Chapter 24 – RFPs and Competitive Negotiation

Chapter Highlights

Purpose: This chapter presents guidance for planning, issuing, evaluating and negotiating IT requests for proposals (RFPs) based on competitive negotiations. It also provides general information on solution-based and performance- based IT projects.

Key Points:

- Competitive negotiation is VITA's recommended procurement method when an agency has a defined IT need and is requesting suppliers to propose the best solution to meet that need.
- Commit adequate time and resources to gather data for developing the RFP's business, functional and technicalrequirements.
- It is essential that IT procurement professionals understand the complete cost of a technology-based business solution.

Table of Contents

Appendix D	A 10-step process for evaluating proposals
Appendix E	VITA SCM RFP timeline template (provided as an example)

24.0 Introduction

Requests for proposals (RFPs) using competitive negotiation is the recommended procurement method when an agency has defined an IT business need and is requesting suppliers to propose the best solution(s) to meet that need.

Competitive negotiation is the result of an RFP acquisition process rather than an invitation for bid (IFB). RFPs using competitive negotiations should always be the procurement method used when the following factors or circumstances exist regarding the business or technology problem—the acquisition need(s) is complex; the project specifications cannot be clearly defined; factors other than cost need to be evaluated; or there is a need to negotiate.

All RFPs for IT-related goods and services shall be developed with “best value” methodology as the foundation for determining the best supplier.

24.1 Pros and Cons of RFPs and Competitive Negotiations

RFPs promote creative competition among suppliers and allow agencies to comprehensively consider and evaluate all proposed technical approaches and state-of-the-art solutions to fulfill their business need(s). RFP preparation promotes “needs definition” by the business owner, which enables suppliers to provide best-value solutions. The drawback to the RFP lifecycle is the significant time commitment involved. The RFP process can take anywhere from 6 to 9 months to complete.

24.2 Solution-based RFPs and Performance-based Contracting

24.2.1 Solution-based RFPs

Solution-based RFPs ask suppliers to propose an IT business solution to solve an agency’s identified problems and goals. Solution-based RFPs briefly state the business need, describe the technology problem, and demand minimal specifications and requirements. Suppliers are allowed to use their broad-spectrum technology market expertise, creativity and resources to propose innovative, cost-effective solutions. Solution-based RFPs may request suppliers to provide a solution for only part of a business problem or to propose high-level concept-type solutions which are evaluated based on a detailed set of requirements.

Agencies should strive to minimize requirements and specifications to allow flexibility in the types of solutions being proposed. Specifications and requirements set limits and may eliminate or restrict the items or solutions available for the supplier to include in its proposal. Technology specifications should be written to encourage, not discourage, competition while also attempting to seek economy for the purpose and technology solution intended. An agency is then able to identify the technology solution, not a particular product or service, which will best meet its technology or business need.

Part of the decision-making process of when to use a solution-based RFP involves performing a risk analysis. As part of the risk analysis, the procurement project team resolves the following questions:

Does the technology business problem present an opportunity for mutually beneficial risk sharing between the agency and a supplier?

- What factors could significantly impact the probability of completing our project on time and within budget?
- Is it possible to evaluate the proposed solutions equally?
- Can the solution(s) be evaluated based on a total cost of ownership analysis incorporating the anticipated cost of supporting the proposed solution and other financial options?

When preparing a solution-based RFP, some components of the RFP will be different than a non-solution-based RFP. A solution-based RFP should include:

- The agency's organizational background and current business environment,
- A specific list of processes and procedures related to the project, legal or business mandates,
- Any project procedural or process documentation,
- A clear definition of the agency's current technical environment including all current
- hardware and software being used, that could be used or should be used to address the project requirements,
- A definition of the business or technology problem to be solved, but not a definition of the desired solution or the problem in terms of a desired solution,
- Specifications that describe the characteristics of a technology product, service, or solution being sought.

In a solutions-based RFP, agencies should use technology questions to drive specifications instead of including mandatory requirements in the RFP. The goal is to invite maximum reasonable competition, while procuring the best technology solution for the Commonwealth. VITA utilizes solution-based RFPs for establishing statewide contracts and procuring technology solutions to provide best-value for the Commonwealth. Pose questions to suppliers in the RFP to drive requirements, such as: "What is the industry standard for this product and does your product(s) meet or exceed such standard?"

The goal of a competitively negotiated RFP acquisition is to invite maximum and reasonable competition among the supplier community while procuring the best-value technology solution for the Commonwealth.

24.2.2 Performance-based contracts

Solution-based RFPs and performance-based contracts go hand in hand. Solution-based RFPs lead to the formation of performance-based contracts and allow suppliers to propose solutions that provide tangible benefits to both the agency and themselves such as:

- Offering a risk-sharing partnership to achieve the optimum solution.
- Developing clear and robust performance metrics for all critical technical, functional, and Cloud requirements
- Including clear, tangible and fair performance metrics to gauge when the supplier has achieved success and trigger the agency's obligation to pay for performance.
- Determining how and how often Supplier's performance will be measured against the metrics
- Offering reasonable enforcement provisions and remedies when requirements or performance milestones are not met, and analysis of, and reporting on, performance metrics at regular intervals during the life of the resulting Contract

24.3 Pre-RFP Activities

24.3.1 Putting together the procurement project team (PPT) and evaluation team (ET)

It is important to create PPTs and ETs of various stakeholders and perspectives when working on a complex IT procurement. These individuals bring input and guidance for developing a sound RFP; participate in the proposal evaluations and/or subsequent negotiation strategy planning. The table below sets forth VITA's recommendations for the "key" PPT and ET members and their roles during the RFP process. In addition to these key PPT and ET personnel, there may be a need to have other participants (e.g., technical, functional, contractual, legal, financial subject matter experts) involved in the evaluation who may not be included in the actual procurement project team and vice versa. Depending on the type and complexity of the project, the SPOC and business owner may choose not to include some procurement project team members in the evaluation process and/or negotiation. It is recommended, however, that these four corners of expertise be represented on the evaluation team: business area, technical area, legal area and financial area.

Key Procurement Project Team (PPT) and Evaluation Team:

- Business owner (agency/customer):
    - Responsible for the "<u>why</u>" justification for the project.
        - Identifies the business or functional need(s) for products or services.
    - Ensures compliance with VITA's project management and/or project governance processes and procedures, as applicable to the project's complexity and dollar value.
    - Documents background, scope and information related to the business need(s).
        - Identifies contact names and potential resources available for the project.
        - Identifies and documents overall objectives, significant events and time frames.
    - Obtains sourcing project commitment, sponsorship and funding.
    - Provides input and project accountability.
    - Assists team with developing the functional and technical requirements and evaluation scorecard.
    - Participates as part of the evaluation team.
    - Identifies negotiation objectives and participates in negotiations.
    - Subject matter expert(s) (SMEs)
    - Responsible for the "<u>what</u>" aspect of the sourcing decision.
        - Develops and documents the RFP's technical requirements and specifications.
    - Assists in developing the evaluation criteria and determining the prerequisite(s) or mandatory requirements. May participate in proposal evaluation and determining the short list of suppliers.

- Assigned agency procurement lead or sourcing specialist single-point-of- contact (SPOC):
    - Responsible for the "<u>who and how</u>" aspect of the sourcing decision
    - Leads the sourcing process.
    - Facilitates required confidentiality, conflict of interest and/or non-disclosure compliance and documentation.
    - Coordinates equal access to PPT and ET and gate-keeps data and information needed by suppliers prior to proposal submission. All suppliers communicate all information

associated with RFP and all questions associated with RFP through SPOC. Executive steering committee communicates all information through SPOC.
  - Provides pre-established tools and processes (i.e., RFI, RFP, contract, etc.) through the provision of templates, etc.
  - Develops the Procurement Project Plan assisted by the business owner and the SMEs.
  - Completes the RFP package and issues/posts RFP in eVA.
  - Updates the executive steering committee and/or PPT and ET on progress
  - Facilitates the pre-proposal conference, if held.
  - Facilitates the evaluation process to determine the short list of suppliers.
  - Leads the negotiation process.
  - Ensures compliance with COV Ramp policies, if applicable.
  - Provides financial analysis and performance management support.
  - Confirms and documents supplier pre-award compliance with pertinent statutory requirements, etc.
  - Maintains contract form agreements and, for VITA, coordinates contract issues with VITA's SCM policy and governance and executive managers.
  - Prepares contract for execution and updates contracts database.
  - Conducts contract kick-off/orientation meeting.

- SCM contract risk management:
  - Provides RFP review/approval and guidance on contractual issues.
  - Responsible for compliance with Virginia law and VITA policy requirements.
  - Responsible, as applicable to cloud procurements, for compliance with COV Ramp policy and processes.
  - Responsible for the "compliance" aspect of the RFP process and related documents.

24.3.2 Is an executive steering committee necessary?

An executive steering committee may be created in support of any project as determined by the business owner; however, for major IT projects and large enterprise procurements, an executive steering committee may be required. The executive steering committee is usually comprised of business owners and executives who serve in an advisory role and may assist in developing business needs and requirements. The executive steering committee will not be involved in the evaluation process. This committee provides management oversight to the PPT while also validating the project's business objectives, funding, requirements and supplier selection.

If an executive steering committee is used to oversee the IT procurement, the committee will interact with the PPT & ET at several stages during the procurement process. Prior to issuing the RFP, the SPOC and/or others on the PPT will prepare and present the final RFP package, other required information and an executive summary to the executive steering committee. The SPOC and other PPT participants are responsible for ensuring and documenting that the executive steering committee reviews and approves the RFP prior to its formal posting and release.

The PPT and ET determine which negotiation issues are important to the executive steering committee and ensure they are included in the negotiation plan. The business owner should obtain preliminary funding approval before issuing an RFP for any project that does not have approved funding. This practice will send the message to the supplier community that the sourcing agency is serious about the project and is respectful of the supplier's time and money.

24.3.3 Develop the RFP timetable

The RFP timetable is the project plan for completing the sourcing phase of the project. This timeline is often a subset of a larger project initiative. The SPOC will work with the project's SMEs to formally establish deliverable dates for the PPT. This will take into consideration the time and availability of resources required to:

- Develop, review and finalize the RFP package and evaluation matrix
- Submit the RFP, including the Appendices or Attachments, to both VITA SCM's Contract Risk Management group and your agency's OAG representative for review if the RFP is considered "high risk" as defined in § 2.2-4303.01
- Issue the RFP
- Evaluate the responses
- Test the product and/or conduct site visits
- Negotiate terms and conditions
- Have a Cloud oversight security assessment conducted, if applicable
- Obtain approval of final contract from Office of Attorney General (OAG), if applicable
- Review and obtain final CIO approval to award, if applicable

The SMEs and other team resources will provide input into the sourcing process timeline which meets the business owner's expectations. This timetable acts as a completed Procurement Project Timeline available for internal distribution to the PPT. The overall project documentation should be updated to reflect this timetable. The availability of the business owner, SMEs, SPOC and other resources should be verified and scheduled as appropriate. It is important to manage the resource risk factor by identifying all team members and documenting their roles and responsibilities before going any further. See Appendix F, VITA SCM RFP Timeline Template (provided as an example).

24.3.4 Determination to utilize a request for information (RFI) or request for qualifications (RFQ) prior to the RFP

There may be instances when many unknowns exist regarding the project—the types of solutions or software available in the market, industry data, market pricing or critical information and so forth. Likewise, there may be desired solutions or software for the project for which suppliers that can provide such needs cannot be located. In these cases, it may be in the project's best interest to issue an RFI or RFQ as a preliminary data gathering step, rather than beginning with RFP issuance. Read Chapter 18, "Requests for Information", Prequalification of Suppliers, Unsolicited Proposals, for more instruction on this preliminary procurement method.

24.3.5 Determination if the procurement should be set aside for DSBSD-certified small businesses.

All procurements under $100,000 shall be set-aside for award to small businesses, and may include micro businesses when the price quoted is fair and reasonable and does not exceed 5% of the lowest responsive and responsible bidder. While is unlikely that an RFP would be developed for a procurement under $10,000, if that is the case, the RFP shall be set aside for micro businesses (See Executive Order 35).

24.3.6 Determining if the RFP can be prepared in a manner to enhance small business participation. The following should be considered in order to remove any potential barriers or limitations that could discourage a DSBSD-certified small business to submit proposals:

- Unbundling requirements
- Relaxing the requirement for mandatory attendance at pre-proposal meetings
- Expanding response time for proposal submission
- Relaxing any requirements for onsite demonstrations
- Streamlining required paperwork and/or documentation

24.4 Confidentiality

24.4.1 Communications with potential suppliers prior to RFP posting/release
Pre-solicitation exchange of information between the procuring agency and the supplier community can identify and resolve concerns regarding the project's acquisition strategy (Is it appropriate for the type of solution or product being procured?) or the proposed contract type. Suppliers can also provide input regarding the feasibility of the requirements anticipated for inclusion in the RFP, including performance requirements, statements of work and data requirements. However, an agency may not accept a proposal from a supplier who received compensation from the agency to provide assistance in the preparation of the specifications on which the solicitation or contract is based. A supplier who assists an agency in developing specifications or requirements may not disclose to any potential supplier who plans to submit a bid or proposal information concerning the procurement which is not available to the public. (Virginia Code §2.2-4373).

24.4.2 Confidentiality during RFP development
During RFP document development and prior to RFP posting, the specific content and requirements shall remain confidential. The SPOC shall coordinate the execution of formal confidentiality/non-disclosure agreements with all PPT and ET members and SMEs. The SPOC will maintain the executed confidentiality agreements in the procurement file. A VITA-approved confidentiality agreement template, called the Procurement Project/Evaluation Team Confidentiality and Conflict of Interest Statement, is available in Appendix A of this chapter.

24.4.3 Confidentiality of RFP and proposals prior to proposal opening
All PPT and ET members, SMEs and any others participating in proposal evaluations will execute a Procurement Project/Evaluation Team Confidentiality and Conflict of Interest Statement prior to receiving proposals. A template of this document is available on the SCM website at the following URL: https://www.vita.virginia.gov/procurement/policies--procedures/procurement-forms/. The SPOC will maintain the executed agreements in the procurement file.

24.4.4 Confidentiality during the evaluation of proposals
The SPOC should instruct PPT and ET members to take all precautions to prevent unauthorized access to supplier proposals. Team members should not discuss proposal content with anyone, except for other ET members during team evaluation time or with SMEs who have signed a confidentiality agreement for the procurement. All clarifications submitted by any supplier during the proposal evaluation phase are also held as confidential as the original proposal.

If, during the proposal evaluation process, the contents of any proposal become intentionally or unintentionally exposed to a third party outside of the ET, the affected supplier must be notified of such exposure. If the contents of any proposal become intentionally or unintentionally exposed to an internal third party who is internal to the agency but not a member of the ET, the third party must execute a Procurement Project/Evaluation Team Confidentiality and Conflict of Interest Statement and must be instructed on the importance of proposal confidentiality.

24.5 Preparing an RFP

When preparing an RFP, resolve the issues and questions in Appendix 24.5, Checklist of Issues to Resolve Before and During RFP Preparation, and follow these best practice recommendations:

- The RFP planning and the RFP document should be comprehensive. The RFP should be written in plain, straight-forward language avoiding ambiguous, conflicting and undefined terms. All acronyms and other critical terms should be defined.
- VITA SCM Only: Use the technology sourcing process (TSP) model for preparing and evaluating an RFP.
- Use a standard and/or authorized RFP template. This helps ensure all project needs are identified and clearly communicated to suppliers. VITA has developed an RFP template for use by VITA sourcing specialists. Training for customer agencies on the use of this template is available from VITA SCM and should be undertaken prior to first-time use. Contact scminfo@vita.virginia.gov for RFP training.
- Provide all information needed for any outside party to understand the current situation or business need, the desired solution and the terms and conditions of the future relationship.
- Use extra diligence in preparing questions for suppliers which shape technical and functional requirements. These are the “meat” of the RFP.
- Address quality assurance, performance standards and measures, service level expectations, etc.
- Address upgrades, enhancements, expansions, modifications, disaster recovery, business assurance, training as well as environmental, confidentiality and federal, state and local security and data privacy standards.
- Include appropriate requirements as well as the proposed IT contract template (see Chapter 25, IT Contract Formation.) This places the burden of understanding on the suppliers to have a handle on the project’s requirements and prepare fully responsive proposals.
- Include distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives in the draft contract that is prepared with the RFP.

All state public bodies accepting proposals for contracts pursuant to the VPPA must provide an option to submit proposals through eVA.

If an agency is planning to publish an RFP for a procurement that is anticipated to result in a “high risk contract”, as defined by Virginia Code § 2.2-4303.01, VITA and the OAG must review the RFP prior to publication. Such reviews will be conducted within 30 business days and include an evaluation of the extent to which the RFP complies with applicable state law, as well as an evaluation of the appropriateness of the RFP’s terms and conditions.

Agencies should contact VITA’s Supply Chain Management (SCM) at: scminfo@vita.virginia.gov during the procurement planning stage prior to the issuance of a solicitation. SCM will provide assistance to the agency in preparing and evaluating the RFP and identifying and preparing the required performance measures and enforcement provisions.

A project that is part of a larger federal initiative or one funded with federal money may require including specific terms that must be flowed down from the funding sponsor or from federal statute. Examples are: the HITECH and HIPAA Acts for health records related projects. Obviously, this type of project or a project related to data within any Commonwealth agency that processes private health, confidential or sensitive citizen information; i.e., Department of Health, Department of Motor Vehicles, or Department of Social Services, may have special security or data protection needs as well. Procurement officials should seek, ask, research available internal sources, OAG and VITA to determine the requirements for such special terms and conditions.

It is important to perform a quality review of the solicitation to remove redundant, ambiguous and conflicting terms.

24.5.1 Contents of an RFP

A basic IT RFP consists of certain minimum sections. Refer to Appendix 24.5.1 for a list of recommended sections.

24.5.2 Preparing and writing RFP requirements

The requirements document is the official statement of what is necessary for the project, solution, system or IT software and/or hardware. It is not a design document. Instead, it should set forth what the IT product or service being procured should do, rather than how it should do it. RFPs shall include both a definition and a specification of requirements as well as functional and technical data relating to those requirements. Refer to Chapter 8 and Chapter 12 of this manual for detailed instruction on developing successful requirements, specifications and statements of work.

24.5.3 Commonwealth security and cloud requirements for IT solicitations and contracts

Virginia Code § 2.2-2009 mandates that the CIO is responsible for the development of policies, standards, and guidelines for assessing security risks, determining the appropriate security measures and performing security audits of government electronic information. Such policies, standards, and guidelines shall apply to the Commonwealth's executive, legislative, and judicial branches and independent agencies.

Solicitations for Cloud services must contain additional RFP language for Cloud services, which can be found here: https://www.vita.virginia.gov/procurement/policies--procedures/procurement-tools/.

Further, § 2.2-2009 requires that any contract for information technology require compliance with applicable federal laws and regulations pertaining to information security and privacy. Agencies are required to comply with all security policies, standards and guidelines (PSGs) applicable to the procurement. For more information on security PSGs, see: https://www.vita.virginia.gov/it-governance/itrm-policies-standards/.

For any procurements of third-party (supplier- hosted) cloud services (i.e., Software as a Service), there is a distinct process for obtaining VITA approval to procure. Refer to the “Cloud Third Party Use Policy” in the link above. Your agency’s Information Security Officer or AITR can assist you in understanding this process and in obtaining the required documentation to include in your solicitation or contract. There are specially required Cloud Services terms and conditions that must be included in your solicitation and contract, and a Cloud oversight security Assessment questionnaire that must be included in the solicitation for offerors to complete and submit with their proposals. Refer to Chapter 28 for more information. You may also contact: enterpriseservices@vita.virginia.gov.

24.5.4 Preparation instructions for presentations/demonstrations/site visits

VITA highly recommends that demonstrations, presentations, testing or pilot programs and/or site visits be used in the evaluation process. If they will be evaluated, below are guidelines or instructions which may be included in the RFP, but are not required:

- Description of the topics the supplier must address and the technical and management factors that must be covered in the demonstration and/or presentation.
- Statement covering the total amount of time that will be available to each supplier to give their demonstration and/or presentation.
- Description of limitations on agency and supplier interaction before, during and after the scheduled demonstration, presentation, testing and/or site visit.
- Statement that the presentation or demonstration will constitute clarifications only.
- Description and characteristics of the demonstration and/or presentation site.
- Rules governing the use of presentation media.
- Anticipated number of participants.
- Description of the format and content of presentation documentation and their delivery.
- Testing and/or pilot program requirements including time limits, materials, auditing, etc.
- Site visit requirements including location, costs, availability, etc.

24.5.5 Preparing the evaluation criteria and evaluation process

The PPT and/or ET creates the evaluation criteria used to review and evaluate proposal responses with the purpose of collecting the data needed to agree on a selection in a fair and competitive environment. The evaluation criteria used to assess proposals consists of the factors that reflect the areas of importance to an agency in its selection decision.

Through the evaluation factors, the ET is able to assess similarities, differences, strengths and weaknesses of competing proposals and, ultimately, use that assessment in making a sound source selection decision. A well-integrated evaluation scheme provides consistency, discipline, and rationality to the source selection process. Evaluation shall be based on the evaluation factors set forth in the RFP. Factors not specified in the RFP shall not be considered in determining supplier selection.

Written evaluation criteria that are measurable and objective shall be used as the standard for assessing proposals. Objectives should be written as observable, measurable criteria. Identifying the evaluation criteria prior to developing the RFP and tailoring the RFP around the evaluation criteria will ensure an expedited review of proposals. All PPT and/or ET members must agree with the weighting assigned in the evaluation matrix.

The evaluation criteria should be completed before the RFP is posted. In the event a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the RFP or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals. See Virginia Code § 2.2-

4302.2(A)(3). Procurement personnel need to be mindful of the number of evaluation criteria and ensure that key criteria, such as supplier experience, receive an appropriate weight.

Evaluation criteria should be tailored to each acquisition and include only factors which have a direct impact on source selection. The nature and types of evaluation criteria to be used for an acquisition are within the broad discretion of the procuring agency. In supporting the best-value concept, price or cost must be an evaluation factor in every source selection.

Contracts can only be awarded at costs or prices that have been determined to be fair and reasonable. The evaluation of cost or price may include not only consideration of the cost or price to be paid to the supplier, but other costs that a project may incur as a result of awarding the contract (i.e., total project life-cycle cost). Examples of these costs include re- training costs, system or software conversion costs, power consumption, life cycle costs including out-year maintenance and support, and transportation costs. In these cases, the RFP should clearly identify these other costs that will be considered in the evaluation.

Non-cost factors address the evaluation areas associated with technical and business management aspects of the proposal. Examples of non-cost factors include technical and business management related areas, such as technical approach and understanding, capabilities and key personnel, transition plans, management plan, management risk, and resources. The level of quality needed or required in performance of the contract is an important consideration in structuring non-cost factors. Past performance, supplier business maturity and service quality should be included in the evaluation criteria but may be included as non-cost factors.

The business owner, working with the PPT and/or ET, must determine the evaluation criteria and address how the pricing model (if applicable) will be applied. The evaluation shall be based on best-value methodology, but broad discretion is allowed when selecting evaluation criteria as long as the criteria are relevant to the project. It is strongly recommended that most RFP procurements be solution-based (i.e., define the problem and allow suppliers to submit proposed solutions). Carefully consider the necessity of including mandatory (prerequiste) requirements which may limit the number of qualified suppliers who can respond to the RFP. Each criteria used shall be defined in the RFP with enough information for the supplier to understand how the successful supplier(s) will be determined. It is recommended that the ET establish rules for how to deal with a situation when the team cannot reach a consensus at any point in the evaluation process.

The agreed-upon evaluation criteria are confidential to the procuring agency, members of the executive steering committee (if one is used), and the procurement project team and/or the evaluation team at all times.

Note: For cloud solicitations, the Security Assessment questionnaire submitted with proposals is not to be shared with the evaluation team or evaluated. The Security Assessment should only be shared with the SPOC, the agency AITR, the agency Information Security Officer, and agency end user, if necessary. It is highly confidential to the offeror and may never be publicly disclosed, nor included in any resulting contract.

24.5.6 Types of evaluation criteria

Evaluation criteria for IT procurements can usually be divided into these primary categories:

- Technical capability, including the supplier's understanding of the procurement requirements, the supplier's management plan, the quality of the proposed solution, the quality of the goods and services being proposed, the experience and qualifications of supplier's key personnel and vendor resources.
- Management capability, including the supplier's experience on similar projects; the supplier's past performance on similar projects; the supplier's available facilities and resources for the project; and the supplier's plan and business maturity level of processes for management and control of the project.
- Cost reasonableness and competitiveness, including the supplier's proposed price (for fixed-price contracts); the realistic expected cost of performance, plus any other costs, such as that of ownership, including transportation costs, and life- cycle costs (installation, operation, maintenance, security and disposal).
- Supplier's status as a DSBSD-certified small business or micro business, including small businesses or micro businesses that are owned by minorities or women, and the Supplier Procurement and Subcontracting Plan, if the bidder is not a small business.
- Supplier's record of compliance with small business requirements.

Evaluation criteria should be customized for the unique aspects of the specific procurement. Appendix 24.5.6 to this manual contains examples of the most common evaluation criteria used in IT procurements and are provided for reference.

24.5.7 Supplier evaluation criteria

The qualifications and experience of the supplier are crucial to the success of the project. The following evaluation criteria may assist agencies in determining which suppliers would be most beneficial to the project:

- Past performance with similar projects and past performance of supplier's proposed personnel, consultants, or subcontractors who are specified to be assigned to the project.
- Experience with similar projects including a record of recent past performance of similar projects of similar scope.
- Performance on similar contracts with respect to such factors as control of costs, quality of the work, and the ability to meet schedules. Supplier reliability and past performance can be verified by contacting proposed references and other government and commercial customers.
- Availability to perform the project or provide the needed goods and services within the agency's time frame. Supplier should have the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contract award. This criterion should include considering the current and projected workloads of the supplier that would affect its ability to perform the required work on schedule, and the availability of key personnel to be assigned to the project.
- Reputation for personal and professional integrity and competency.
- Financial strength and stability. Supplier's financial capability can be verified by obtaining a credit rating service report or obtaining certified financial.
- Proposed quality control plan (QCP), if applicable.
- Record of compliance with public policy issues and statutory requirements.
- Status as a DSBSD-certified small business or prime supplier's planned use of small businesses.
- Record of compliance with small business subcontracting plan requirements.
- Record of satisfactory performance and contract compliance on previous contracts with VITA or the Commonwealth, if any.

- Interviewing suppler key personnel.
- Short-listed supplier presentations.

If the acquisition is aimed at contracting with a service provider, below are some additionally recommended best practice evaluation criteria:

- Supplier's process maturity and competence.
- Supplier's vertical knowledge, approach to performing the contract or meeting the service level requirements.
- Supplier's proposed geographic coverage. If supplier will subcontract for portions
- of the geographic coverage, validate the competence, knowledge and experience of the proposed subcontractors.
- Supplier's project management abilities and proposed management plan.
- Supplier's infrastructure capabilities and software product knowledge.
- Supplier's organizational change management skills and implementation tools.

24.5.8 Weighting the evaluation criteria

The SPOC and ET may use discretion in determining how to score proposals, provided that it is not arbitrary. If criteria are weighted, do this with caution to assure that they are properly weighted in accordance with the importance of each criterion.

Note: If using the VITA RFP template, the evaluation criteria are derived directly from section 5 (Functional and Technical Requirements) and section 6 (Supplier Profile) of the template, as well as the supplier's response to the proposed contractual terms and conditions.

24.5.9 Methodologies for weighting criteria

If weighting criteria is used or a numerical score system is used, the point values assigned to each of the evaluation criteria shall be included in the RFP or publicly posted prior to the due date and time for receiving proposals (Virginia Code § 2.2-4302.2).

Agencies are free to design rating plans which best achieve their business needs and the requirements of a particular procurement. The key in using any rating system is consistent application by the evaluators. If additional guidance on weighting or numerical scoring systems is desired, please contact scminfo@vita.virginia.gov.

24.5.10 Supplier's obligation to understand RFP content and specifications

When suppliers sign and submit a proposal, they are communicating that they have read and understood all of the content, requirements, terms and conditions and specifications of the RFP. Each proposal should include an intent to contract statement that is signed by an authorized representative of the supplier stating their understanding of this obligation.

Make sure these requirements are clearly stated in the proposal requirements section of the RFP.

24.5.11 Completing the RFP package

A comprehensive RFP package, including all of the appendices will be assembled by the SPOC with the assistance of the other PPT members. The SMEs will provide the completed technical requirements sections of the RFP and participate in final review of the completed RFP. The business owner shall provide the completed business and functional requirements sections of the RFP and participate in final review of the completed RFP. The SPOC is accountable for a complete, comprehensive RFP package.

When finalizing the RFP package prior to posting, the SPOC shall:

- Review the RFP sections submitted by SMEs and the business owner for accuracy, completeness and clarity, assuring the overall quality of RFP.
- Draft the remaining content of the RFP, including general and VITA's IT-specific terms and conditions.
- Select and include the appropriate and approved VITA IT contract template.
- Route the complete final draft RFP package to appropriate internal, VITA or other reviewers/approvers.
- Lead the PPT in final review of RFP and all attachments.
- Finalize and complete the RFP package, including all attachments, which should be ready to be issued pending executive steering committee approval, if needed.
- Begin documenting issues for negotiation strategy planning.

24.6 Issuing the RFP

The SPOC will issue the approved final RFP. Once the finalized RFP is posted in eVA, the requirements definition phase of the procurement is concluded, the evaluation phase begins leading into the negotiation phase. The SPOC shall continue to serve as single point of contact during all phases of the procurement.

Any member of the PPT and/or ET shall NOT disclose any evaluation criteria, requirements, or budget information to anyone not on the PPT and/or ET prior to the posting of the RFP. Team members should be prepared to tactfully decline should a supplier contact them for information and provide the supplier with the SPOC's phone number or e-mail address.

24.7 Posting and advertising the RFP

Virginia Code § 2.2-4302.2(A)(1) and (2) sets forth requirements for posting and publication of an RFP. Commonwealth executive branch agencies must post the RFP on eVA for at least 10 days prior to date set for receipt of proposals. Public bodies may elect to publish notice of the RFP in a newspaper of general circulation in the area where the contract is performed. Local public bodies are encouraged, but not required, to post notice of the RFP on eVA.

24.8 Events That May Occur During the Posting Period

24.8.1 Pre-proposal conference

When the PPT elects to conduct a pre-proposal conference or teleconference, it is held prior to the proposal due date. The conference is open to all suppliers. It is recommended that a pre-proposal conference not be designated as mandatory unless absolutely critical, as it may discourage suppliers from responding to the RFP. Conferences may be held in person at a selected site or be conducted via teleconference or other available meeting technologies that are accessible to all interested suppliers. The

SPOC schedules and coordinates any pre- proposal conference. The pre-proposal conference invitation may limit the number of attendees per supplier. The PPT members agree to specific roles in responding to questions during the conference.

- SPOC: The SPOC may request that suppliers submit written questions at least three business days in advance of the pre-proposal conference. The SPOC shall contact the PPT members and obtain responses to all submitted questions for presentation at the pre-proposal conference. The SPOC shall make the necessary hosting arrangements and lead the pre-proposal conference.
- SMEs & business owner: The SMEs and business owner shall respond to questions submitted by the suppliers in writing through the SPOC in a timely matter during the posting period.
- Suppliers: Suppliers must notify the SPOC of their intent to attend and submit questions in advance of attending the conference. When applicable, the deliverable is a completed pre-proposal conference, with all suppliers receiving documented answers to all submitted questions.
- PPT: The PPT should make every effort to create a level playing field for all suppliers by providing equal access to information. The PPT should take advantage of the pre-proposal conference to reinforce the importance of the SPOC during the entire procurement process.

24.8.2 Information requests during the posting period

All material information concerning the RFP, or the procurement process shall be posted on eVA. Non-material information will not be posted. These written responses usually include answers to material supplier inquiries, RFP amendments and clarifications, any additions or modifications to procurement process rules and any responses to inquiries concerning the RFP evaluation criteria. All communications with suppliers during the posting period should go through the SPOC. Only the SPOC should contact any supplier.

24.8.3 Issuing amendments to an RFP before proposal due date

An RFP may be amended by the SPOC issuing a written addendum prior to the date and time set for receipt of proposals. Such addenda shall be posted on eVA and the agency website where the RFP is displayed. All addenda must be signed and returned by all suppliers to the SPOC with their proposals. If a deadline extension is granted to any supplier, it must be granted to all of the suppliers. VITA does not accept late proposals.

24.8.4 Required review of high-risk RFPs

If an RFP is being issued for purposes of establishing a “high risk” IT contract (see definition of high-risk contract in §2.2-4303.01(A)), agencies must submit that solicitation for review by the OAG and VITA. See Chapter 30 for more information on the required review process for high-risk IT solicitations.

24.9 Cancelling an RFP

24.9.1 Cancellation of a Solicitation

A public body may cancel an RFP or reject proposals at any time prior to making an award but may not cancel an RFP or reject a proposal to avoid awarding a contract to a particular supplier. See Virginia Code § 2.2-4319.

When a solicitation is canceled, the procurement file including all received proposals remains confidential and will become part of the new solicitation procurement file. In the event that a new solicitation is not issued within a period of 12 months from the date of cancellation, the procurement file shall then become available and open for public inspection.

24.9.2 Cancellation before proposal due date

If an RFP has been issued and the due date has not arrived, the RFP may be canceled. The following procedure should be used in such instances:

- A cancellation notice must be posted promptly through eVA and where the RFP is displayed at the time of original release (i.e., newspaper(s) of general circulation and agency website), stating that the decision to cancel the RFP has been reached;
- Notice shall also be provided to all agency personnel responsible for receipt and opening of proposals to prevent responses from being unintentionally opened;
- Any proposals received should be returned unopened to the supplier;
- The reasons for cancellation and/or rejection of any proposal shall be made part of the agency procurement file.

24.9.3 Cancellation after proposal due date

When the RFP due date is past and proposals have been received and opened, the proposals may be rejected, and the procurement canceled at any time prior to award. The following procedure will be used in such instances:

- A cancellation notice must be posted promptly through eVA and wherever the RFP was advertised at the time of original release (including the newspaper of general circulation if applicable), stating that the decision to cancel the RFP has been reached.
- The opened proposals will remain as part of the procurement file.
- Any duplicate proposals may be destroyed unless the supplier requests that these proposals be returned at their expense.
- The reasons for cancellation or rejection shall be made part of the procurement file.

24.10 Receipt and Distribution of Proposals

24.10.1 Receipt of proposals

All public bodies must provide an option to submit bids or proposals through the Commonwealth's statewide electronic procurement system, known as eVA. The Director of the Department of General Services, or his designee, may grant an exemption from such requirement at the request of a state public body and upon a showing of good cause. Local public bodies are encouraged to use eVA to offer an electronic submission option.

No questions regarding any proposal will be answered until after evaluation and negotiations are complete and an award decision has been made. The SPOC ensures all proposals are received on time and are complete. Proposals that are submitted late will not be considered. The SPOC reviews proposals for compliance with mandatory or prerequisite requirements or any mandatory terms and conditions. The SPOC maintains an evaluation sheet identifying each supplier’s status with respect to the RFP’s prerequisite and mandatory requirements (marked with an M).

24.10.2 Distribution of proposals

Once the SPOC has determined which proposals meet the completeness and compliance criteria described in the above paragraph, he/she will distribute copies of these proposals to the evaluation team, according to defined roles for each. The price data is not distributed at this stage.

24.11 Proposal Clarifications

The SPOC may require certain suppliers clarify information contained in their proposals. The SPOC will issue any clarification questions in writing and these suppliers will be required to submit written clarification responses. A strict deadline for receipt of clarification responses should be included in the written communication to these suppliers. Suppliers must provide responses that sufficiently clarify their proposal's misunderstandings or confusion; however, the response should not reveal a previously unknown issue or problem. Supplier responses must be submitted to the SPOC, who will distribute them to the evaluation team. All clarification questions and responses become permanent records in the official procurement file.

All communications with suppliers during the RFP process should go through the SPOC. Only the SPOC should contact any supplier.

24.12 Mistakes in Proposals

A mistake in a proposal may be corrected or the proposal may be withdrawn depending on the stage in the procurement process when the mistake is discovered. Minor informalities or mistakes in proposals are generally allowed to be corrected before award. Below is a reference table for determining how a proposal mistake should be handled:

Occurrence of a proposal mistake	Available remedy
Before proposal due date	Supplier may correct mistakes discovered before due date by withdrawing or correcting and resubmitting the proposal
After due date but before award	When review of the proposal (before award) indicates that a mistake was made, the supplier should be asked by the SPOC to confirm the proposal. If the supplier alleges that a mistake was made, the supplier may correct or withdraw the proposal. Correction of mistakes at this stage is only allowed if: •Mistake and the correct proposal information are clearly evident on the face of the proposal; in which event the proposal may not be withdrawn. •Minor mistakes that are not clearly evident on the face of the proposal, but the supplier submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of the mistake and the correct offer and allowing the

	correction would not be contrary to fair and equal treatment of other suppliers.
During negotiations	Supplier may freely correct any non-material mistake by modifying or withdrawing the proposal.

24.13 Modifying or Adding RFP Requirements after Proposal Due Date

If the business owner determines that it needs to modify or add requirements after proposals are received, the existing RFP will need to be canceled and reissued with the modified or additional requirements, as well as modified evaluation criteria. The business owner will need to establish a new proposal submission date.

24.14 Evaluation and Scoring of Proposals

Evaluation criteria shall not be altered after the opening of proposals with the exception of minor changes and only if the alterations are justified and evidence is presented to ensure that such alterations would not materially benefit or disadvantage any supplier.

During the evaluation phase, all results must be kept confidential within the ET. It is in the Commonwealth's best interest that all side discussions and social outings with contending suppliers be avoided. All communications with suppliers during the evaluation process should go through the SPOC. Suppliers may not initiate any communication with the SPOC, PPT and/or ET members. SPOCs may ONLY initiate discussions with suppliers in order to further assess their responsiveness.

Evaluators may request presentations or discussions with suppliers to clarify material in the proposals, to help determine those fully qualified and best suited. Proposals are then evaluated on the basis of the criteria set forth in the RFP, using the evaluation method previously specified in the RFP. Only proposals meeting the mandatory ("M") requirements will be evaluated. Price is considered but is not the sole determining factor. Two or more suppliers determined to be fully qualified and best suited are then selected for negotiation. A proposal may be eliminated and not evaluated if the proposal is clearly not within the specifications or plans described and required by the RFP.

During the evaluation phase it may be determined that only one supplier is fully qualified, or that one supplier is clearly more highly qualified than the others under consideration. A written determination shall be prepared and retained in the procurement file to document the meaningful and convincing facts supporting the decision for selecting only one supplier and negotiating with that supplier.

Under no circumstances shall a Supplier's Security Assessment be evaluated. The Assessment must not be distributed to the entire Evaluation Team, but only to the SPOC, business owner, and ISO. Assessments are done for the selected finalist Supplier(s) and will receive a VITA approval or disapproval.

Please refer to Appendix 24.14 for a flowchart of the evaluation process.

24.14.1 Evaluation process – roles and responsibilities

Selection shall be made of two or more suppliers deemed to be fully qualified and best suited among those submitting proposals on the basis of the factors involved in the RFP, including price if so, stated in the RFP.

Please refer to Appendix 24.14.1 for a chart of evaluation stage process steps and the procurement personnel responsible for each step.

24.14.2 Scoring proposals

The evaluation and scoring of proposals for most IT procurement projects involves the following steps:

- ET member individual scoring
- consensus meeting(s)
- preparing the short list of suppliers
- demonstrations/testing/site
- visits/presentations by short list suppliers
- in-depth evaluation of short-listed proposals
- identify top contenders
- conduct negotiations with top contenders
- perform total solution cost reasonableness analysis

24.14.3 Evaluation team (ET) meetings

The SPOC will coordinate and facilitate all evaluation meetings. ET members must participate in all evaluation segments, including any demonstrations, onsite visits, etc. The SPOC will document the review of the ET and the scoring for each proposal evaluated. A master-scoring sheet should be compiled by the SPOC with the consensus score for each proposal. The evaluation team shall reach consensus on which proposals meet the minimum functional and technical requirements, scoring them based on all pre-established evaluation criteria. The consensus is reached among the evaluators. Only team members may assign or vote on points. All team members are expected to be present and to take an official vote.

If none of the proposals meet the minimum functional, technical, and schedule requirements, the ET will decide whether to end the evaluation process at this point. If such a decision is made, refer to section 24.9.2 above and section 24.13 below for further guidance.

24.14.4 Preparing the short list of suppliers

At this stage in the evaluation process, the evaluation team has completed enough of the evaluation to determine which suppliers will make the final short list. The evaluation team shall then identify and rank the short list of suppliers by scoring their proposals against the "wants" list of criteria. The SPOC shall document which suppliers made the final short list.

24.14.5 Conduct in-depth evaluation

In complex procurements, the SPOC may schedule and conduct fact-finding discussions with each supplier on the short list to clarify their offers prior to developing the negotiation strategy. The SPOC is also responsible for coordinating and documenting the completion of the cost analyses and presentation, demonstration, site visit and/or testing results, if any, prior to developing the negotiation strategy. This documentation should include a complete understanding of the offers, to include all segments of the evaluation process. All documentation related to the evaluation must be maintained in the procurement file.

24.14.6 Test/site visit/presentations

Upon request by the evaluation team, the SPOC may request suppliers on the short list to perform testing, supply a pilot project, allow site visits and make presentations or demonstrations to the ET as warranted in order to determine the best solutions from among the short list proposals. Determining whether presentations, demonstrations, testing, and/or site visits are warranted is based on the team's need to obtain additional information in order to arrive at a data driven decision.

The SME(s) will assist the ET in preparing the presentation/demonstration/site visit and/or testing requirements/scenarios. All short list suppliers should be afforded an equal opportunity for the presentations, demonstrations, site visits, test/pilots, etc. required by the ET at this evaluation stage. Before testing begins, the SME(s) might work with short list suppliers to identify a testing protocol that will deliver the desired results.

If necessary, the SPOC will update the evaluation documentation if the process has identified additional items critical to the success of the solution. The SPOC will also reach agreement with members of the evaluation team on the project/site visits and presentations and assess the evaluation results. If SMEs and non-team agency representatives or resources are involved in the testing or pilot, the SPOC will coordinate the testing plan and presentation schedule with these resources.

The SPOC may provide an evaluation/pilot form agreement or a script of what is expected in the pilot/presentation and what the team will validate to the short-list suppliers and lead the required negotiations to execute the defined testing protocol. The SPOC will assist the ET in documenting the evaluation criteria for the testing pilot or site visits and advise them regarding the need to keep test or site visit results confidential to protect the agency or Commonwealth's position in continued negotiations.

Selecting suppliers for a pilot does not imply that a final selection has been made. If the pilot suppliers fail to demonstrate the ability to meet the requirements during testing or site visits, the evaluation team needs to be well-positioned to pursue another pilot. The testing units, pilot and supplier labor are to be provided by supplier at no cost to the sourcing agency whenever possible.

After testing, site visits and/or presentations, the SPOC will document the review of the testing, site visits or presentations and the scoring for each supplier and prepare a written report, based upon scoring results of the proposed short-list supplier solutions that were shown to meet the requirements and can deliver a proven, qualified solution. It may be necessary to address whether testing, site visits and/or presentations raised new issues which need to be covered in the negotiation strategy.

If only one supplier is fully qualified the SPOC shall prepare a written determination of the facts supporting the decision to negotiate with that single supplier and retain it in the procurement file.

24.14.7 Preliminary negotiations (if appropriate)

Preliminary negotiations are fact-finding discussions to fully understand each aspect of the supplier's proposal. The SPOC may, if appropriate, communicate with each of the finalists who has met the RFP's mandatory requirements to work through their comments to the proposed contract.

24.14.8 Total solution cost analysis (after preliminary negotiations)

After negotiations are completed a total solution cost analysis can be used. The cost/value ratio determines which supplier is offering the best value solution. Remember, although value/cost ratio criteria may be an evaluation criterion, it is not applied until after negotiations are complete.

It is essential that the evaluation team understand the complete cost of a technology-based business solution. A total solution cost analysis will fit the project's business plan and identify the best solution to match its goals and budget; for example, adding capabilities in order to improve customer service or expand services.

The intention is to arrive at a final figure that will reflect the effective cost of purchase. For example, the lifetime cost of a PC can be more than five times its acquisition cost. Evaluators should thoroughly consider the complete cost—not only obtaining the PC but operating, supporting and maintaining it during its lifetime including costs of hardware, software, training, maintenance, or other services. The total cost solution analysis is the big picture cost analysis of each supplier's proposal. This includes, but is not limited to, cost elements such as start-up, transition from current, rollout, training, help line support, operating, maintenance and repair, hardware upgrades related outsourcing or consulting and "exit" cost, or cost to replace this system or solution at the end of its useful life. The analysis may also include lease versus purchase, the benefits, costs, and risks imposed by various contract terms and conditions identified during preliminary negotiations.

The SPOC is responsible for supplementing the evaluation team with the necessary internal resources to gather the data, including the total cost of the solution, required to make a data driven decision. This may include substantial involvement by the SME(s) as well as finance personnel. The SPOC is also responsible for determining the value/cost ratio of each proposal and access any inordinate risks or ancillary intangible costs associated with each solution, such as supplier's viability over the life of the solution, quality of the system documentation and its impact on operating costs, etc. (i.e., total cost to the agency or Commonwealth). SMEs and agency personnel should provide input into the total solution cost analysis where needed. The SPOC, working with agency resources and SMEs, will document a cost benefit analysis that clearly represents the total value/cost ratio of each short list solution. Without this data the team cannot determine the true value/cost ratio of the proposed solutions.

24.14.9 Identify top contenders

To develop the initial recommendation, the SPOC will schedule a meeting of the evaluation team to review the results of the testing/pilot project, value/cost ratio and preliminary contract negotiations. Where conflicts arise, the team will rely upon the consensus rules established at the beginning of the process.

Any open issues or issues in need of further clarification will be documented by the SPOC and included in the negotiation strategy. This documentation will be included in the official procurement file. Agency resource personnel and SMEs who are not members of the evaluation team may attend the scheduled meeting and provide input into the initial recommendation. The SPOC will ensure that all project requirements have been addressed.

Key evaluation questions of the identified top contenders include:

- Are these suppliers aligned with VITA's business needs?
- Are they positioned for future growth and competition?
- Do our contracts preserve our leverage in a changing business environment?

24.14.10 Update executive steering committee (if appropriate)

Once the total value/cost rationale of each solution is determined, the evaluation team will make a recommendation to the executive steering committee (if appropriate). This recommendation is based on the team consensus achieved through reviewing the results of the testing, pilot or site visits, and total solution cost analysis and preliminary contract negotiations.

While the evaluation team will present the initial recommendation to the executive steering committee, SMEs may participate and assist if necessary. The executive steering committee cannot select or affect the recommendation since this must be a data-driven decision; however, they may, at this stage in the procurement process, agree to proceed, request more information or may end the project.

The SPOC is responsible for ensuring that the executive steering committee is fully and accurately informed of the recommended solution, and that they approve the recommendation prior to proceeding with final negotiations. If the executive steering committee requests more information, the SPOC is responsible for obtaining and conveying the requested information to them.

If approval is granted, the business owner ensures that funding documents are fully executed before proceeding with final negotiations. The executive steering committee (if appropriate) provides the appropriate management concurrence of the recommended supplier with confirmation of authorized funding. Short, concise updates to the executive steering committee throughout the RFP process may streamline approval of the initial recommendation.

24.15 Final negotiations

In-depth discussion on final negotiations, covering basic and IT-specific negotiation guidance, as well as links to a negotiation risk mitigation worksheet and negotiation strategy worksheet are found in Chapter 26 of this manual.

24.16 Pre-award activities

Prior to any award the following activities should be completed:

- SPOC confirms supplier's compliance with all statutory and Commonwealth award requirements; i.e., registered in eVA, authorized to transact business in the Commonwealth via State Corporation Commission, not on Commonwealth or Federal debarred or prohibited lists, etc.
- Obtain applicable reviews and approvals of final negotiated contract from OAG, CIO, and/or federal sponsor.
- For Cloud solicitations, written COV Ramp approval of the offeror's Security Assessment must be received from enterpriseservices@vita.virginia.gov.