

**Washington State University**  
**RFP General Terms and Conditions**

**1.1. RESPONSIVENESS**

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Respondent is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

The University also reserves the right at its sole discretion to waive minor administrative irregularities to include a late submission where such tardiness does not Confer an advantage over the other bidders and such acceptance would increase competitiveness.

**1.2. PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

Proposals submitted in response to this competitive procurement shall become the property of the University. All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the President of the University, or Designee, and the Apparent Successful Contractor; thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington ("RCW").

Any information in the proposal that the Respondent desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Respondent is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right-hand corner of the page. Marking the entire proposal exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Respondent has marked as "Proprietary Information," the University will notify the Respondent of the request and of the date that the records will be released to the requester unless the Respondent obtains a court order enjoining that disclosure. If the Respondent fails to obtain the court order enjoining disclosure, the University will release the requested information on the date specified. If a Respondent obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, the University shall maintain the confidentiality of the Respondent's information per the court order.

A charge may be made for copying and shipping, as outlined in RCW 42.56. All requests for information should be directed to the RFP Coordinator.

**1.3. MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION**

In accordance with chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises ("OMWBE"). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals will not be rejected or considered non-responsive on that basis.

For information on certified firms, parties may contact OMWBE at 360-753-9693 or <http://www.omwbe.wa.gov>.

#### **1.4. MOST FAVORABLE TERMS**

The University reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Respondent can propose. There may be no best and final offer procedure, however, the University reserves the right to utilize a best and final offer procedure if it is determined to be in its best interest to do so. The University also reserves the right to contact a Respondent for clarification of its proposal.

The Apparent Successful Contractor should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Respondent's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to the University.

#### **1.5. COSTS TO PROPOSE**

The University will not be liable for any costs incurred by the Respondent in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

#### **1.6. NO OBLIGATION TO CONTRACT**

This RFP does not obligate the state of Washington or the University to contract for products or services specified herein.

#### **1.7. REJECTION OF PROPOSALS**

The University reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

#### **1.8. COMMITMENT OF FUNDS**

The President of the University or his delegate is the only individual who may legally commit the University to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

#### **1.9. ELECTRONIC PAYMENT**

Washington State University utilizes an electronic payables system. The successful contractor may be provided a form to complete with the contract to authorize electronic payments.

#### **1.10. EVALUATION STEPS**

WSU will utilize an evaluation process applied equally to all Responses to ensure a comprehensive, fair, and impartial evaluation of all submissions consistent with all applicable procurement laws and University requirements. The intent of this process is to select the Respondent that represents the best value for the University and its students. As with all procurements, the university reserves the right to withdraw the RFP at any time and for any reason prior to contract execution without making an award.

The University Evaluation Team will review, verify as appropriate, evaluate and score information submitted by the Respondents as follows:

- Step 1 (Responsiveness Analysis): WSU will review bids – on a pass/fail basis – to determine whether the bid is 'responsive' to this RFP. This means that WSU will review each bid to determine whether the bid is complete – i.e., does the bid include each of the required bid submittals, are the submittals complete, signed where required, legible. WSU reserves the

right – in its sole discretion – to determine whether a bid is responsive – i.e., to determine a proposer’s compliance with the requirements specified in this RFP and to waive informalities in a bid. An informality is an immaterial variation from the exact requirements of the RFP, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the goods or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial, to bidders. Responsive bids will be evaluated as set forth herein.

- Step 2 (Bid Evaluation): WSU will review the bid to determine whether a bidder meets the Minimum Requirements. The Cost Factors and Non-Cost Factors will be independently judged and scored by the evaluators.
- Step 3 (Responsibility Analysis): For responsive bids, WSU will make reasonable inquiry to determine the responsibility of any bidder. Determination of responsibility will be made on a pass/fail basis. In determining responsibility, WSU may consider: the ability, capacity, and skill of the bidder to perform the contract or service required; the character, integrity, reputation, judgment, experience, and efficiency of the bidder; whether the bidder can perform the contract within the time specified; the quality of performance of previous contracts or services (including to WSU); the previous and existing compliance by the bidder with the laws relating to the contract or services; whether, within the three-year period immediately preceding the date of the RFP, the bidder has been determined by a final and binding citation and notice of assessment issued by the Washington State Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW; and such other information as may be secured having a bearing on the decision to award the contract. In addition, WSU may request financial statements, credit ratings, additional references, record of past performance, clarification of proposer’s offer, on-site inspection of proposer’s or subcontractor’s facilities, or other information as necessary. Failure to respond to any reasonable request may result in a bid being rejected as non-responsive. WSU reserves the right to use references to confirm satisfactory customer service, performance, satisfaction with service/product, knowledge of products/service/industry and timeliness. Any negative or unsatisfactory reference can be reason for rejecting a bid as non-responsible.

#### **1.11. DEBRIEFING OF UNSUCCESSFUL RESPONDENT**

Any bidder who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator no later than 5:00 PM, local time, in Pullman, Washington, within three (3) business days after the Unsuccessful Respondent Notification is e-mailed to the Respondent. The debriefing should be held within three (3) business days of the request.

Discussion at the debriefing conference will be limited to the following:

- Evaluation and scoring of the firm’s proposal;
- Critique of the proposal based on the evaluation;
- Review of bidder’s final score in comparison with other final scores without identifying the other firms.

Comparisons between proposals or evaluations of the other proposals will not be allowed.

Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a max of one hour.

### **1.12. COMPLAINT PROCESS:**

The complaint process allows bidders to focus on the solicitation requirements and evaluation process and raise issues with these processes early enough to allow University to correct a problem before bids are submitted and time expended on evaluations.

The procurement complaint process will meet the following minimum requirements:

- 1.12.1. Bidders will be given an opportunity to submit a complaint to University based on any of the following:
  - a. The solicitation unnecessarily restricts competition;
  - b. The solicitation evaluation or scoring process is unfair or flawed; or
  - c. The solicitation requirements are inadequate or insufficient to prepare a response.
- 1.12.2. Bidders will be allowed to submit complaints up to five (5) business days prior to the bid response deadline. Complaints must meet the following requirements:
  - a. Must be in writing.
  - b. Must be sent to the RFP Coordinator, or designee.
  - c. Should clearly articulate the basis for the complaint.
  - d. Should include a proposed remedy.
- 1.12.3. The RFP Coordinator will respond to complaints in writing.
- 1.12.4. The response to complaints including any changes to the solicitation will be posted as an amendment on WEBS.
- 1.12.5. The Director of WSU Purchasing Services or an employee delegated by the Director who was not involved in the procurement will be notified of all complaints and will be provided a copy of the response.
- 1.12.6. The complaint may not be raised again during the protest period.
- 1.12.7. The complaint process does not include an appeal process.

### **1.13. PROTEST PROCEDURE**

Protests may be made only by Respondents who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Respondent is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Pullman, Washington on the third business day following the debriefing. Protests may be submitted by e-mail but must then be followed by the document with an original signature.

Respondents protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Respondents under this procurement.

All protests must be in writing, addressed to the RFP Coordinator, and signed by the protesting party or an authorized Agent. The protest must state the RFP number, the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of an evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in the procurement document or University policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) University's assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by the University. The University Purchasing Director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Respondent that also submitted a proposal, such Respondent will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the University's action; or
- Find only technical or harmless errors in the University's acquisition process and determine the University to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the University options which may include:
  - Correct the errors and re-evaluate all proposals, and/or
  - Reissue the solicitation document and begin a new process, or
  - Make other findings and determine other courses of action as appropriate.

If the University determines that the protest is without merit, the University will enter into a contract with the Apparent Successful Contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.