation Date	MM/DD/YYYY
Prepared Solicitation	MM/DD/YYYY
Obtained Necessary Reviews	MM/DD/YYYY
Solicitation Released	MM/DD/YYYY
Solicitation Issued	MM/DD/YYYY
Solicitation Conference held	MM/DD/YYYY
Amended Solicitation	MM/DD/YYYY
Received Proposal(s)	MM/DD/YYYY
Cost Proposal Review/Request Technical Evaluation	MM/DD/YYYY
Requested Audit(s)	MM/DD/YYYY
Performed Cost Analysis/Receive Technical Evaluation	MM/DD/YYYY
Determined Competitive Range	MM/DD/YYYY
Obtained Necessary Reviews	MM/DD/YYYY
Issued Unsuccessful Letters	MM/DD/YYYY
Began Clarification/Discussion	MM/DD/YYYY
Completed Clarification/Discuss	MM/DD/YYYY
Requested Revised Proposals	MM/DD/YYYY
Conducted Debriefing(s)	MM/DD/YYYY
Received Revised Proposals	MM/DD/YYYY
Requested Revised Prop Tech Evaluation	MM/DD/YYYY
Received Revised Prop Tech Evaluation	MM/DD/YYYY
Determined Apparent Winners	MM/DD/YYYY
Requested EEO Clearance	MM/DD/YYYY
Received EEO Clearance/Audit Results	MM/DD/YYYY
Prepared Award	MM/DD/YYYY
Completed Contract File Doc	Projected MM/DD/YYYY
Obtained Contract Officer Review	Projected MM/DD/YYYY
Obtained Necessary Reviews	Projected MM/DD/YYYY
LEG Notice*	Projected MM/DD/YYYY
Secured Vendor Signature	Projected MM/DD/YYYY
Resolved Issues	Projected MM/DD/YYYY
Executed CO Signature/Award Approved	Projected MM/DD/YYYY
Award Synopsized	Projected MM/DD/YYYY
Award Date	Projected MM/DD/YYYY
Award Released	Projected MM/DD/YYYY

*** Per ADS Congressional Award Notifications must be made after Contracting Officer signs award.**

VII. DISCUSSION

A. Overview of the Procurement Process

Enter the basic facts. For example:

On MM/DD/YYYY, USAID/XXXX issued the solicitation # xxx on www.FedBizOpps.gov, requesting proposals for the required scope of work. Prior to the publication of the solicitation, USAID/XXXX also published a Pre-Solicitation Notice on www.FedBizOpps.gov to notify the public of XXXX's intention to seek proposals from qualified U.S. organizations.

Subsequently, USAID/XXXX issued two amendments to the solicitation:

Amendment No. 1 was issued on MM/DD/YYYY, making changes to the following:

- a. Modify Section B – Services and Costs*
- b. Modify Section C – Description/Specifications/Statement of Work*
- e. Modify Section J – List of Attachments*
- f. Modify Section L – Instructions, Conditions and Notices to Offerors, and*
- h. Include Questions and Answers to Section J, List of Attachments*

Proposals were due on MM/DD/YYYY. A total of XX proposals were received, from the following offerors:

- 1. xxx*
- 2. xxx*
- 3. xxx*

B. Technical Evaluation Committee Methodology and Scoring

An example of what to include in this entry:

Prior to convening the Technical Evaluation Committee (TEC) to review the proposals, on MM/DD/YYYY, the RCO organized an introductory meeting with the TEC to explain all elements of the evaluation process (rules and best practices); and provided the chair and members with clear and specific guidance. The RCO provided each panel member with electronic copies of evaluation sheets (1 set for each proposal). At the end of the meeting, all TEC members signed the requisite Conflict of Interest Statements and non-disclosure forms.

The Negotiator and/or Contracting Officer participated in the entire technical review process, including in all group discussions (as observing, non-voting members).

Individual TEC members read the proposals in the order agreed during the period from {Insert dates - MM/DD/YYYY through MM/DD/YYYY.}

The TEC consisted of 3 USAID members:

- 1. xxx*
- 2. xxx*
- 3. xxx*

The TEC used a standardized approach to evaluate the technical proposals. First, TEC members independently reviewed each proposal using a combined numeric scoring and adjectival rating for each factor contained in section M. XXX of the Solicitation. Each member prepared written comments on the strengths, weaknesses, significant weaknesses, and deficiencies for each of the evaluation criteria and provided questions and points of clarification by evaluation criteria, by offeror.

The TEC met XXX times to discuss the proposals. During the discussion, TEC members shared their individual ratings and narratives, and determined a consensus score for each criterion, the strengths, weaknesses, significant weaknesses, deficiencies and clarifications for each criterion, and the consensus overall rating for each offeror. At the end of the discussion of each criterion, participants recorded any adjustments made to their original scores and documented the reasons for the changes.

C. Summary Technical Scores and Rankings: Pre-Competitive Range

Create a list or table that shows for each offeror: the technical evaluation criteria; the consensus score assigned for each criterion; and the total technical score for the offeror. The initial technical evaluation report can be included as an attachment to this Memorandum, or placed elsewhere in the file. If not included with this Memorandum, identify where the evaluation report is located.

D. Summary of Initial Cost Proposal Evaluation

This section should document cost or price analysis as required. As the Contracting Officer, you will decide the format, extent and content of the cost analysis or price analysis. If conducting cost analysis, as a minimum, you will want to address each individual cost element and fee.

Summarize the cost proposal of each offeror. The following is an example of a table for this purpose.

**Table XXX
Initial Cost Proposals by Cost Element**

	Cost Element	IGCE	Offeror A	Offeror B	Offeror C
1	Salary and Wages				
2	Fringe Benefits				

	Cost Element	IGCE	Offeror A	Offeror B	Offeror C
3	Consultants				
4	Travel/Transportation/Per Diem				
5	Equipment and Supplies				
6	Participant Expenses				
7	Allowances				
8	Other Direct Costs				
9	Subcontracts				
10	Partnership Challenge Fund				
11	Overhead				
12	Material and Handling				
13	Sub-Grant Handling				
14	G&A				
	Subtotal Items 1-14				
15	Fixed Fee				
	Total				

The cost analysis can be included as part of the Negotiation Memorandum, as an attachment to the Memorandum, or filed elsewhere in the Pre-award file. If they are filed elsewhere, be sure to identify their location. See FAR 15.404-1(c) and ADS 303.3.12a for more specific guidance on conducting cost analysis.

*You must include a cost realism analysis if you are contemplating a cost plus fixed fee contract. One way of depicting the cost realism analysis is to create a table similar to the one you prepare for the initial cost proposals, except, of course, the table will show the **probable cost** to USAID of each element. Explain the differences between the proposed costs and probable costs. See FAR 15.404-1(d) for more specific guidance on conducting cost realism. In accordance with FAR 15.406-3 (a) (4), include the impact of contractor systems to the extent they affected the negotiation (i.e. Contractor purchasing, accounting, or compensation systems).*

In accordance with FAR 15.406-3 (a)(5) and in accordance with FAR 15.406-3 (a)(6), document the use of certified cost and pricing data.

SUMMARY - MEMORANDUM OF NEGOTIATIONS - WORKSHEET										
Activity Name:	RFP Number:									
Cost Category/Element	Offeror A Name:		Most Probable Cost			Offeror "n" Name:		Most Probable Cost		
	Proposed Amount	IGCE Amount	MPC Amount	PerCent Difference from Proposed	PerCent Difference from IGCE	Proposed Amount	IGCE Amount	MPC Amount	PerCent Difference from Proposed	PerCent Difference from IGCE
Salary and Wages										
Fringe Benefits										
Consultants										
Travel/Transportation/Per Diem										
Equipment/Supplies										
Participant Expenses										
Allowances										
Other Direct Costs										
Subcontracts										
Partnership Challenge Funds										
Overhead										
Material and Handling										
Sub-Grant Handling										
G&A										
Subtotal										
Fixed Fee										
Total Price										

VIII. COMPETITIVE RANGE DETERMINATION

Summarize the results of your competitive range determination. This information can be extracted from the memorandum. This information should be filed under Section III, Pre-Award Documents, tab C4 of the USAID Contract File Checklist.

IX. SUMMARY OF THE NEGOTIATION OBJECTIVES

In accordance with FAR 15.406-3 (a) (7) and FAR 15.406-3 (a) (8), include a narrative explaining the Government’s negotiation objectives in relation to the Contractor’s proposal. Address the most significant facts or considerations controlling the establishment of the pre-negotiation objectives and the negotiated agreement including an explanation of any significant differences between the two.

X. EVALUATION OF FINAL TECHNICAL PROPOSAL REVISIONS

Example of an introductory paragraph for this entry:

On MM/DD/YYYY, the TEC members were provided the final proposals. TEC members were briefed by the Contracting Officer about the procedures for the review of the final proposals and for the next XXX days, the technical committee evaluated, discussed and rescored, as appropriate, the final proposals. On MM/DD/YYYY, the TEC Chair submitted to the Contracting Officer the final Technical Evaluation Report.

Include here a list or table to show for each offeror: the technical evaluation criteria; the final consensus score assigned for each criterion; and final the total technical score for the offeror. Identify those scores that changed from the initial technical evaluation.

State that you agree and accept the findings of the Final TEC Report, and indicate where the Report is located (either as an attachment to the Memorandum or elsewhere in the Pre-award file.)

XI. EVALUATION OF FINAL COST PROPOSAL REVISIONS

Perform a cost analysis of each revised proposal, as appropriate; to include a cost realism analysis and probable cost adjustment. The cost analysis can be included as part of the Memorandum of Negotiations, as an attachment to the Memorandum, or filed elsewhere in the Pre-award file. If they are filed elsewhere, be sure to identify their location.

XII. COST TECHNICAL TRADE-OFF

*State whether the cost technical trade-off was performed. If it was, provide a summary here. Identify where in the Pre-award file the complete documentation regarding the trade-off process is located. Refer to **FAR 15.101-1** for guidance on Trade-Offs.*

XIII. BEST VALUE DETERMINATION

For example:

Based on the comparative analysis of proposals received against all source selection criteria the proposal submitted by XXX represents the best value to the Government,

XIV. RESPONSIBILITY DETERMINATION AND APPLICATION OF STANDARDS

*A responsibility determination must be made before award of every contract. You can include the complete determination here or summarize it. If you summarize, identify where in the Pre-award file the determination is located. Guidance on determining responsibility can found in **FAR Parts 9.104-3, 9.105-2, and 9.404.***

XV. AWARD RECOMMENDATION

The cost proposal submitted by XXX is fair, reasonable, and realistic. Considering cost and technical merit, XXX's proposal represents the best value to the Government, and I recommend that a contract be awarded to XXX.

RECOMMENDED BY: {Negotiator}

Name

Title

Date

REVIEWED BY: {Division Chief or Supervisory CO}

Name

Title

Date

APPROVED BY: {Signatory CO with sufficient warrant authority}

Name

Title

Date