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Contracting for Testing Services

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An increasing number of practitioners managing some aspects of large-scale testing programs find themselves responsible for procuring some type of testing services. This chapter describes and illustrates three components of the procurement process: planning; crafting the request for proposals (RFP); and evaluating vendor responses and negotiating the contract. Supporting tools provided include criteria for determining which tasks to complete in house and which to outsource; an outline of requirements to consider for inclusion in the RFP; criteria to consider when evaluating vendor responses; ways to combine evidence across criteria into a single rating; and illustrations of various negotiation strategies. The primary goal is to make the procurement process as defensible and cost effective as possible.

Thousands of state and local agencies, boards, associations, and other entities are currently responsible for developing and implementing testing programs that serve many different purposes. Some of these tests are used for relatively “low-stakes” purposes, such as for career counseling (aptitude measures) or curriculum (achievement tests) decisions. Other tests are developed and used to make decisions that have much higher stakes, for example, determining whether or not a person is admitted to a program, qualified for a job, awarded a credential, or promoted. Most of these test sponsors and developers require outside assistance with one or more aspects of the proposed program. The procurement of such services is vital to the successful development and implementation of the assessment program.

A literature review, web search, and informal survey of several practitioners yielded only a few resources that offer guidance related to the procurement process itself. One report (Accountability Works, Inc., 2002) from a testing summit sponsored by the Education Leaders Council offered model contractor standards and state responsibilities for state testing programs. For example, one of the model contractor standards related to test development addresses the need for a policy ensuring quality of all test instruments developed under the contract. Another contractor standard deals with responsibility for developing a technical manual. In both cases, parallel responsibilities are outlined for the test sponsor.

The Council of Chief State School Officers (CCSSO) has sponsored a State Collaborative on Assessment and Student Standards (SCASS) for Technical Issues in Large-Scale Assessment.
Participants in this SCASS have developed a *Quality Control Checklist for Processing, Scoring, and Reporting* (CCSSO, 2003). This document suggests quality control procedures that test sponsors should consider while monitoring performance of vendors hired to complete various processing, scoring, and reporting functions. The document also identifies the type of expertise or experience that a sponsor’s staff members need to ensure the effectiveness of each quality control measure (e.g., content, assessment, psychometric/research, or data management).

Testing program sponsors typically use formal requests for proposals (RFPs) or invitations to bid (ITBs) as tools for procuring the necessary testing services. Any two RFPs or ITBs may differ in several ways, including reasons for the request; type, specificity, and scope of requirements included; timeline for deliverables; and the legal or policy context within which requests are circulated, responses are evaluated, and contracts are executed. Although it is impossible to address all these nuances, the guidance in this chapter is offered from the perspective of an individual or group (referred to as *sponsor*) who seeks assistance through some type of competitive bidding procedure. Some ideas may also be helpful to practitioners who advise those preparing such requests or invitations and to those who respond (referred to as *vendor, contractor, or bidder*).

The chapter is divided into three sections. The first focuses on gathering information; defining the total scope of the project; deciding what major tasks to include in the RFP as contractor requirements and what tasks the sponsor will complete; and determining whether any consultants are needed, and if so for what tasks. The second section discusses issues and offers guidance related to estimating expected annual costs of the project, developing the RFP, and identifying which contractors should receive the RFP. The final section deals with issues related to evaluating responses from vendors and negotiating the contract.

**PLANNING**

A significant proportion of practitioners who develop and use an RFP to procure testing products and services may have had little or no prior experience doing so, and in fact, many may never have reviewed either an RFP or a vendor’s response to one. Others who have had some prior experience developing or reviewing an RFP or preparing or examining a contractor’s response to one may not have done so recently.

The first priority, therefore, may be to improve one’s knowledge and skills regarding the procurement process. Any of the following information-gathering activities may be helpful to someone preparing to write an RFP:

- Review with the sponsor’s purchasing/procurement office all policies, regulations, or laws that affect the sponsor’s releasing an RFP and executing a contract. Discuss any questions with the sponsor’s procurement officer and/or legal counsel.
- Identify a consultant who has prior experience developing an RFP to procure similar products or services. Ask to review a copy of that RFP and if possible any vendor responses to it. *Note:* Such documents are likely subject to public information requests in most publicly funded entities.
- Request copies of recent RFPs and the vendor’s responses from colleagues who work for testing service providers. *Note:* Vendors may require a signed confidentiality agreement if the response contains proprietary information.
- After reviewing relevant materials, ask individuals who managed the project for the sponsor or contractor what, if any, changes they would make in the procurement process, the requirements, the timeline, or the evaluation process. Also, inquire about what has and has not worked well in the past.
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- If the anticipated development process is complex or any of the anticipated uses is associated with high stakes (e.g., test results to be used in decisions related to licensure, hiring, promotion, graduation, school accreditation, etc.), it may be advisable to obtain the services of a consultant who is knowledgeable about procurement of testing services or to appoint and convene a technical advisory committee (TAC) to offer advice prior to completing the procurement process. *Note:* It may also be advisable to convene the TAC periodically throughout the development and implementation of the program.

Another important part of planning is to define the total scope of the project; that is, to make as many decisions as possible to determine what major tasks must be completed either by the sponsor or by the contractor. Although the following example involves a local education agency, it illustrates a process that any test sponsor can use to define the scope of a test development project.

**Example**

The school board of a mythical, large city school district establishes a policy that performance on a district-approved end-of-course test will count as a certain percentage of each student’s final course grade in all courses required for graduation, and that the policy will become effective for the school year that begins two full years following adoption of the policy. Assume the policy also provides that the district superintendent and curriculum council will approve any test used for this purpose.

Suppose the district superintendent and curriculum council agree the district should construct new end-of-course examinations, rather than purchase tests available commercially, to ensure that the tests are aligned as closely as possible with what students in this district are expected to know and be able to do after completing each required course. Other decisions that may affect the scope of the project include the following:

- Are all students enrolled in a particular course expected to take the test? If so, how will access be ensured for students with disabilities and students who have limited English proficiency (e.g., will Braille and/or enlarged print test forms be available; will English language learners be permitted extra time; etc.)?
- Will each test be administered as a paper-and-pencil measure? Will the test contain constructed-response items? Performance tasks? Will any of the forms be computer administered? When will the first operational test form be administered in the district’s high schools? By what date must this form be “camera ready” for printing or ready for computer administration? When will results be available?
- Will students who do not score well on a test be permitted to retake it? If so, when (e.g., after completing a summer class or other intervention program) and where? How often may they retake the test during any given school year? Will they retake the same test or must they take another form (i.e., different test items measuring the same objectives)? How many operational test forms will be needed annually?
- Will any test items be released to teachers, students, parents, and/or community? If so, how many items (or test forms) will be released each year and in what medium (e.g., in the newspaper; or on the district’s Web site)?
- How much time will examinees be allowed to complete an operational test form? How many items can most examinees be expected to answer in this amount of time?
- What procedures will be needed to ensure that all tests are valid? That all items are appropriate measures of the course objectives, fair to all examinees required to take the tests, and accurate in terms of content? What procedures will be necessary to ensure that
scoring keys or protocols are accurate and fair? What other types of validity evidence should be collected prior to administering the first operational test form?

- Will the district establish achievement-level standards (e.g., cut scores for each course grade) or offer further guidelines to teachers about incorporating results from this test into the final course grade?
- Is it important to involve any other stakeholders besides educators from the district? If so, what groups? What role(s) should each group have?
- What, if any, additional materials should be developed beside test forms and scoring keys and protocols? For example, will the development effort include informational material for examinees and parents? Test preparation materials? Directions for administering the test? Guidelines for test security? A technical manual? What is the timeline for completing each?
- Who will score the operational tests? What are the reporting requirements? For example, will reporting be limited to individual examinees or include groups? If the latter, what groups or subgroups? What, if any, subscores will be reported for each test? Who will design the score reports and when?
- Who will own each of the products developed during this project? (For more detail, see “Ownership issues” in the next section.)

A third component of planning requires outlining all major tasks and determining which of these will be outsourced (included in the RFP). The following list includes a few of the criteria that could be considered when making these decisions:

- What is the sponsor’s “core” business? Does the task align well with this business?
- Does the sponsor’s staff have the required expertise and experience to complete a specified task? Does the sponsor have sufficient staff qualified to manage and/or oversee completion of each task?
- Does the sponsor have the technology (e.g., computers, scanners, printers, software, etc.) necessary to complete a specified task?
- Given the context (e.g., policy requirements; timeline; in-house availability of sufficient and appropriate resources; role of consultants, volunteers, the technical advisory committee, and various stakeholder groups; and the estimated level of funding available), is it more cost effective to complete all work in house or to outsource some or all of it?

Recall the illustrative local school board scenario referenced in this section. Which major tasks might be assigned to district staff and which ones might be included in the RFP? Although it is possible to imagine assigning the contractor some role in all major tasks suggested by this example, this sponsor may choose to take the lead role in completing each of the following tasks:

- Define the knowledge and skills that should be measured by each end-of-course test.
- Develop preliminary test and item specifications (including format) for each required test area (perhaps with involvement and advice from a consultant, technical advisory committee, or the contractor).
- Determine what accommodations will be provided to ensure access to all students. (Assumes that students will receive the same accommodations they are provided for classroom tests currently used in the course.)
- Write, review, and revise test items and protocols used in scoring constructed response and/or performance tasks. (Assumes that committees of educators from the district will
complete this task. Perhaps the contractor will be asked to provide assistance with training and to offer technological support as required.)

- Review and approve all operational test forms. (Assumes that the district superintendent or her designee and the curriculum council will do this.)

Conversely, the contractor may be asked to take the lead role in the following tasks:

- Advise the sponsor in developing test and item specifications.
- Provide training for all item writers.
- Provide technological support to track the history of an item as it is reviewed, edited, field tested, and approved or rejected for operational use.
- Collect copyright and permission to use documents.
- Secure an outside, independent review if required.
- Assemble items into field test forms and either print the field test or provide computer support for the field test administration.
- Design and conduct the field test (e.g., design a sampling plan; identify the sample of participating schools, classes, and individuals; print, distribute and collect materials; score the tests; analyze the data; place all items on the same scale; and prepare reports of item statistics for use in final reviews).
- Select items for the required number of operational test forms.
- Deliver camera-ready (or computer-ready) copy of the required number of approved operational test forms and/or the bank of items from which future test forms may be constructed.
- Collect and assemble evidence of test validity (with assistance from the sponsor).
- Develop the technical manual (with input as appropriate from consultants and/or the technical advisory committee, and with approval by the sponsor).

It is important to acknowledge that the scenario used to illustrate decisions, issues, risks, and tasks considered as part of the planning phase does not represent the same level of complexity one might encounter in developing credentialing examinations or examinations used statewide in graduation decisions. However, the process would be the same (i.e., define the complete list of tasks to be accomplished and identify which ones will be completed by the sponsor and which by the contractor).

The illustrative scenario is also modest in scope compared to a project that includes requirements related to the operational aspects of a testing program (e.g., printing, distributing, and collecting materials; administering and scoring tests; developing a score scale; equating results in subsequent years back to the original score scale; setting achievement-level standards; or reporting results). However, the authors’ experiences suggest it is reasonable to assume that a process similar to the one illustrated in this section could be used in identifying decisions and determining primary areas of responsibility for each party and that thoughtful planning will likely take weeks or even months, not a few hours or days.

CRAFTING THE RFP

The authors remind readers that this chapter is written from the perspective of the sponsor issuing an RFP or ITB in a competitive bidding environment. Careful planning and a clearly written request/invitation can increase the likelihood the sponsor’s expectations of quality are met; make the proposal evaluation process appear easier and fairer; reduce the risks of protests or legal challenges; and help address some known or suspected sources of systematic errors.
associated with construct-irrelevant variance (CIV) such as those defined by Haladyna and Downing (2004). Although the amount of time needed to prepare an RFP varies with the complexity of the program, the authors recommend allotting at least a month to developing the first draft, followed by several weeks making thoughtful revisions prior to releasing final copy.

In this section on developing the RFP, the following related topics are discussed: judging the adequacy of estimated funding levels; identifying types of requirements and issues that might be addressed in the RFP; and identifying prospective vendors who should be invited to respond.

Determine the Adequacy of Funding

As soon as the scope of the project is known, it is important to begin estimating costs and comparing these estimates to the level of funding currently available or expected for the duration of the project. There are at least two ways to inform this estimate: review the actual cost of the sponsor’s most recent test development project, adjusting that estimate both for inflation and for obvious differences in the scope of the two projects; or if the sponsor has no recent experience with test development projects, request the same information from a colleague who is associated with another entity that has such experience.

If the estimated total cost exceeds substantially the estimated level of funding available, the sponsor may choose among several options. For example, the sponsor could seek additional funding; reduce the scope of work by eliminating one or more major tasks; shift one or more major tasks to another fiscal year and seek new funds for that year; assign one or more additional tasks to the sponsor’s staff or to unpaid volunteers, assuming they have the required expertise; or specify in the RFP the level of funding available as well as the desired scope of work and ask each prospective contractor to propose what requirements could be met and how for the specified amount of funds. If the difference between estimated costs and available funds is relatively small, the sponsor may elect to proceed with the proposed scope of work and count on competitive bidding to make the project affordable.

Provide a Context for the Proposed Development Effort

If the sponsor has an existing program, give a brief history of that program and describe how the proposed test development project fits into this system. Summarize the policy and legal requirements related to the current program and to the proposed test development effort. Descriptions of the context should make clear the purpose(s) of the test, who will be tested, the timeline for implementation, any requirement to release tests, and a list of allowable accommodations. This section of the RFP should also define beginning and ending dates for the sponsor’s “fiscal” or “accounting” year. If applicable, provide links to any laws, regulations, policies, or resolutions that might help respondents better understand the entire program, including the proposed new components.

Make available hard copy or links to electronic copy of previously developed materials, including for example technical manuals; scope and sequence charts, content standards, lists of benchmarks and indicators, or lists of job-related competencies; examples of released tests; examples of test and item specifications; and specific requirements for enlarged print, Braille, and translated test forms.

Outline the Procurement Process

No two sponsors have exactly the same procurement process. To assist respondents, include in the RFP clear descriptions of all procedural requirements. It may be helpful to consult the sponsor’s legal counsel, purchasing officer, and procurement specialist for a complete list of
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such items to include in the RFP. Although the following is not exhaustive, it illustrates the level of detail that should be provided.

**Submitting a Response**

Is a letter of intent required? If so, when? What is the due date for the proposal? Where must it be sent? Does the due date refer to the date shipped or the date the proposal is received? How many copies of the proposal must be provided? *Note:* Avoid using due dates that immediately follow major holidays. Give vendors at least four weeks to respond to an RFP or ITB, and allow more time if the request is released just prior to a major federal holiday.

**Formatting the Response**

Can or should vendors describe and offer cost options for different ways to complete one or more of the required tasks? What, if any, format must be followed in the technical and the cost proposal? May the technical and cost sections be combined in one document or must the two be submitted as separate documents? *Note:* To facilitate the evaluation, the sponsor should require a standard format for both the technical and cost sections. The decision regarding separation of the two documents may depend in part on how the cost proposal is weighted in the evaluative process. For more discussion of this process, see the final section of this chapter.

**Clarifying RFP Requirements Before an Official Response Is Submitted**

What types of questions can individual vendors ask the sponsor? Which sponsor’s staff member must be contacted? Which other staff members may answer vendors’ questions? How will the sponsor answer such questions (e.g., in writing, with responses shared with all potential vendors)? Will there be a pre-bid meeting (e.g., face-to-face meeting, video conference, or telephone conference)? If so, when (date and time) and where (how to access)? Is participation mandatory? What, if any, restrictions are placed on individuals who may need additional information after the conference? Will answers to such questions be shared with all prospective vendors? *Note:* Pre-bid conferences should be scheduled at least twenty-one days prior to the proposal due date to allow the sponsor time to prepare and distribute to all prospective vendors written summaries of all questions and answers, and to allow contractors time to incorporate any new information into their responses.

**Submitting Additional Assurance Forms**

Is a respondent required to submit any additional assurance forms? For example, to guarantee the quoted price for a specified time period? Assure that the bidder is a nondiscriminatory employer? Assure that the contractor will involve a specified group of individuals in writing items and/or scoring constructed response or performance tasks? Assure that all products and services will comply with all applicable standards (AERA, APA, & NCME, 1999; International Test Commission, 2001)?

**Subcontracting Work**

Are there any restrictions on a vendor’s ability to subcontract some tasks or functions to other service providers? Will the vendor be required to solicit participation of historically underutilized businesses? Or, businesses from a specific location (e.g., those located in a particular city or state)? What, if any, other provisions may affect such subcontracts? For example, must the contractor identify the subcontractor, describe the work to be performed,
and include evidence of corporate capability and staff expertise related to each assigned task? What, if any, other documentation is required?

**Performance/Bid Bonds and Penalty/Liquidated Damage Clauses**

Must the successful vendor provide evidence that a performance bond will be purchased prior to execution of the contract to protect the sponsor in the event the contractor fails to meet specified performance requirements? Will the sponsor require payment of liquidated damages or other penalties if the vendor fails to deliver products or services in accordance with provisions of the RFP and proposal? If so, what key deliverables should be addressed? What is a reasonable payment level for each failure to perform? Will the number of such clauses, the manner in which they will be used, or the amounts discourage or eliminate potential bidders?

**References**

What types of references must the vendor provide (e.g., evidence of experience completing tasks similar to those proposed for this project; a list of comparable projects the prospective contractor is currently undertaking in other locations; and evidence of the extent to which the vendor’s experienced staff members will be available for key roles as proposed for the new project)? To answer these questions, the sponsor may request references that include name of sponsor, contact information, some indication of the scope and duration of the work, as well as evidence regarding the extent and duration of involvement by the vendor’s key staff members who are proposed for lead roles in the new project.

**Evaluating Proposals**

What steps are used to evaluate responses to this RFP? What criteria or rating scale will be used to judge the technical proposal? The cost proposal? Will ratings be combined in some way to identify the “winner,” or must the successful vendor meet minimum requirements on all major factors considered in the evaluation? For example, is the sponsor obligated to award the contract to the lowest bidder whose proposal meets all minimum requirements of the RFP? Is it possible for the sponsor to reject all proposals submitted (e.g., if no proposal meets all RFP requirements, or if all cost proposals exceed the level of funding available)? If so, what happens? Can the sponsor award contracts to two or more prospective vendors for work described in parts of their proposals? For more detail on the evaluation process, see the last section of this chapter.

**Negotiating Requirements and Costs**

Will the sponsor consider proposals submitted in response to this RFP to be “best and final offers,” or use the results of the initial competition to negotiate “best and final offers” with selected contractors? Will face-to-face meetings be used in the final selection process? If the sponsor considers the first response final, will a vendor be allowed to correct, change, or add any information that the vendor claims represents an unintentional error in the proposal submitted? What, if any, such errors may be corrected before the evaluation process is completed? For more discussion of “negotiation” issues, see the final section of this chapter.

**Describe in Detail All Requirements**

Ideally, the sponsor should specify clearly all required outcomes (products and services) and let each vendor propose how to accomplish these outcomes. However, sponsors sometimes find it necessary, for a variety of reasons (fiscal, legal, technical, political, etc.), to specify...
additional procedural requirements. In any case, the RFP should describe requirements in clear, precise language; distinguish clearly between what is mandatory and what is desirable; indicate whether vendors may suggest innovations and improvements in required processes, and if so how and where to describe options and costs; and identify clearly the role and responsibilities of the sponsor’s staff in each major task.

Some examples of requirements presented may not apply to all projects. Conversely, the list is not exhaustive. The discussion is intended to identify some requirements that may help eliminate or control some sources of CIV and to illustrate the amount of detail that should be provided regarding any requirement the sponsor decides to include in the RFP. Suggestions regarding requirements have been categorized as follows.

**Item Development**

Assuming the sponsor has completed some preliminary work developing item specifications, what types of items and tasks will be required? What proportion of items should be selected response, short answer, extended response, or performance tasks? What other item specifications will be needed? Who is responsible for developing these? How many items must be submitted for review? How many must be field tested? How many must “survive” and be available for selection for an operational test form? Can any item that is revised after field testing be counted as a “surviving” item without additional field testing? What are the dates for all deliverables in this category?

**Stimulus Materials**

Which tests will require stimulus materials (e.g., reading passages, charts, graphs, maps, artwork, etc.)? How many of each type will be needed for each test area? What are the specifications for such materials? For example, must passages used in reading tests be selected from previously published materials; what length of passage should be used; what criteria should be used to judge the grade/age level appropriateness of materials? If any such materials are copyrighted by a third party, who is responsible for securing permission for their use? Must permissions extend to copyrighted materials that are “published” electronically?

**Scoring Protocols**

Who is responsible for developing scoring protocols for all constructed response and performance tasks? Who will train raters how to use scoring protocols? If composition skills are assessed, who is responsible for coordinating and conducting activities related to identifying range-finder responses? Who will score examinee responses? What are the due dates for all deliverables in this category?

**Test Forms**

Assuming the sponsor has done some preliminary work in developing test specifications, how many operational test forms will be required each year of the contract? Will any test forms be computer administered? If so, which forms? Is the contractor responsible for developing accommodated or alternative test forms? Which tests must be provided in large-print? In Braille? On tape or compact disk? For which test areas must translated forms be provided? For which languages? What types of items and how many of each type will be included in each test form? What other test specifications are required? Who is responsible for developing these? What is the due date for each deliverable?
Ancillary Test Materials

What other materials must be developed? Examples may include answer documents for field test and operational test forms; directions for administering each test form; information booklets and test preparation guides for examinees; application, registration, or enrollment materials (e.g., for certification, licensure, or equivalency diploma programs); surveys used to collect demographic information from examinees, teachers, or institutions; handbooks or guidelines for interpreting and using test results; individual examinee or parent reporting materials; and technical manuals. Who will develop specifications for each such document? What is the due date for each deliverable?

Ownership Issues

Who owns the test items developed for this project? Who owns all test forms and ancillary testing materials developed? Who owns reports of any studies commissioned by the sponsor? What, if any, special provisions are necessary whenever released tests contain materials copyrighted by a third party? Will such ownership issues require revisions in test or item specifications? Who is responsible for resolving each such issue?

Constituting and Convening Committees

What committees must be (or have been) constituted? Examples include technical advisory committee; content and sensitivity review committees; standard-setting committees; program and policy advisory groups; and focus groups to review proposed formats (e.g., for score reports). What tasks are each committee expected to perform? Who is responsible for constituting each committee? For convening each committee? Which committees must the contractor staff? How many contractor staff members are expected (or permitted) to attend? Which stakeholder groups will be represented on each committee? How many of each group? What expenses related to each committee will be the responsibility of the contractor (e.g., meals, lodging, transportation, and stipends for participants; meeting facilities; reimbursement to employers for substitute pay)? Does the sponsor have a policy that establishes maximum rates for any of these expenses, or can the sponsor suggest rates for each vendor to use in figuring costs? Will each committee meet a minimum number of times each year? If so, how many? How many sponsor staff members will attend each meeting?

Field Test Considerations

Is the contractor required to field test a specified number of newly developed test items? What are the anticipated uses of the data collected from this testing (e.g., to inform decisions about the appropriateness of the items for a population of examinees similar to those expected to take the operational tests; to inform content and sensitivity reviews of the items; to pre-equate operational test forms; to inform the standard setting process; or to be used in scaling and/or equating test forms)? When will field testing occur? Is field testing embedded in an operational test administration or is it a stand-alone event? What population should be sampled? What are the other sampling requirements? Is the contractor responsible for notifying participants? If so, are selected individuals and/or institutions required to participate? Is the contractor responsible for selecting and contacting test administration sites? For administering the tests? For scoring the tests? What if any information must be reported? To whom? What are the requirements for storing/retrieving hard copy or images of completed answer documents from the field test (e.g., for later use in scoring operational tests)?
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Security Issues

What policies, practices, and procedures related to test security does the sponsor currently have in place? What policies, practices, and procedures related to security will be required for the contractor? For which RFP tasks will prospective vendors be required to propose a security plan? What issues must be addressed in each plan? Will the sponsor need consultative assistance in answering any of these questions or assistance in investigating allegations of security breaches? (See Impara & Foster, chap. 5, this volume.)

Quality Control Issues

What role and responsibilities will the sponsor have for quality control in each major task outlined in the RFP? What sponsor’s staff member is assigned responsibility for the quality of each deliverable? What role and responsibilities related to quality control are assigned to the contractor? For which tasks must the prospective vendors propose a plan for quality control? What quality standards must be met in each task? What, if any, penalties or other sanctions may be invoked for failure to meet any of these standards? Will the sponsor employ a third party to verify, check, or replicate results from any process? If so, for which processes (verifying scoring key, rescoring a sample of answer documents, replicating the scaling and/or equating)? What if anything must the contractor provide to the third party?

Operational Program Requirements (If Applicable)

How many test administration dates are anticipated each year? When? How many examinees are expected to take each test form at each test administration date? What is the total number of examinees on each test administration date? How many testing sites are required for each administration? Will prospective examinees be required to apply, register, or enroll to take the test? If so, who is responsible for developing, piloting, and implementing this system? What are the packaging and shipping requirements for all materials distributed to and collected from testing sites? What percentage overage must be printed? Distributed? How many constructed-response and/or performance tasks are included in each test form? Who is responsible for scoring? What are the minimum qualifications for individuals who score constructed responses? How many raters will score each response and how will differences in ratings be resolved? What are the reporting requirements? To whom is each report sent? Is the contractor responsible for tracking the performance of examinees and/or groups over time? If so, who assigns the unique number or other tracking mechanism? What is the timeline for each of these requirements?

Technical Requirements

What, if any, role and responsibility does the contractor have for each of the following: developing field test sampling design; analyzing field test items using specified classical, Item Response Theory (IRT), and/or differential item functioning statistics; placing all field test items on the same scale and using the data to select items for operational test forms; using specified IRT methodology to scale and equate operational test forms; designing a vertical scale; proposing and conducting validity studies; conducting standard-setting meetings; developing a technical manual; and developing and maintaining an item bank? Many sponsors may prefer to require each potential vendor to propose a plan for performing each technical requirement and the rationale for recommending this methodology. Other sponsors, because of legal, historical, political, fiscal, or other factors, may choose to specify a particular methodology for some, if not all, technical tasks. One issue many sponsors encounter is that vendors often
use proprietary software in completing technical tasks. The sponsor may wish to require either that all contractors use software that is commercially available (or in the public domain), or provide evidence that results obtained from the proprietary software can be replicated using products available in the public domain or commercially. Before releasing the RFP, the sponsor may wish to discuss with a consultant and/or the TAC the pros and cons of using different methodologies for completing each proposed technical requirement.

**Technology Support**

Will prospective contractors be required to propose a plan for using technology to track the history of development and use of an item over time? To construct pre-equated operational test forms from an item bank? To administer operational tests online? To score operational tests online? To report results from operational tests online? To store and retrieve images of answer documents? To track examinee results across years? To issue certificates, licenses, diplomas, or other credentials to examinees whose scores meet the minimum performance requirements? To address any other innovative uses? What, if any, other requirements are associated with each proposed use of technology (e.g., requirement to propose plans for maintaining security and quality control; requirement to provide evidence results generated by proprietary software can be replicated using commercially available software)?

**Staffing Requirements**

What requirements should be included in the RFP regarding staff members assigned as project manager, assistant manager, and lead staff for each task (e.g., require the contractor to identify all such individuals by name; designate the proportion of time each such person will be assigned to this role; and provide written evidence that the assigned individual has previously demonstrated expertise in performing similar tasks for projects of similar size and scope)? What, if any, requirements should be included regarding later substitution for any staff member assigned one of these key roles (e.g., must the substitute have equivalent qualifications; be approved by the sponsor subject to satisfactory performance during a probationary period of a specified number of months)? What other staffing requirements are appropriate? For example, is the project of sufficient size and/or complexity to warrant a requirement that the project manager be assigned full time (100%) for the duration of this project? Is the contractor required to maintain a separate office in a particular location or hire one or more persons to work directly for the sponsor? Are prospective vendors required to provide a staffing plan that shows the number of full-time equivalent employees assigned to each task, the qualifications of such staff members (for their designated roles), and the expected duration of their involvement in the task?

**Project Schedule**

Although the RFP may provide an overall project schedule, is the contractor responsible for developing and including in its response a comprehensive project schedule? Is the contractor responsible for keeping it up to date? If so, what software should be used to write the schedule; how often should it be updated; who from the contractor or sponsor can change it; and how can it be accessed (e.g., paper only; Web-based read-only format; Web-based changeable format)? How detailed must the initial project schedule be? For example, will it contain only activities completed by the contractor, or will it also cover the work of subcontractors, contractors working on other parts of the same program, and the sponsor? Who should routinely receive updates?
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Management Plan and Progress Reporting

What components will be required in each respondent’s management plan (e.g., a timeline that includes dates for all required products and services; standards for quality; methods for reporting progress; name of the staff member responsible for delivery of each requirement; and name of the staff member responsible for maintaining and periodically updating the project schedule)? Is a “launch” meeting required at the beginning of the project? If so, who is required to attend? How many other face-to-face meetings will be required each year? Who will document the proceedings of each such meeting? What other types of progress reports are required? How often must such reports be provided? Sponsors will want to err in the direction of requiring progress reports more frequently than might be absolutely necessary rather than to err by requiring too few. For example, weekly reports may seem laborious at times, but at key points in the project schedule, both the sponsor and contractor may agree communication needs to occur at least daily. What components should be required in each type of report? What other documentation requirements should be included (e.g., documentation of all committee meetings, technical processes and procedures, etc.)?

Transition Issues

Any time the sponsor prepares an RFP that includes requirements for continued development of one or more components of an existing program, there is a possibility the current contractor will not be awarded this new contract. It is desirable, therefore, to anticipate and address in the RFP each issue that may be faced in transition. For example, for which tasks should the current vendor be required to collaborate during transition with the new contractor? How is the “transition period” defined? What are the requirements for sharing documentation of all processes and procedures that must be replicated during continued development? Should each prospective vendor be required to demonstrate ability to replicate previous analyses and results? Should all vendors be required to use either commercially or publicly available software, or could a prospective vendor simply demonstrate that results obtained from proprietary software are the same as those obtained using a product that is available to anyone? What, if any, used or unused test materials must be stored by the previous contractor, transported to the new contractor, or destroyed?

Identify Potential Vendors

All other factors being equal, increasing the number of interested vendors can help the sponsor to procure the same products and services for less money, or higher quality products and services for about the same amount. Although including smaller, less well-known vendors in the process may increase slightly the possibility a contract may be awarded to a vendor who cannot meet the sponsor’s expectations for performance, the likelihood of this happening can be reduced greatly by providing clear requirements, including a requirement that key staff be able to document experience completing similar tasks. Sponsors are encouraged to solicit the interest of as many contractors as possible.

Some sponsors may already have a list of ten or more vendors to whom RFPS are routinely sent. In addition, these same sponsors typically send a copy of an RFP to anyone who requests it. Other sponsors who have never distributed an RFP to procure testing services may first need to develop a list of possible vendor contacts; second, send a letter announcing the intent to distribute an RFP (together with a summary of the primary purposes) to determine vendors’ interest in receiving this request; and finally, send a copy of the RFP to all who respond favorably to the letter.
The following strategies may help sponsors to construct a tentative list of potential vendors to whom they might send the letter announcing the pending release of an RFP:

- Place the announcement letter on the sponsor’s Web site and invite contacts.
- Contact the Association of Test Publishers (Washington, DC) Web site for links and/or addresses for each current member organization (http://www.testpublishers.org/atpmn.htm).
- Consult a faculty member who teaches test and measurement courses at the nearest university.
- Contact the assessment office of the state education agency or the same office at the Council of Chief State School Officers in Washington, DC.
- Contact an official of Division D or the appropriate special interest group (SIG) of the American Educational Research Association (AERA), the National Council on Measurement in Education (NCME), or Division 5 of the American Psychological Association (APA) in Washington, DC.
- Contact a state, regional, or national consultant with any national testing company.
- Contact any of the authors or editors of this handbook.
- Place an advertisement in Education Week, or similar weekly periodicals. If time permits, consider placing a similar advertisement in a quarterly testing periodical (e.g., Educational Measurement: Issues and Practices).

Sponsors of small-scale test development projects may need only the assistance of a consultant who has knowledge of test and measurement theory as it is applied in a context similar to that of the sponsor or one who has experience implementing test development tasks similar to those faced by the sponsor. Any of the following sources could likely nominate qualified persons who may be able to help, or at least suggest someone else who may be able to nominate such persons: faculty member who teaches test and measurement courses at the university; officials of NCME, AERA Division D, APA Division 5, or an appropriate SIG; the Association of Test Publishers; or state assessment staff. For each nominee, the sponsor should request some type of documentation of the person’s qualifications to fulfill the task requirements. For more discussion of this issue, see “Staffing Qualifications” in the next section.

The ideas presented in this section are intended to help inform and improve the competitive bidding process. The intended final outcome of this process is to select the vendor who submits the most responsive proposal at the fairest price. The evaluation and selection processes discussed in the final section of this chapter should be designed to make this happen.

EVALUATING PROPOSALS AND NEGOTIATING THE CONTRACT

One can conclude from the previous section that it is important to state RFP requirements and evaluation procedures in clear and precise language, so that all bidders have a clear understanding of expectations and of how the new contractor will be selected. Vague or general requirements typically elicit creative responses from vendors, but then each response is unique, making it difficult if not impossible to choose the best among them. Sponsors seeking more creative solutions may wish to consider a two-part solicitation process in which the first step is to request creative design solutions (perhaps rewarding the “winner” with some sort of incentive), and the second phase is to use the most desired creative solution as the basis for the subsequent, more detailed competitive bid.

Clearly specified requirements and evaluation procedures increase the likelihood the sponsor’s expectations will be met and reduce the risk that a prospective vendor will file a protest or legal challenge. Three additional factors that can also affect the perceived fairness of the
selection process are introduced and described briefly in this section. These include criteria used in evaluating proposals, qualifications and training for raters, and negotiation strategies.

Criteria Used in Evaluating Proposals

Criteria used in the evaluation and selection processes are divided, for purposes of this discussion, into four categories: corporate capability, staff qualifications, responsiveness and/or quality of the technical proposal, and costs. Examples of types of supporting evidence are provided for each of the first three criteria. Illustrations are also provided for how the four criteria might be combined into an overall rating to select the “winning” proposal. These criteria should be outlined in the RFP so that each bidder is aware of the basis for selecting the winning proposal.

Corporate Capability

This term can mean different things to different practitioners. Some vendors are prepared to document their capacity if the sponsor is willing to accept different formats from different vendors. However, a sponsor should expect each vendor to provide, at a minimum, the following evidence of its capacity for delivering the requested products and services in the time allotted.

- **Resources.** Does the vendor have sufficient staff, appropriate and adequate technology, and the necessary financial resources to complete the proposed project within the required timeline?
- **Track record.** Has the vendor previously completed projects of similar size and scope? To document successful completion of similar projects, vendors should be required to provide references listing all previous projects of similar size and scope. References should include the name, address, and telephone number of a contact person for each project. The sponsor should interview at least two or three contacts, especially regarding performance of tasks similar to those proposed in the current RFP.
- **Commitment of top management.** Some sponsors may accept a signature of an authorized official as sufficient evidence of corporate commitment. Other sponsors may prefer a letter containing certain specific assurances of support by top-level management.

Staffing Qualifications

Although adequate staffing may be a component of corporate capability, the qualifications of specific staff members assigned to key positions for this project also affect the ultimate level of success attained. Besides requiring each vendor to provide information about the number of full-time equivalent employees assigned to each task, each vendor might also be asked to submit the following documentation regarding staff qualifications.

- **Name of each person assigned to key project positions, and the proportion of that person’s time allocated to each assigned task.** Key positions include project director, project manager, project assistant, psychometrician, lead content person(s), and others assigned lead responsibility for one or more tasks.
- **Resume for each key staff member identified.** Each resume should include evidence of the individual’s qualifications (e.g., training and previous experience) relevant to the proposed role and responsibilities in this project.
- **Assurances or other evidence that proposed key staff members will be available to fulfill any major task assigned in the new project.**
Technical Proposal

For the purpose of this discussion, technical proposal refers to sections of a vendor’s response that reflect intent to meet the sponsor’s requirements and sections that describe in some detail how each task will be completed (i.e., what processes and procedures are proposed). In evaluating responses, one should distinguish carefully between the quality of writing and the quality of the plan for completing each task of the project. In an effort to ensure that raters address the latter rather than former, the sponsor may ask raters to look for the following types of evidence:

- **Responsiveness to RFP requirements.** As noted, requirements may include mandatory processes and procedures, as well as products and services that are identified as “deliverables.” Is each requirement adequately addressed in the response? Has the vendor’s staff demonstrated in a previous project their ability to meet each proposed requirement?

- **Adequacy and appropriateness of the proposed processes and procedures.** The technical proposal should also include a description of procedures that will be used to complete each task. These descriptions should not simply repeat language from the RFP, but should indicate precisely how the vendor proposes to complete each specific task. If innovations or improvements are suggested, the vendor should provide a rationale that addresses issues of adequacy and appropriateness for this situation.

- **Adequacy of the vendor’s equipment and materials.** Will the equipment that the contractor proposes to use be adequate for the required tasks (e.g., printing, distributing, scanning, scoring, reporting, developing and maintaining an item bank, etc.)? Is there evidence the contractor has previous experience using this equipment to complete similar tasks?

**Costs**

In most cases, proposed costs are used in some way to help determine which vendor is selected. To facilitate effective use of cost proposals during the evaluation and selection processes, sponsors should specify a standard format for all cost proposals. For example, vendors could be required to indicate costs organized by function or major task to be completed during each fiscal year; or to indicate total cost for each cluster of related tasks completed each fiscal year or during the entire project.

**Combining Evidence Into a Single Rating**

After determining what criteria raters should use and what types of evidence should be considered for each, sponsors must also decide how to use the supporting evidence related to the evaluative criteria to make a single overall rating of each proposal. The following list, although not exhaustive, illustrates several ways in which evidence from each criterion can be considered during the selection process:

- Assign a specific proportion of total points to each criterion, and provide directions to raters about what evidence to consider and how to award (or deduct) points when evaluating evidence presented in support of each criterion.

- Develop a rating scale or rubric that describes, for each point on the scale, gradations of quality in the supporting evidence related to each of the four criteria. For example, the highest rating on the rubric might contain the following descriptions: “corporate capability and commitment are judged to be excellent”; “all key staff members are highly qualified
to accomplish the assigned tasks, and all are assigned appropriate proportions of time to complete each task”; and “technical proposal is rated superior; is responsive to all RFP requirements; and is considered to offer cost effective solutions.”

- Determine which responses meet minimum requirements for corporate capacity, staff qualifications, and quality of the technical proposal; rank by total cost all proposals that meet all minimum requirements specified in the RFP; and award the contract to the highest-rated cost proposal (e.g., the lowest bidder of this group).
- If the criteria are considered to be about equally important, rank proposals on each of the four criteria. Award the contract to the vendor whose proposal received the highest average ranking across all four criteria. Note: If there is little variation in ratings across vendors on the first three criteria and several vendors’ responses meet all RFP requirements, the cost proposal may well become the dominant factor, even though one or more other factors receive greater weights.

Qualifications and Training for Raters

Some sponsors may have policies governing who can serve on evaluation and selection committees, as well as what processes must be used. If not, sponsors are encouraged to identify as raters at least three qualified persons who are not considered employees of the sponsor, in addition perhaps to others who are. Each rater should understand fully the sponsor’s intent regarding each RFP requirement, as well as understand and agree to use as directed the criteria for evaluating proposals. Each rater should also understand each of the tasks described in the RFP. At least one individual should have a thorough understanding of test and measurement theory applied in a setting similar to that described in the RFP. At least one individual (and preferably all) should have experience evaluating responses to RFP’s containing similar requirements. As a group, they should have a good understanding of the processes and procedures that may be necessary to complete the tasks. If possible, the sponsor should avoid using raters who might be perceived as having a “conflict of interest” (e.g., an individual who was formerly employed by or who is currently a paid consultant to one or more of the prospective vendors). If information about a possible conflict of interest should arise after ratings are completed, the sponsor is advised, when making the selection decision, to exclude that individual’s rating of the proposal in question.

Training opportunities for raters may vary. At the very least, raters should be provided copies of, and asked to study, the following materials: the RFP, all written responses to questions and other documents used to clarify tasks or RFP requirements, criteria used in rating, and any written or oral directions for using the criteria or rating sheets. After raters have had an opportunity to review materials, the sponsor should convene raters by telephone or video conference for a preliminary discussion during which the sponsor reviews all materials, answers questions regarding procedures, and clarifies the sponsor’s intent.

Each rater should be asked to assign independently a preliminary rating to each proposal. The sponsor should then reconvene raters (e.g., in a face-to-face meeting, telephone conference call, or video conference) to discuss ratings of each proposal and to allow raters to make their final independent ratings following this discussion. Each individual’s final ratings and rationale for each final rating should be part of the documentation collected from this meeting. Although an individual rater’s name typically is not included in this documentation, the sponsor may wish to have a coding system through which the sponsor can later identify the person responsible for each set of ratings if this should ever become necessary.

Raters should be encouraged to identify specific issues they had regarding all proposals they read, regardless of their final rating. They should also be asked to identify specific strengths and weaknesses of each proposal, whenever possible relating each strength or weakness to one
or more of the criteria used in rating. Descriptions of weaknesses in the proposal or specific issues encountered during the review can be used in debriefing sessions with vendors who are not selected and can point to negotiations that are needed (e.g., in follow-up written questions or face-to-face meetings with one or more finalists) before a “winner” is selected. Note: Raters should be advised in advance if documentation from the selection process is subject to release in response to public records requests and in response to protests or legal challenges.

The sponsor should consider in advance how results from raters would be combined and used in the final selection of a contractor. The decision about how to combine results from raters depends in part on the decision about how evidence supporting each of the criteria is combined (see the earlier discussion) and what, if any, negotiation strategies are employed (see the following discussion).

**Negotiation Strategies**

Some type of negotiation, involving either the cost or technical proposal, or both, may occur before the selection process is concluded. In the earlier section on “Planning,” sponsors are encouraged to review with legal counsel or a procurement specialist all policies and regulations that might affect the procurement process. The sponsor should determine during this review whether any negotiation strategy is prohibited and whether one strategy is preferable to others. Following are four examples of situations in which negotiation strategies might be employed.

- **Scenario 1.** No vendor’s response meets all RFP requirements, but all are judged acceptable on criteria related to corporate capability and staff qualifications. Beginning with the vendor submitting the lowest bid (and if necessary continuing one at a time), the sponsor could ask whether or not the vendor is willing to meet all requirements of the RFP, including those not addressed satisfactorily in the response, within the timeframe allowed and without increasing the total cost specified in the original cost proposal.

- **Scenario 2.** Six vendors submit responses to an RFP. All responses are evaluated using all criteria except cost. Three vendors whose responses receive the highest overall ratings on the three criteria are invited by the sponsor to discuss possible amendments to their proposals and to submit “best and final offers.” In this situation, the contract could be awarded based on the lowest total cost for the revised work plan. In any case, each “best and final offer” and any changes to the bidders’ proposals would need to be reevaluated by the original panel that was convened for selection purposes. Note: This scenario assumes such negotiations are permitted under existing procurement rules and that the process is described fully in the RFP.

- **Scenario 3.** This scenario is similar to the previous one, except each of the three vendors “called back” is given the total dollar amount available and asked to describe what could be done for this amount (i.e., what products and services could be delivered as well as what processes and procedures would be used to complete each task). The sponsor could then select the highest rated of the three revised proposals. Again, this scenario assumes that each vendor’s “best and final offer” and any changes in the proposal will be reevaluated by the original selection panel, and that the process is legitimate and described fully in the RFP.

- **Scenario 4.** The sponsor could cluster related tasks in the RFP and require vendors to provide the proposed cost for each cluster. If raters are required to rate each cluster of tasks in each proposal, it is possible for the sponsor to select multiple vendors. For example, one could select for each cluster the vendor whose technical proposal meets all requirements and whose cost proposal represented the lowest bid for that cluster; one could select the highest-rated technical proposal for that cluster without regard to cost; or one could rank proposals for a particular cluster based on total ratings across all four criteria (including cost).
In an unpublished paper presented at a national conference on large-scale assessment, a representative of one testing contractor estimated that testing companies receive hundreds of RFPs each year and that a small company can spend between $50,000 and $100,000 to prepare a single response (Kahl, 2003). Given this level of investment, not to mention the amount of revenue that is often at stake, it is not surprising that testing service providers may raise questions, submit a formal protest, or even file a legal challenge whenever the selection process appears to be unfair to them. The remainder of this section examines appropriate and inappropriate uses of criteria or negotiation strategies under several different assumptions about the context for the selection process.

First Context Description

The sponsor is an agency, credentialing board, or other organization obligated to award the contract to the lowest bidder whose technical response meets all RFP requirements.

If no vendor meets all requirements, it may be appropriate to provide the lowest bidder a list of requirements not met and ask whether or not the vendor could fulfill all RFP requirements, including those listed, for the same amount of money specified in the original cost proposal. On the other hand, it is likely inappropriate to use the “failure to meet RFP requirements” clause as a way to eliminate some vendors while overlooking similar failures to meet requirements by other vendors.

In this same context, consider a credentialing agency seeking an experienced vendor to develop a new real estate broker’s licensing examination. Assume the RFP contained a requirement for the vendor to provide evidence of having previous experience developing similar licensing examinations under similar conditions. If the vendor submitting the lowest bid fails to provide such evidence, it certainly seems appropriate for the sponsor to disqualify the response. Unless this requirement can be waived, it is not an issue that can be resolved by further negotiation.

Second Context Description

The sponsor is not obligated to accept the lowest bidder who meets all RFP requirements, but is committed to getting the best value for the amount of money spent.

In this illustration, a sponsor intending to develop a new testing program may decide to limit RFP requirements primarily to a listing of mandatory products and services. Language could also be provided to encourage vendors to propose alternative processes and procedures, including those considered to be “best practices” and “innovative practices,” as well as more traditional methods. Vendors could be asked to provide costs based on using traditional methods, and also to specify how much more (or less) the cost would be to complete a task or function using the proposed alternative method. In this situation, it might be appropriate to identify the highest-rated proposal that did not exceed the sponsor’s estimated budget, and select whatever alternative practices were desirable.

Within this same context, it may also be appropriate to disqualify vendors whose proposals are not considered to be responsive to all RFP requirements (assuming all requirements are listed). On the other hand, it may be considered unfair to disqualify one vendor, but not another, for failure to meet all RFP requirements (unless, of course, the sponsor considers some RFP requirements to be more important than others). It might also seem unfair to award the contract to a vendor that proposed no “best” or “innovative” practices if one or more other vendors did propose such alternatives together with compelling evidence such methods have previously produced better outcomes at the same or a lower cost.
Third Context Description

The sponsor has specified an amount of money that is allocated to the project, but is not required to accept the lowest bid that meets all RFP requirements.

In this scenario, it is appropriate for the sponsor to describe the required product(s) and service(s); disclose the amount of funds available; require each vendor to propose how the work will be completed; and require evidence of corporate capability and staff qualifications relevant to the project tasks. It would be appropriate to award the contract to the highest-rated response assuming all requirements are met and the proposed cost is within the amount budgeted. It may also be appropriate to disqualify a vendor who failed to provide evidence that all staff assigned key roles and responsibilities meet staff qualifications requirements of the RFP.

It is not uncommon in one of the scenarios considered in this section for the sponsor to check references provided by the vendor as evidence of corporate capability, only to hear “horror stories” about the shortcomings of the vendor in that earlier project. The key question for the sponsor is, “When should such findings of failure to deliver desired goods or services in a previous project be used to disqualify a vendor?”

In such a situation, the sponsor’s first step may be to consult its legal counsel. Legal counselors for some sponsors have indicated their clients could use documentation of past failures to deliver products or services for that sponsor in decisions not to renew the current contract or not to award a new contract to this vendor. On the other hand, complaints about a vendor’s unsatisfactory performance elsewhere may not be useful in the current selection process, particularly if the information source is unwilling to serve as a “witness” or the vendor is able to show that past failures to perform may also be explained by contributing factors outside the vendor’s control.

It is appropriate, however, for a sponsor to use such historical information to negotiate with the vendor a plan for addressing weaknesses uncovered during such investigations (e.g., weaknesses in quality control processes; inadequate staffing of a particular task; lack of experience for staff assigned to key roles and responsibilities; inappropriate amounts of time allocated for the sponsor to review and approve materials).

SUMMARY

As this chapter points out, it is possible to develop a defensible, cost-effective procurement process that most vendors in a highly competitive environment will consider to be as fair as possible. But, it takes time, careful thought, and planning. Many of the ideas presented in this chapter to accomplish this goal can be summarized in the following statements of advice:

- Define during the planning phase as many aspects of the project as possible.
- Provide clearly written descriptions of RFP requirements, evaluation criteria, and negotiation strategies, as well as clear directions to raters about how each component will be used in the evaluation and selection processes.
- Consider as many context factors as possible (e.g., political, legal, fiscal, and historical) when designing and implementing the evaluation and selection processes.
- At each stage of design and implementation of the procurement system, seek advice from an experienced consultant and/or a carefully constituted panel of technical experts.
- Start early in planning the entire process so there is sufficient time to accomplish well each step of the process.
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REFERENCES


