



Review of Request for Proposal (RFP) Process - Procurement November 2011

Preamble:

Included in the 2010-2011 Work Plan of the Office of the Auditor General (OAG) was a compliance review of certain aspects of the HRM Procurement process. As well, recent work completed by the OAG with respect to various procurement matters (brought to our attention from sources both internal and external) suggests the system might not be operating in a manner sufficient to ensure the processes used to acquire goods and services are yielding the best value for money.

As noted above, during the past 24 months, the OAG has been involved in a significant number of procurement matters. As a result of this work, a meaningful number of changes to procurement processes have taken place. One of the areas where further work was felt to have the greatest potential for enhancing effectiveness and efficiencies was the Request for Proposal or RFP process.

Working collaboratively with HRM Finance (Procurement), the project was aimed at determining the cause, if any, of inefficiencies or uneconomical practices occurring during the Request for Proposal process and whether HRM had complied with all applicable acts, regulations and policies.

The Request for Proposal process is a formal invitation to vendors to describe how their services, methods, equipment or products can address and/or meet the specific needs of the Municipality, usually with a separate cost proposal opened only after the bidder's technical proposal is evaluated. The Request for Proposal process is the preferred method used to acquire consulting services which is the subject of another current project of the OAG. HRM Finance (Procurement) may also assist the HRM business unit in the process of obtaining cost proposals for services to be secured through the use of rosters (Request for Qualifications) established as a result of a prequalification process (i.e. engineering, architectural, surveying and consulting services). The value of each individual purchase selected through the roster process must be in keeping with the overall procurement purchasing process as to dollar limits.

HRM Finance (Procurement) is directly involved in the process of acquiring goods and services through the RFP process, including having input into the final wording of the contract acquiring the goods or services.

In addition to Request for Proposals, other methods available to acquire goods and services include (as described in HRM documents):

- Low value – random, non-recurring purchases for items not held in inventory or included in a standing offer
- Standing Offers – tendered contract meant to provide a continuous supply on a day-to-day basis
- Request for Tender – a competitive bidding process used when detailed specifications are available with clearly stated criteria
- Two Phase Bid – where detailed specifications are not available or it is impractical to prepare a specification. One of two available approaches are then used: Phase 1 – proposals with prices submitted separately (to be only opened in Phase 2) or, only those bidders who pass Phase 1 are entitled to submit price bids for evaluation in Phase 2
- Request for Quotation (RFQ) – informal request to a specific vendor or group of vendors for goods and services where the cost of the work does not warrant the time and level of effort of a formal tender process
- Request for Information – invitation to vendors to provide information from the marketplace regarding scope of work or services
- Negotiation – with one or more suppliers where certain conditions exist, such as short supply due to market conditions, single source of supply, unsuccessful prior bidding process, etc.
- Sole Source/Single Source Purchases – only one supplier meeting the needs of the Municipality. Negotiation is the method of purchase
- Emergency Purchase – used where a situation creates an immediate and serious procurement need, which may not be reasonably met by any other procedure method
- Request for Qualification – pre-qualified list of vendors established to provide goods or services in specific areas up to the value limits set out in the policy without using additional procurement processes
- Unsolicited Proposals – cannot circumvent procurement process, treated as a sole/single source purchase.

Objectives:

The objectives of this review were:

1. To provide assurance the Request for Proposal (RFP) process is administered in keeping with Administrative Order 35, Purchasing Policy.
2. To identify any obvious conflicts in policies which might affect HRM's ability to achieve "optimal" value for money.
3. To determine, where the RFP process has been used to acquire goods and services, if HRM received value for money.
4. To provide suggestions for improvements to the RFP process, as felt appropriate.

Scope:

The scope of the project considered all transactions (awards) completed by HRM under the Request for Proposal (RFP) procurement method between September 1, 2009 and August 31, 2010. A total of 34 RFP award files were reviewed.

The review performed on the RFP procurement process included a compliance review which evaluated the processes and controls around the development, issuance, administration and awarding of an RFP against the standards set out in the HRM Procurement Policy and identified industry best practices.

The review considered the degree to which HRM felt it had received value for money in the acquisition of goods and services through the RFP procurement process. In this regard, it was also a performance review.

Finally, the review also attempted to understand what value for money measures were in place at the time the RFPs - which were within the project scope - were awarded and how closely these RFPs aligned with these performance measures.

Methodology:

1. Research was carried out to identify best practices in the field of public procurement, file management and contract development.
2. The official hard copy procurement files were examined to determine the level of understanding and compliance with stated procurement policies as well as to best practices in the industry.
3. A roundtable discussion was held with key HRM stakeholders who were frequent users of the RFP process and where it formed a significant component of their job function.
4. Questionnaires were sent to business unit staff with responsibility for procuring goods and services, to gather information on the level of use, familiarity with, and perceived success with the Request for Proposal process.
5. An on-line survey was made available to all vendors through the HRM website Procurement page requesting feedback on the level of satisfaction with the RFP process.

Executive Summary:

The function of procurement is a broad and complex activity whose strategy and framework must be designed with the organization's overall objectives in mind. An organization's procurement strategies outline the nature of procurement activities, the expected frequency of procurement and the methodologies to be used for ensuring adequate competition.¹ Short and long term procurement strategies should be consistent with strategies in other functions and operations of the organization. HRM Administrative Order 35, Procurement Policy, defines the organization's procurement guiding principles and sets out the framework under which staff and Council are to acquire goods and services.

HRM's Administrative Order 35, Procurement Policy does not specifically use or define the term 'best value'. However, included in both the Policy Statement and Guiding Principles is reference

¹ Paraphrase from "Auditing the Procurement Function," pg. 42 IIA Research Foundation Handbook Series, David O'Regan, CIA, FCA

to a number of key components of 'best value' as described by technical experts writing on the topic.

These include:

- Ensuring “the most cost effective and cost efficient methods are used to purchase”,
- Ensuring the procurement process is “open, fair and consistent”,
- Purchases should consider the total cost of an item including installation, maintenance, warranty, continuing support and other relevant costs, “rather than only the lowest invoice price.”

The concept of total cost can also refer to terms such as 'life cycle' or 'whole life' costing. Within this report, the terms are used interchangeably to mean the “total cost of ownership over the life of an asset.” Total costs include environmental, social and economic costs and considers benefits or advantages attributed directly to the acquisition.

In the context of procurement 'whole life' costing can also describe the total cost of a contract for services as opposed to just goods.

While the essential definitions of 'best value' exist within the HRM Procurement Policy, and while HRM staff who participate in the RFP process believe 'best value' is achieved, the ability to articulate and demonstrate 'best value' in a factual, structured and measurable manner has not yet been achieved.

The RFP process is but one of thirteen procurement options provided under HRM's Administrative Order 35, Procurement Policy. As well as the 13 methods of procurement, the policy also provides for a number of purchasing processes; these processes have been further defined by a number of administrative practices. The primary objectives of this review were to evaluate the level of compliance for purchases made under the Request for Proposal (RFP) process to the actual Procurement Policy, and the extent to which the RFP process appeared to meet the objectives of achieving 'best value'. The Request for Proposal process is a complex, somewhat subjective procurement tool used to acquire goods and services where the desired outcome is known but the specifics on how to arrive at the outcome are not. 'Best value' is a process where the procurement decision is “based on the primary objective of meeting the specific business requirements and best interests”² of the organization.

We have concluded proper examination and understanding of the organization's needs or requirements before issuing an RFP and describing these needs in clear, concise language will

² Excerpt from National Cooperative Highway Research Program, Report 561, page 8

increase the success of the RFP process in achieving 'best value'. Unfortunately, our research clearly suggests there does not appear to be one right way to define 'best value'. We believe, however, being able to articulate a clearer definition will improve overall confidence in the process. This report attempts to describe the basic framework under which measurable factors representing 'best value' can be defined in the HRM environment.

In his book, Auditing the Procurement Function, the author David O'Regan suggests an organization which undertakes annual 'procurement planning' is engaged in best practice. According to Mr. O'Regan, procurement planning starts with the development of a schedule of the entire organization's anticipated annual procurement activity and ends with the appropriate allocation of procurement staff resources over a reasonable period of time. This assists the organization in "avoiding last-minute transactions in which important elements of the procurement process (like the careful selection of vendors on the basis of market research, or fully competitive tendering) are undertaken hurriedly, or even sidestepped altogether."³ It is with this concept in mind this review attempted to measure the success of the RFP methodology to the expected outcomes and the level of compliance to the Request for Proposal process.

Although HRM does not conduct an organizational wide assessment of its annual procurement needs, some individual planning occurs for those business units which traditionally have annual high volume or high dollar individual procurement transactions. We found the policies used by HRM Administration, for the most part, adhered to the best practices methodologies described in the procurement literature. The OAG feels it is in the execution of the processes where most often additional improvements can be made.

Administration of the RFP files should be more formalized and disciplined to ensure all required submission requirements have been received, are contained in the files and supported by checklists. We did identify shortcomings in the collecting and recording of data and other documentation used to support certain aspects of the decision making leading to a recommendation to make an award to a specific vendor. As a result of this finding, we worked jointly with HRM Finance (Procurement) to develop a checklist which could be included in each RFP file. HRM Finance (Procurement) is currently reviewing the document for adoption within the HRM environment.

An evaluation team is the most common tool used by organizations to attempt to achieve a balance of fairness and value from the RFP process. A multi-disciplined team should be thoughtfully created to provide for both technical expertise and independence from the

³ Paraphrase from "Auditing the Procurement Function," pg. 39 IIA Research Foundation Handbook Series, David O'Regan, CIA, FCA

project. The consensus approach used by HRM in arriving at decisions appears to function well, but should be better documented in the files.

HRM has established an internal process (HRM Administrative Order 35, Procurement Policy, Appendix D), to consider any written complaints received from vendors after an award has been made. HRM may wish to review and modify this practice given the establishment of the provincially appointed Chief Procurement Officer under The Public Procurement Act, “An Act Respecting Public Procurement in Nova Scotia”. The Act includes provisions for a formal appeal process accessible by all suppliers who believe they have a complaint⁴, overseen by the Chief Procurement Officer and, potentially, a Procurement Advisory Group, appointed by the Minister of Economic Development and Tourism. HRM will have to review its internal process to determine both its validity and suitability, given the legislative changes. If retained, integration will be important.

The Public Procurement Act now provides for the inclusion of environmental and social considerations (among other criteria currently considered in the HRM RFP process) in the evaluation of bids focussed on achieving ‘best value’. HRM Administrative Order 35, Section 2(8) currently includes the exact wording found in the new legislation. Halifax Regional Municipality:

Shall include consideration of environmental, economic and social factors in procurement processes and decisions.

From a policy perspective, HRM Regional Council has been considering ‘Ethical Procurement’ from as far back as September 2002. In an Information Report to Council on June 28, 2005, and more recently in November 2009, HRM staff advised they would move forward to review best practices in the industry and pursue opportunities to support ethical procurement. In the June 28, 2005 report, staff provided advice to Regional Council regarding the development of an “Ethical Procurement Policy” and “Supplier Code of Conduct” dealing with “the purchase of apparel and fair trade agricultural products and is anticipating expanding the scope of policy to

⁴ Excerpt from the Public Procurement Act, An Act Respecting Public Procurement in Nova Scotia:

The Chief Procurement Officer, shall

- (a) upon receipt of the supplier complaint, determine whether the complaint will be investigated;
- (b) carry out an investigation of the supplier complaint if necessary;
- (c) report the investigation findings and make recommendations to both the public sector entity and the supplier as appropriate;
- (d) request a response and detailed actions to be taken from the public sector entity to the recommendations, within thirty days of receipt of the recommendations;
- (e) report annually in writing to the Minister on the number of complaints received, the number of investigations conducted, the recommendations made as a result of the investigations; and
- (f) publish the annual report referred to in clause (e) on the procurement web portal sixty days after it is provided to the Minister

include broader environmental and social objectives.”⁵ In an earlier Information Report to Council, dated August 31, 2004, staff advised Council of the possible financial costs of implementing a policy covering environmental and social issues. Staff stated:

The implementation of the proposed policy could have financial consequences. The cost of purchases may increase and so would the time to obtain those purchases. Additional staff resources may be required and it may be necessary to purchase third party verification of vendor compliance.

As a result of these reports, Regional Council supported staff’s undertaking as a step towards ‘ethical procurement’ with the inclusion of a policy provision “which deals with child labour that is in line with the current best practices within Canadian municipalities and within the current resources of the HRM.”⁶ With an effective date of June 1, 2012 for the enacted new legislation, HRM will undoubtedly need to closely review the new requirements, specifically those around the definition of best value but also the requirement to demonstrate clearly how best value was achieved. Significant changes to policies may be warranted to comply with even broader requirements around environmental and social objectives.

It is our view that overall, the RFP procurement process conducted under the current Procurement Policy does demonstrate, in the majority of cases, a fair, equitable and accessible-to-all process. HRM staff who are involved in the RFP process believe it does achieve best value for the organization. Unfortunately, however, key performance indicators which would assist in quantifying the effectiveness of the RFP process have not been established.

Significant Recommendations contained within this report:

1. The OAG would recommend HRM Administration consider amending the RFP evaluation process to incorporate whole life costing as a formal requirement, including both upfront costs, which assign value to the procurement process, as well as recurring costs, which look at the full cost of the procurement decision and provide for better budgeting and operational planning. (2.1.1)
2. HRM Administration should determine whether or not the establishment of a pass/fail threshold for the technical proposal phase for some or all goods/services acquired under the RFP process is appropriate. All technical proposals meeting (or exceeding) the pass/fail threshold would become eligible for the cost proposal evaluation process. With respect to establishing the percentage weighting to be assigned, the OAG would recommend HRM Administration consider setting a higher pass/fail threshold than the

⁵ Information Report to Council, June 28, 2005, page 2.

⁶ Ibid, page 5

currently established rate of 75%. The use of a higher pass/fail threshold (80% or higher) would improve the quality of goods and services, likely to a level where the performance risks are clearly mitigated and the deciding factor can be solely price. The HRM should document its methodology and reasons for setting any pass/fail threshold. If this is determined to be an acceptable standard for some or all RFPs, then the practice of combining technical points with cost points should be discontinued. (2.3.1)

3. With respect to certain identifiably large value or complex requirements, and where the additional effort is projected to result in added value, HRM Administration should consider adopting the 'best and final offer' methodology for RFPs where the specifications and/or solution cannot be clearly and measurably described. (2.4.1)
4. HRM Finance (Procurement) should develop key performance indicators which measure the direct outcomes and therefore the level of success of the RFP process. This might include both technical and price indicators. HRM should establish a baseline in year one which could be used to measure performance in subsequent years. This would assist HRM Administration in determining and articulating when and to what extent 'best value' has been achieved. (3.1.1)
5. HRM Administration should clearly define a set of minimum requirements making up a 'complete' RFP file. This business practice should assign roles and responsibilities for maintaining these files and include a quality assurance check on a regular but random basis. (4.1.1)
6. Overall Recommendation Concerning Procurement at HRM: While the OAG understands the RFP process was the focus of this review, we cannot help commenting on the significant number of methods of procurement (13), as well as the numerous supporting and clarifying documents in use.

The OAG would therefore recommend as a minimum, Management review Administrative Order 35 with a view to:

- whether clarifications are required as to when a particular process is to be used with a particular method
- whether the existing supporting and clarifying documents being used should be formally incorporated into Administrative Order 35
- whether all the purchasing processes outlined continue to result in best value for HRM. For example, is it still appropriate to have very different dollar

thresholds for the use of a Tender versus a Request for Proposal? (One is essentially double the threshold of the other)

- whether the level of detail in Administrative Order 35 is appropriate for the “average person” to conclude which type of procurement is used given a particular situation and therefore whether the wording used provides the “right” amount of clarity. (1.1.1)

Summary of Recommendations:

(Reference # refers to the specific section in this report where the recommendation is found)

1. The OAG would recommend as a minimum, Management review Administrative Order 35 with a view to:
 - whether clarifications are required as to when a particular process is to be used with a particular method
 - whether the existing supporting and clarifying documents being used should be formally incorporated into Administrative Order 35
 - whether all the purchasing processes outlined continue to result in best value for HRM. For example, is it still appropriate to have very different dollar thresholds for the use of a Tender versus a Request for Proposal? (One is essentially double the threshold of the other)
 - whether the level of detail in Administrative Order 35 is appropriate for the “average person” to conclude which type of procurement is used given a particular situation and therefore whether the wording used provides the “right” amount of clarity. Reference #1.1.1
2. The OAG would suggest HRM Finance (Procurement) establish a standard training tool which outlines the roles, responsibilities and purchasing authorities of each stakeholder in the RFP process by position or function, to improve clarity and accountability for tasks and outcomes. Reference #1.3.1
3. The OAG would recommend a training option be adopted as a regular corporate offering, with the requirement of attendance for all new employees who are given responsibility for procuring goods and services through the RFP process. Reference #1.3.2

4. The OAG would recommend HRM Administration consider amending the RFP evaluation process to incorporate whole life costing as a formal requirement including both upfront costs, which assign value to the procurement process, as well as recurring costs, which look at the full cost of the procurement decision and provide for better budgeting and operational planning. Reference #2.1.1
5. HRM Finance (Procurement) should develop and implement a form of penalty for non-adherence to the RFP submission guidelines, perhaps in the scoring matrix for those submissions which are not disqualified overall. This would recognize the efforts of those vendors who do meet the requirements or the spirit of the requirements. Reference #2.2.1
6. Any decisions made by Procurement staff and/or the evaluation team to waive submission requirements and apply a penalty should be properly documented in the file. Reference #2.2.2
7. HRM Administration should determine whether or not the establishment of a pass/fail threshold for the technical proposal phase for some or all goods/services acquired under the RFP process is appropriate. All technical proposals meeting (or exceeding) the pass/fail threshold would become eligible for the cost proposal evaluation process. With respect to establishing the percentage weighting to be assigned, the OAG would recommend HRM Administration consider setting a higher pass/fail threshold than the currently established rate of 75%. The use of a higher pass/fail threshold (80% or higher) would improve the quality of goods and services, likely to a level where the performance risks are clearly mitigated and the deciding factor can be solely price. The HRM should document its methodology and reasons for setting any pass/fail threshold. If this is determined to be an acceptable standard for some or all RFPs, then the practice of combining technical points with cost points should be discontinued. Reference #2.3.1
8. Alternatively, should HRM Administration determine it appropriate to retain the combined scoring approach to acquire consulting and other services under the RFP process, the OAG would recommend simplifying the technical proposal evaluation stage to focus on sector and functional expertise of the proponent. Reference #2.3.2
9. HRM Administration should review the results (in terms of resulting in value for money) of having used a 30% cost weighting in its past RFP contracts and determine and set an appropriate standard weighting for evaluating the cost component (which may be based on the nature and type of purchase) to be applied consistently where a combined scoring approach is used to enable comparability and reporting of results. Reference #2.3.3

10. HRM Administration should require all scoring decisions be supported by narrative sufficient to explain the reason for the decision taken. This information should be retained in the official RFP file. Reference #2.3.4
11. With respect to certain identifiably large value or complex requirements and where the additional effort is projected to result in added value, HRM Administration should consider adopting the 'best and final offer' methodology for RFPs where the specifications and/or solution cannot be clearly and measurably described. Reference #2.4.1
12. HRM Finance (Procurement) should develop key performance indicators which measure the direct outcomes and therefore the level of success of the RFP process. This might include both technical and price indicators. HRM should establish a baseline year which could be used to measure performance in subsequent years. This would assist HRM Administration in determining and articulating when and to what extent 'best value' has been achieved. Reference #3.1.1
13. HRM should consider establishing an independent process to which complex RFP files would be referred for an independent review regarding the evaluation team's preliminary results. This may be most appropriate where a call for proposal results in few competitive bidders, or where there has been significant public concern raised during or about the process, or where the point spread between two viable vendors is within a predetermined range, for example, within 5 points on technical value (should an earlier recommendation concerning a technical threshold not be adopted). Reference #3.1.2
14. HRM Administration should develop and implement a training program aimed at assisting staff in the planning and scoping of the needs and requirements for an RFP. Reference #3.2.1
15. HRM Finance (Procurement) should either partner with the Province of Nova Scotia or develop their own training tool to assist potential vendors in better understanding the RFP process and the minimum submission requirements. This may expand the level of engagement of the vendor community and subsequent competition. Reference #3.3.1
16. The Office of the Auditor General would suggest the 'vendor evaluation process', currently being tested for tenders, be rolled out to all business units and be included in the Requests for Proposal process. Reference #3.4.1
17. HRM Administration should consider developing a policy which speaks to the appropriateness of payment methods in use for large projects and ensure they are

based on specific and measurable deliverables to assist project managers in providing more accurate estimates for internal purposes and to better measure the success of the project and work of the vendor. Also, this would provide for far better overall control and management. Reference #3.4.2

18. HRM Administration should clearly define a set of minimum requirements making up a 'complete' RFP file. This business practice should also assign roles and responsibilities for maintaining these files and include a quality assurance check on a regular but random basis. Reference #4.1.1
19. HRM Administration should consider adopting the attached checklist⁷ developed in consultation with HRM Finance (Procurement) and implement the practice of including all suggested documents in the official RFP file. Reference #4.1.2

Management Response:

The role of the Auditor General is to assist Regional Council in holding themselves and HRM Administration accountable for the stewardship of public funds and for the delivery of services ensuring transparency and value for money.

We appreciate the work of the Office of the Auditor General and agree with the findings and recommendations included in this report. We will work with the Audit Committee, Council and Administration to implement the recommendations in a prudent and timely manner.

⁷ See Appendix B Table 5, Suggested Best Practice - RFP File Document Check List for HRM, page 60

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Detailed Findings and Recommendations:

1.0 Understanding the Procurement Process (background information)

It is important to understand the procurement process is essentially a legal process resulting in a contractual arrangement between HRM and the successful bidder. Public procurement is “informed and defined by many rules, including the decisions of courts, procurement chapters of trade agreements, statutory instruments (such as legislation, regulations and municipal by-laws), and by established industry practices”.⁸ For example, the concept of Contract A/Contract B is a fundamental principle established by a 1981 Supreme Court of Canada decision⁹ which settled an ongoing question of the time, regarding the ability of each party to rely on the other’s written documents - the vendor’s submission and the government’s acceptance of the submission. The Court ruled there were, in fact, two irrevocable contracts created in a competitive bidding process. Contract A (which covers the competitive bidding process) occurs when a tender document has been issued by the municipality and each qualified vendor (the bidder) responds to the call. Contract B is created and entered into by the issuer (the municipality) and the successful bidder and governs the project work. Current legal thinking suggests there is an obligation on the part of the municipality to follow through with the issuance of a tender once the process is initiated, and for the vendor to meet the terms of its submission. According to Denis Chamberland, the majority of Canadian government entities adhere to the Contract A/Contract B approach to competitive procurement which is well recognized by all procurement professionals.¹⁰ This would include the Halifax Regional Municipality.

1.1 HRM Administrative Order 35, Procurement Policy:

The procurement process is a system of inter-related components based upon the economic concept of supply and demand. Goods and services are required by HRM in order to meet its strategic and operational mandate. HRM Regional Council has established “Administrative Order 35, Procurement Policy” as the framework by which goods and services are to be acquired by the organization, which is in keeping with the current applicable provincial legislation.

The primary purpose of the HRM public procurement process is to ensure the most cost-effective and cost-efficient methods are used to purchase goods, services and undertake

⁸ Procurement, A Practical Guide for Canada’s Elected Municipal Leaders, Denis Chamberland, Municipal World Inc., page 23

⁹ Supreme Court of Canada, R.(Ont) v. Ron Engineering, [1981] 1 S.C.R. 111 Date: 1981-01-27

¹⁰ Municipal World, January 2010, “Procurement Zone Best and Final Offers in Canada: Unshackling Procurement from Contract A.

construction, in a manner approved by Regional Council¹¹. In keeping with the public's expectations, the process is to be "open, fair, and consistent", as noted in the Guiding Principles of the policy. Other desirable qualities might include equitable and reasonable access to information, and appropriate performance measures to evaluate and report on the success of the process.

In simple terms, cost efficiency (doing something within price or economy) refers to properly matching the level of effort to acquire the goods or services to the monetary value of the goods or services. For example, spending two weeks of staff resources to determine the best price for a commodity such as a box of paper is not cost-effective where the price of the order is less than the cost of searching out the product.

Cost effectiveness (doing the right things right) in terms of procuring goods and services generally relates to the matching of the quality and attributes of the item to the need of the organization.

Table 1.1, is a compilation of the various purchasing methods and the respective dollar limits identified by the Office of the Auditor General from a review of Administrative Order 35, Procurement Policy. It does not take into account the various informal business practices or documents available electronically on the InsideHRM website (which is available to HRM staff). The table outlines the various options, as determined by the OAG, available to HRM staff when deciding on the purchasing approach to be used to acquire goods and services.

While the focus of this review is on the Request for Proposal (RFP) process, in order to gain a better understanding of the decision process used to determine the RFP process as the best approach for the goods and services acquired, the OAG had to understand the RFP process in the context of the other purchasing methods. In doing so, what became evident is the complexity created by the numerous criteria and choices. As noted previously, Finance (Procurement) has created numerous supporting business practices to assist the end user in making the right purchasing choice. However, Administrative Order 35, Procurement Policy, does not make mention of the supporting and clarifying documents available. An employee, unaware of the existence of these guidelines might have difficulty in deciding which purchasing option to use.

¹¹ Excerpt from HRM Administrative Order 35, Procurement Policy, "Policy Statement"

Table 1.1: Administrative Order 35 Methods and Limitations Matrix

Procurement Method	Value Limitation					Notes
	up to \$1,000	\$1,001 to \$9,999	\$10,000 to \$50,000	\$50,001 to \$100,000	\$100,101 and over	
Low Value	Yes					Goods not in a standing offer or available in inventory, use procurement card or petty cash
Request for Quotation	Yes	Yes				3 quotes by Business Unit , generally written but minor can be verbal
Standing Offers	Yes	Yes	Yes			3 quotes by Business Unit , generally written but minor purchases can be verbal
Request for Qualification	Yes	Yes	Yes			Invitation to suppliers for the purpose of selecting qualified bidders in nature of work requires ascertainable minimum standards. May be smaller limits depending on work, for example - internal review/audit set at \$25,000.
Sole Source/Single Source Purchases	Yes	Yes	Yes			Within the CAO signing authority limit and meeting specific conditions such as compatibility with existing products, statutory monopoly, commodity market, prototype of first good/service, original works of art, goods intended for resale, where determined by Council, confidential or privileged consulting services, where the process might interfere with municipality's ability to maintain security, etc.
Emergency Purchases	Yes	Yes	Yes			Immediate and serious need not reasonably met by any other procedure. Unlikely to be over reasonable limit of \$49,999 for one time immediate purchase.
Unsolicited Proposals	Yes	Yes	Yes			Sufficient uniqueness, not circumvent procurement process - treated as a single/sole source purchase.
Request for Tender	Yes	Yes	Yes	Yes		3 written quotes, Procurement, posted publically
Two Phase Bid	Yes	Yes	Yes	Yes	Yes	Must be formal request, posted, public opening
Request for Proposal	Yes	Yes	Yes	Yes	Yes	Must be formal request, posted, public opening
Request for Information	Yes	Yes	Yes	Yes	Yes	Invitation to suppliers to provide information from marketplace on scope of work or services contemplated to be procured by municipality
Request for Expression of Interest	Yes	Yes	Yes	Yes	Yes	Used to determine the interest in the marketplace to provide goods, services or construction as contemplated by municipality
Negotiation	Yes	Yes	Yes	Yes	Yes	Under certain situations such as short supply, one source, identical bids, unacceptable bids, exceeds budget, contract extension cost effective, when authorized by Council, etc.

Overall Recommendation Concerning Procurement at HRM: While the OAG understands the RFP process was the focus of this review, we cannot help commenting on the significant number of methods of procurement (13), as well as the numerous supporting and clarifying documents in use.

Recommendation:

1.1.1 The OAG would recommend as a minimum, Management review Administrative Order 35 with a view to:

- whether clarifications are required as to when a particular process is to be used with a particular method
- whether the existing supporting and clarifying documents being used should be formally incorporated into Administrative Order 35
- whether all the purchasing processes outlined continue to result in best value for HRM. For example, is it still appropriate to have very different dollar

thresholds for the use of a Tender versus a Request for Proposal? (One is essentially double the threshold of the other)

- whether the level of detail in Administrative Order 35 is appropriate for the “average person” to conclude which type of procurement is used given a particular situation and therefore whether the wording used provides the “right” amount of clarity. (Recommendation 1.1.1)

Definition of 'Request for Tender' and 'Request for Proposal':

There are in the order of thirteen procurement methods described in the HRM Procurement Policy but best practice suggests, as noted above, matching the level of effort to acquire the item to its cost, is critical in assisting an organization in achieving “value for money.”

The HRM Procurement Policy requires a formal ‘request for submissions’ process in those cases where the purchase is estimated to be at a value of \$50,000 or greater. Generally, there are two preferred procurement methods: a Request for Tender or a Request for Proposal. The policy does provide for other procurement methods to be used in very specific and limited circumstances. Although the policy requires a formal ‘request for submission’ process where the estimated cost of the purchase is \$50,000 or greater, it also sets a higher limit (\$100,000) in those cases where the tender process is to be used. This exception, indicated with an asterisk in the formal approved document, appears to contradict the original intent of the document as the document does not describe, in any detail, the circumstances under which one might choose the RFP over the tender procurement method. An assessment of the language and application of various business practices developed to support the HRM Procurement Policy was not in the scope of this review. However, it became apparent to the OAG, given numerous variations and permutations of choice, a complete review of the HRM Procurement Policy might be warranted. The characteristics and benefits of the two methods are described below.

The Request for Proposal process is an “invitation to proponents to describe how their services, methods, equipment or products can address and/or meet the specific needs”¹² (of the organization). It is normally used in cases where the desired outcome is known but the specifics of how to arrive at the outcome are not. For example, in the purchase of software, there is a general understanding of what the product should *do* but the specific details of *how* the product will achieve it or what products are available are not known when the RFP is issued. In this case, there are potentially multiple products or solutions able to achieve the desired outcome, each in a different way and at a different price point. Each bidder’s proposal is evaluated in two phases. The first phase, the “technical proposal” is evaluated against a pre-set list of criteria; bidders who pass this stage move on to the next and final stage: the cost proposal. Cost proposals are submitted separately from the technical proposals and only opened and evaluated after the technical proposals have been evaluated. The lowest cost proposal is not always the winning bid as the value of the technical proposal and cost proposal are combined to arrive at the perceived ‘best value.’

¹² Excerpt from Administrative Order 35, Procurement Policy, HRM, Methods of Procurement, page 8

In contrast, the Request for Tender process is normally used when there are “detailed specifications available that permit the evaluation of tenders against clearly stated criteria and specifications”¹³ for example in the supply of bulk commodities such as salt, gravel and asphalt, or in construction contracts. In these cases, there are industry specifications and standards in place and the price point is generally volume or per unit based. The bids received for bulk commodities from vendors are publicly posted while bids received for construction contracts are publicly opened. Normally the lowest priced bid is awarded the tender.

While the value of tendered contracts can be significant, the procurement process leading to the awarding of a tender is less complex than that of the Request for Proposal procurement process as the goods and services requirements are better defined and evaluation is generally simply a matter of comparing price. There are numerous complexities associated with the Request for Proposal process due to the lack of a clear solution for the goods or services being requested. Therefore, the evaluation processes leading to the awarding of a contract must be designed and undertaken to ensure the requirements of cost effectiveness and efficiency and the principles of an “open, fair and consistent” process are achieved. It is to these features this report is primarily addressed.

1.2 Understanding Roles and Responsibilities under the RFP Process

As noted previously, the “Request for Proposal” procurement process is a complex series of steps leading to an award (or contract) which hopefully leads to ‘best value’ to the organization at a given point in time. The process involves a variety of stakeholders, each with a role to play in ensuring HRM receives the expected outcome and/or ‘best value.’ While the process is a team effort, there are numerous areas of overlap, therefore, for efficiency and effectiveness purposes, certain responsibilities and accountabilities should be logically assigned to one individual or function.

1.3 Proposed Changes to Roles to Improve Efficiency

Based on feedback from various stakeholders which will be discussed in greater detail in the following sections, it is fair to note there are some areas of clarity needed as to who has final authority in certain responsibility areas such as setting the evaluation criteria, establishing the evaluation team, administration and management of the official procurement files and the responsibility to educate those new to the RFP process on the appropriateness of a particular procurement method. Section 3.0, Survey Outcomes, provides detail around specific areas where survey respondents indicated a need for greater clarity.

¹³ Excerpt from Administrative Order 35, Procurement Policy, HRM, Methods of Procurement, page 8

The following is a list of roles and responsibilities proposed to improve process efficiencies. This list has been developed from responses received from individuals, group discussions and survey responses conducted by the OAG. In some instances, the information is provided to codify existing administrative practice.

The role of the business unit and its staff should be to:

- identify the need
- describe the need in sufficient and appropriate detail (scope)
- identify a project lead and recommend a proposed evaluation team
- prepare a draft RFP using a standard format and work with Procurement staff to finalize the document
- act as the primary contact for technical questions between the time the RFP is issued and it has been awarded
- ensure budget availability, assign cost centres and obtain appropriate spending approvals,
- manage the awarded contract and evaluate the performance of the successful vendor; catalogue and report any contract deficiencies.

The role of Finance (Procurement) and its staff should be to:

- provide advice on the timing and appropriate procurement method to be used to acquire the goods or services
- develop and recommend the evaluation criteria and weighting to be used in the evaluation of the bids received (could be referred to the business unit directors and Director of Finance for final collaborative determination in certain instances or with more difficult procurements)
- finalize the evaluation team structure
- proof-read and finalize the RFP document
- issue the RFP and manage the solicitation process (receive proposals, facilitate meetings, discussions and note taking; final disposition of official file)
- act as the primary contact regarding the interactions between bidders and HRM until the RFP has been awarded
- manage the debriefing component with unsuccessful bidders, as required
- oversee administration of certain aspects of the contract such as contract changes, compliance to terms and conditions of contract (for example, proof of insurance and bonding); follow up on warranty issues.

The role of Senior/Executive Management should be to:

- consider vendor disputes

- review the recommended award and sign off, if the value of the award is within their signing authority and mandate
- refer the recommendation report to Council, as appropriate
- report to Council any awards approved by the CAO falling in the value range of \$50,000 to \$500,000, except when the Interim Award Policy (which has no dollar limit) is in effect.

The role of Regional Council should be to:

- refer vendor disputes to the CAO, where allowed by policy
- consider and approve RFPs as appropriate after being recommended by the CAO.

The role of the potential supplier should be to:

- ensure a full understanding of the requirements as set out in the RFP
- respond in accordance with the requirements of the RFP - i.e. contacts, submission requirements, etc.
- monitor the HRM/Provincial website, attend site meetings
- provide feedback to the process
- request a debriefing if appropriate
- adhere to terms of contract (scope of work, schedule, meetings and accurate invoices).

Recommendations:

- 1.3.1 The OAG would suggest HRM Finance (Procurement) establish a standard training tool which outlines the roles, responsibilities and purchasing authorities of each stakeholder in the RFP process by position or function, to improve clarity and accountability for tasks and outcomes.
- 1.3.2 The OAG would recommend a training option be adopted as a regular corporate offering, with the requirement of attendance for all new employees who are given responsibility for procuring goods and services through the RFP process.

2.0 The Process and Desired Outcomes

The Request for Proposal evaluation process has been described by one stakeholder as an “art, not a science”, despite standard submission requirements and fixed proposal evaluation criteria. According to key clients and procurement staff, the RFP process within HRM has evolved over time. Initially the Request for Proposal process was used in the acquisition of consulting services, but has since been expanded to include the provision of goods over an established price threshold of \$50,000.

Some interviewees have suggested the RFP process works best in the acquisition of services, rather than goods. However, there are few goods acquired that come without some element of service making the RFP process appropriate as a procurement tool. Interviewees felt because goods, in general, are more easily described and tangible, the technical evaluation completed under the proposal process is simpler to execute and less time consuming than that necessary to acquire services, making the Tender the preferred method. However, other interviewees appreciated the flexibility of the RFP process which allows the opportunity to explore new innovations, products and performance. Both positions have merit and reinforce the importance of taking the time to prepare well-defined requirements, regardless of the procurement approach.

Professional judgment must be exercised by both Procurement and business unit staff in determining the most cost effective procurement method to use. The selected process must not only meet the needs of the organization but also the expectations of vendors, the public and Council for transparency, a fair and competitive process, and the achievement of best value. Measuring the success of the chosen procurement method would appear to be a criterion for best practice. But what makes a ‘Request for Tender’ or ‘Request for Proposal’ successful? Generally, success is defined as achieving ‘best value’.

2.1 Achieving Best Value

According to HRM staff, a tender would normally be considered successful when the lowest priced product or service met the minimum requirements or standards. Under the tender process, lowest price has been the primary criterion. Recently however, other factors have become important in the tendering process and in the determination of ‘best value’. For example, life cycle costs and pollutant components were factors in the recent acquisition of a significant piece of equipment expected to be in operation for 10 years. This was in keeping

with Halifax Regional Council's emphasis on sustainability practices; "green buildings, green procurement and green corporate culture."¹⁴

As noted earlier, success under the RFP process is considered attained when 'best value' or getting value for money is achieved, although there would appear to be no succinct or agreed upon definition of 'best value' used within HRM. By its very nature, 'best value' with respect to an RFP is not easily defined or measured due to the variability of the products or services being acquired. Best value perhaps should be defined in terms of a process, i.e. best process. Any process used should consider all possible costs for the benefits received and use specific language to describe evaluation criteria for the technical component.

According to guidelines found in a paper entitled "Getting value for money from Procurement, How Auditors can Help", and released by the Office of Government Commerce, National Audit Office of the United Kingdom: "Value for money is not about achieving the lowest initial price: it is defined as the optimum combination of whole life¹⁵ costs and quality."¹⁶

Specific suggestions made in the guidelines around achieving 'best value' relative to the RFP process include¹⁷:

1. getting an increased level or quality of service at the same cost
2. ensuring that user needs are met but not exceeded
3. specifying the purchasing requirements in output terms so that suppliers can recommend cost-effective and innovative solutions to meet that need
4. sharpening the approach to negotiations to ensure departments get a good deal from suppliers – discussing with suppliers all elements of the contract price including level of service, timescale of the assignment, skill mix of the supplier's team, how services are to be remunerated
5. optimising the cost of a delivering a good or service over the full life of the contract rather than minimizing the initial price. *This should include disposal (either sale proceeds or decommissioning costs) and take into account all costs and benefits to*

¹⁴ <http://www.halifax.ca/environment/Sustainability.html>

¹⁵ Within this report, the term whole life cost means the "total cost of ownership over the life of an asset." Total cost of ownership includes environmental, social and economic costs and benefits or advantages attributed directly to the acquisition. In the context of procurement "whole life" costing can also describe the total cost of a contract for services.

¹⁶ "Getting value for money from Procurement, How Auditors can Help" released by the Office of Government Commerce, National Audit Office, United Kingdom, page 3.

¹⁷ "Getting value for money from Procurement, How Auditors can Help" released by the Office of Government Commerce, National Audit Office, United Kingdom, page 4.

- society as a whole including the environmental and social benefits and cost, not simply those directly relevant to the purchaser*¹⁸
6. introducing incentives into the contract to ensure continuous cost and quality improvements throughout its duration.
 7. developing a more effective working relationship with key suppliers to allow both departments and suppliers to get maximum value from the assignment by identifying opportunities to reduce costs and adopt innovative approaches.

In another paper released by the Office of Government Commerce bulletin, “Life Cycle Costing”¹⁹, the author has identified four major benefits of life cycle costing in the procurement process:

1. Better evaluation of competing options in purchasing; most relevant to service contracts and equipment purchasing decisions
2. Improved awareness of total costs; helps focus management effort to the most cost effective areas and highlights areas which would benefit from management involvement
3. More accurate forecasting of cost profiles; improved decision making at all levels, more accurate forecasting of future expenditures, especially relevant in construction decisions
4. Performance trade-off against cost; overall fit requirements and quality of goods and level of service to be provided.

The Life Cycle Costing process involves identifying costs relating to the procurement of the product or service as well as recurring costs due to ownership or usage which can either be upfront (cost to establish) or recurring (ongoing), in procurement terms. Upfront costs (cost to establish) for purposes of this definition are of a non-recurring nature and relate to the initial procurement as well as set up, while recurring costs are time dependent and continue to be incurred throughout the life of the product or service. Recurring costs are likely to increase over time through, for example, increased maintenance costs as equipment or infrastructure ages.

¹⁸ Bulletin, Procurement, OCG Policy Principles, www.ogc.gov.uk

¹⁹ Office of Government Commerce, United Kingdom, http://www.ogc.gov.uk/implementing_plans_introduction_life_costing_.asp

Examples of Upfront Costs (costs to establish):

- Procurement
- Implementation and acceptance
- Initial training
- Documentation
- Facility changes
- Transition from current supplier(s)
- Changes to business processes
- Withdrawal from current service and disposal
- Transportation and handling

Examples of Recurring Costs:

- On-going retraining
- Operating costs
- Service charges
- Contract and supplier management costs
- Changing volumes
- Cost of changes
- Downtime/non-availability
- Maintenance and repair

The above items form reasonable cost measurement criteria in terms of assessing the success of an RFP process (upfront costs) and the RFP results (recurring costs). Developing and issuing an RFP may incur above normal costs, especially when the acquisition is for a complex project occurring over a number of phases. In these cases, it is important to factor in the additional procurement costs to the total cost of acquiring the asset or service. In other cases, where the commodity is a frequent acquisition, the cost to procure may be below the norm, and may be a possible candidate for a less costly procurement method such as the Request for Tender process.

Recent changes have been made to provincial legislation which pertains to “public procurement”. Prior to this, the HRM Procurement Policy and business practices were governed by the Agreement on Internal Trade (July 1, 1995), the Atlantic Procurement Agreement (Jan 18, 2008) and industry standards. Effective June 1, 2012 all municipal units within Nova Scotia are required to align their procurement policies and business practices to the Public Procurement Act, an “Act Respecting Public Procurement in Nova Scotia”, which was proclaimed on May 19, 2011.

The Act defines ‘best value’ but does not specifically spell out how the municipality is to meet or measure the achievement of best value; however, it does require the municipality to have an appropriate process and to demonstrate and report on its achievement.

The concept of ‘best value’ can be found in Section 12 of the Public Procurement Act (NS) which states “a public sector entity shall:

- (3) When evaluating a bid, the public sector entity shall obtain best value and is not limited solely to purchase price and life-cycle cost considerations, but may also consider

environmental and social factors, delivery, servicing and capacity of the bidder to meet criteria as stated in the bid received.”

The enactment of provincial policy into legislation affecting all municipalities within Nova Scotia included other significant changes such as:

- 2 (c) promote sustainable procurement in procurement decisions including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations.

As of June 1, 2012, all Nova Scotia municipalities will be required by legislation to also incorporate into their procurement processes contract and risk-management guidelines.²⁰ These changes support the best practice guidelines quoted in this report and identified in our research. It is interesting to note the recent changes the Province of Nova Scotia is now making with respect to risk management and recognizing how important a component of procurement it represents. The OAG could not agree more with this emphasis. It is also interesting to note how clearly this supports points made by the OAG in a recent report entitled “Review of Concerts on the North Common”. This report spoke at length around the need for a renewed emphasis on all aspects of Enterprise Risk Management and the need to look at risk in a formal entire enterprise-based manner to properly develop Enterprise Risk plans (which should include procurement activities).

Observations:

HRM does incorporate “whole life” or “life cycle” costing in the evaluation of the RFP process, albeit on a limited basis. For example, operational costs attributed to the acquisition or extension of the useful life of a tangible capital asset are regularly estimated and included in the estimated cost of the asset. A recent Information Technology project aimed at acquiring a software solution for Fleet Maintenance and Service processes, included as part of the business case, a number of likely “recurring costs” in the evaluation.

Recommendation:

- 2.1.1 The OAG would recommend HRM Administration consider amending the RFP evaluation process to incorporate whole life costing as a formal requirement, including both upfront costs, which assign value to the procurement process, as well as recurring costs, which look at the full cost of the procurement decision and provide for better budgeting and operational planning.

²⁰ Public Procurement Act, Nova Scotia, Section 12(1)(g)

2.2 HRM RFP Standard Submission Requirements

As noted previously, the RFP process begins with the description of an expected outcome – a good or service, and concludes with the evaluation of a vendor’s representation of how they believe their product or service will meet the described need for the goods or services as provided by staff. The vendor is expected to fully understand the expectations outlined in the RFP and articulate information clearly, succinctly and in such a way that it can be compared to and ranked against other vendors’ submissions. In order to facilitate the evaluation process, certain standards and evaluation criteria are established in advance by the RFP staff team and made available to each potential vendor.

Although there are slight variations to the RFP submission requirements depending on the good or service, (i.e. proof of Workers’ Compensation Board coverage), each RFP submission would normally include the following broad submission requirements:

Technical Proposal:

- Proponent credentials
- Staff credentials
- Résumés of staff
- References
- Understanding of suggested approach or expectations outlined in the RFP
- Project and design methodology and project organization
- Schedule of project activities
- Other.

Cost Proposal:

- Total and/or unit costs.

The specific detail required to satisfy the broad submission requirements are outlined and explained in greater detail within individual RFPs and varies with each individual call for RFP submission, usually found in the section entitled “Standard Submission Requirements – Section 6.0”.

HRM's RFP - Standard Submission Requirements – Section 6.0:

The standard RFP document includes the following sections which correspond to the broad submission requirements identified above:

Section 6.1 Proposal Submission (Outlines the specific requirements for the RFP. Many of the following categories are common to each RFP)

- 6.1.1 General
- 6.1.2 Proponent's credentials
- 6.1.3 Staff credentials
- 6.1.4 Résumés
- 6.1.5 References
- 6.1.6 Understanding and approach
- 6.1.7 Project and design
- 6.1.8 Schedule of project activities
- 6.1.9 Other
- 6.1.10 Contractor Safety Management Policy
- Section 6.2 Cost Proposal
- Section 6.3 Document Size Restrictions
- Section 6.4 Number of Proposals to be submitted

A requirement description is included for each category. For example, in one RFP document, listed under Section 6.2, Cost Proposal, each proponent was required to include a "firm fixed price" and a "detailed listing of the tasks and activities with a breakdown.....of all individual costs.....and total costs".²¹ Section 6.3, Document Size Restrictions, provides details on the physical attributes of an acceptable submission. Common to all RFPs is the following statement:

"Elaborate brochures or voluminous examples are not required nor desired. Your proposal should not be more than **25 typed pages maximum**, Times New Roman 12 point font pitch..."

In addition to the above, the amended template now includes, "Digital submissions must not exceed 10 Mb".

Recent experience in the Office of the Auditor General might indicate the average person, attempting to comply with the submission requirements and reading the document in plain

²¹ Halifax Regional Municipality Request for Proposals #10-173, page 23

language, might be misled to believe non-compliance to these requirements is cause for exclusion from consideration. However, in discussions with HRM staff it became apparent there is a significant difference in the interpretation of the RFP language from a legal versus a non-legal perspective. As noted previously, the issued RFP document forms one part of the two-part contract resulting from the public procurement process. Therefore, any interpretation of language included in the RFP must likely be considered in legal terms. However, an unsophisticated or new-to-public procurement vendor may not fully appreciate the difference.

The situation HRM sometimes finds itself in is the need to balance the legal and policy requirements to be fair and open in its procurement activities with the need to ensure the organization is properly protected. This applies even if the language has the appearance of restricting or permitting an action. For example, as noted previously, Section 6.3 Document Restrictions suggests a single submission should be no more than 25 pages, Times Roman 12 point font pitch. However, according to HRM subject matter experts, the decision to not interpret this requirement literally is solely within the purview of HRM, if it is deemed to be in the best interests of HRM not to do so. This “administrative flexibility”, while helpful to the HRM, could have the appearance of unfairness in the eyes of the less informed. In other words, “should not” does not always mean “cannot”.

Observations:

The OAG fully supports the possible need for flexibility around the implementation and management of contracts but also supports the HRM policy requirement for fairness, openness and transparency in the public procurement process. If HRM chooses to use the “administrative flexibility” built into each RFP, such as not disqualifying a vendor who does not meet one or more of the proposal submission requirements, the OAG believes there should be some form of penalty applied (perhaps in the scoring matrix) to a non-compliant vendor submission for not adhering to the RFP guidelines, if disqualification is not considered an appropriate option.

HRM Finance (Procurement) has made recent changes to the RFP template to be more consistent with the standardized Province of Nova Scotia model. Changes focus primarily on enhancing the level of information submitted. For example, under section 6, a new submission requirement relating to sustainability has been added.

Recommendations:

- 2.2.1 HRM Finance (Procurement) should develop and implement a form of penalty for non-adherence to the RFP submission guidelines, perhaps in the scoring matrix for those submissions which are not disqualified overall. This would recognize the efforts of those vendors who do meet the requirements or the spirit of the requirements.

- 2.2.2 Any decisions made by Procurement staff and/or the evaluation team to waive submission requirements and apply a penalty should be properly documented in the file.

2.3 Proposal Evaluation Criteria

There are standard evaluation criteria categories used in the evaluation of each RFP proposal, suggesting a more scientific approach is used in the RFP process than perhaps in other methods. The four broad criteria under which each RFP is to be evaluated include:

1. Capability – project team experience, project manager experience, company experience, sample projects (of prior similar work requested in the RFP)
2. Work Plan – past performance in meeting fee estimates with same personnel, schedule and level of effort (distribution of work for project and right people in right spots)
3. Methodology – understanding of project objectives and issues, work plan (level of detail), overall quality of work plan, and innovation (approach to the work)
4. Cost Proposal Evaluation – how complex (does the project need a dedicated financial resource), are there alternatives, does the proposal include life cycle costs?

A numeric value is assigned to each category, which together, total 100 points (usually). In some cases, each category is equally weighted; in other cases, the weighting assigned will differ based on the goods or services being acquired and the opinions as to importance or focus of the (business unit) project team. This flexibility can make it difficult to do an across-the-board comparison between RFP files to compare the final perceived value for money.

HRM currently has an established general rule of thumb which assigns a 70% weighting to the combined technical proposal (converting the 100 points noted above) categories and 30% to the costing proposal. An evaluation of the 34 RFPs issued during the period under review indicated on average, a 27% weighting to the cost proposals, ranging from a low of 10% to a high of 65%, depending on the goods or services being procured. The more standard the goods or services, the more heavily weighted the cost proposal component appeared to be. See Table 2.3.1 for additional details.

Clearly, under this system, the definition of value is heavily weighted away from cost to the other more subjective categories as price is generally only 20-30% of the definition of value.

Table 2.3.1: Weighting Factor as Applied to Cost Component for the 34 RFPs Reviewed

Weighting Factor Cost %	Consulting Services	Goods	Services (Other)	Total RFPs
10	2			2
15	1			1
20	11		1	12
25	4	2	2	8
30	1	4		5
40		2	2	4
55		1		1
65	1			1
Total	20	9	5	34

The State of Minnesota, prior to 2005, did not have a minimum weighting assigned to the cost component. Minnesota State staff reviewed 104 professional/technical contracts awarded by state agencies without a minimum weighting for cost and found if cost were equal to 30 percent of the total evaluation points the state would have awarded 8 contracts to a supplier with a lower bid than the supplier actually awarded the contract. If the weighting assigned to cost had been set at 40 percent, 19 contracts would have been awarded to different suppliers at a savings of \$2.6 million dollars. Minnesota staff acknowledged the contracts in question were for “services of a technical nature ... and of critical importance”²² and cost should not be worth the majority of points. However the writers concluded, “based on the data presented above, that an action had to be taken to make cost a more prominent factor in awards for professional/technical contracts.”²³ The State of Minnesota enacted legislation requiring agencies to make cost worth “at least 30 percent of the evaluation points if all responsive responders were to be evaluated at once. If, as is often the case, the agencies developed a short list of suppliers based on the strengths of their technical evaluations, cost would have to be equal to at least 40 percent of the total points.”²⁴

²² Government Procurement, August 2007, Sourcing in the States, A procurement reform initiative in Minnesota has helped state agencies realise that....It Pays to Negotiate, page 27

²³ Ibid

²⁴ Ibid

Although HRM has, as a “general rule of thumb”, assigned 30% of total available points to the cost proposal of an RFP, the data for the period under review indicates the norm was closer to 20%. Each of the 34 RFPs would be classified as professional/technical contracts. Twenty-three or 67.6% of the RFPs were evaluated using a cost weighting of less than 30%. Based on the experience of Minnesota, this might suggest a potential cost savings was possible to the HRM had the 30% ‘general rule of thumb’ been applied.

Each category within the technical component is comprised of multiple sub-categories, and variations in weighting among sub-categories may also occur. For example, an RFP issued to acquire architectural design services would likely be weighted more heavily in the capability category and focus on past experience of the project team and/or similar projects as compared to an RFP issued to acquire a project manager for an IT project which may be weighted more heavily on the work planning (ability to accomplish work within budget) or methodology (level of detail of work plan).

Each member of the evaluation team is expected to review all qualified technical proposal submissions and score each submission based on the agreed upon weighting and criteria. Generally, procurement staff make the determination of whether or not a submission is qualified (complete), deferring to the entire evaluation team where a consensus is more desirable. A submission is considered qualified when the document is received on time, includes two separate proposals (technical and cost), the format of the document is in general keeping with the RFP requirements, and all mandatory meetings and document submission requirements have been met (i.e. proof of bonding). Once individual scoring has been completed by each team member, the evaluation team meets and arrives at the final scoring of all the qualified proposals. As part of this process, each evaluation team member’s overall ranking of the qualified proposals is considered, ensuring a consistent comparison among evaluators. Any significant deviations in scoring are thoroughly reviewed and understood. The final score agreed to by the evaluation team is recorded and maintained in the official RFP file. On occasion, discussion notes may also be included but the final points awarded each proposal submission is considered the critical piece of information.

Various alternative methods of scoring are of course possible. One writer²⁵ has suggested the technical evaluation component focus on only two equally weighted evaluation criteria when evaluating professional firms (Consulting Services, within the HRM context) rather than attributing points to a number of sub-categories under “capability, work plan and methodology” general categories. The “must evaluate” criteria described by the author only

²⁵ “A Decent Proposal”, a paper by Cal Harrison, <http://www.winwithoutpitching.com/manifestos-and-thought-papers>

includes two criteria, evaluating sector and functional expertise of the firm. Sector experience refers to how well a firm can illustrate an understanding of the industry, (i.e. municipal services) and functional experience refers to how well a firm demonstrates an understanding of the unique challenges of the project. Currently, the evaluation process used by HRM is broken down into numerous sub-categories which assign point value to service levels, hourly rates and time lines, to name a few. In his paper, “A decent proposal”, ²⁶Mr. Harrison points out

To totally discount people and service would be irresponsible because a horrible deficiency in either could compromise the success of a consulting project. However, having appropriate people and service levels is simply the cost of entry to the dance for a professional services firm – all firms must have people, as well as some reasonable level of service, simply in order to be in business.

“A professional service firm is hired to solve a problem or optimize an opportunity²⁷”. This is germane to the use of the RFP process. Therefore, the focus should be on proof of expertise of the firm in the selection process and the individuals to be assigned to the project. One would assume the greater the direct experience of the firm and its people in similar projects, the greater its ability to outline its functional expertise. For example, Mr. Harrison suggests the evaluation focus should be on obtaining proof of:

- expertise which is clustered around a subject area (functional expertise) or an industry (sector experience)
- credentials such as professional designations, relevant project experience, degrees, industry reputation and legitimate certification
- meaningful profiles such as evidence of content heavy speaking engagements and professional research, published articles, etc.

This may be a viable option in the technical evaluation of professional services which make up the majority of HRM RFP contracts²⁸.

Combined Scoring:

Once the evaluation team has agreed on the scoring of the technical proposals, the cost proposals are opened and scored. The scoring of the cost proposals involves a mathematical formula where the lowest priced cost proposal is given full marks and each subsequent proposal is apportioned a value based on the ratio of its cost proposal to the lowest. This

²⁶ “A Decent Proposal”, page 4, a paper by Cal Harrison, www.winwithoutpitching.com/manifestos-and-thought-papers

²⁷ Ibid, page 4

²⁸ See Appendices, Data Tables, Table 1: Total Requests for Proposals Issued During Review Period, By Category

“comparison to best” approach to scoring the price component is thought to assist in obtaining better value for the organization. As an example, if Cost Proposal A is the lowest priced proposal at \$100 and Cost Proposal B is \$150, Cost Proposal A is given the full 30 points and B is given 15 points.²⁹ Total points awarded during the technical and cost phase are then added together to arrive at the total value of each proposal. The proposal with the greatest combined value is normally the proposal recommended to be accepted.

Minimum Standard Threshold:

According to staff, prior to August 2010, no minimum scoring threshold had been established for the evaluation of technical proposals. This would suggest all vendors’ technical proposals qualified by procurement staff moved forward to the final stage in the evaluation process – deemed the cost proposal stage. It is possible under this scenario, for the vendor’s proposal assigned the lowest technical score but receiving the highest cost score (lowest price) to be awarded the RFP. In this case, interviewees and survey respondents did not generally feel the organization achieved ‘best value’ for a variety of reasons:

1. lower technical points may infer a less than optimal project outcome could result, or
2. lower technical points may require increased effort to manage the contract.

Conversely, lower technical points and a lower cost proposal may actually appropriately match level of effort to value of effort and be appropriate in the circumstances.

In August 2010, the RFP evaluation practice was amended by establishing a 75% “pass mark” requirement for each technical proposal before the vendor’s submission proceeded to the cost proposal evaluation stage. This threshold value appears to have established an acceptable level of experience or technical skill and approach for the HRM. This change in practice resulted in only referring a vendor’s proposal to the cost evaluation phase when the technical proposal value met or exceeded 75% of available points. The evaluation of the cost proposal process did not change and the values of the technical and cost proposal stages are still combined into one score. The proposal receiving the highest combined value is generally still the proponent recommended to receive the award, not the acceptable proposal (meeting the minimum 75%) with the lowest cost.

²⁹ $((\$150-\$100)/100)*30$ points = 15 points

Observations:

The standard definition for value-for-money or 'best value' is highest value at the lowest cost. Based on the recent approach adopted by HRM, proposals meeting the 75% pass mark threshold for the technical component have met the minimum standard established by HRM. Some proposals will just meet the pass mark threshold and some will exceed it. All proposals are then further evaluated based on the cost portion of the proposal. The RFP may be awarded to a vendor with an outcome falling into three possible award results:

1. a lower technical scoring proposal with the lowest cost,
2. a higher technical scoring proposal with the lowest cost, or
3. a higher technical scoring proposal with a higher cost.

Only one of these award options meets the strict definition of 'best value' being option 2. However, under its current evaluation process, HRM is sending an inconsistent message by indicating it is prepared to accept any of the three award outcomes as achieving value-for-money or 'best value'.

The OAG believes the practice of combining the technical points with the cost points to arrive at a total value is inconsistent in trying to achieve value-for-money, and may be inadvertently achieving the opposite. In referring to a report on contracting practices funded by the Residential and Civil Construction Alliance of Ontario entitled "Towards a Fair and Balanced Approach" (dated September 2009), Denis Chamberland states:

While the report focuses on a range of industry sectors, we know from extensive experience in the municipal sector that procurement processes are often overly rigid – especially if Contract A is involved – and result in the overpayment of significant premiums by municipalities.

The OAG reviewed all 34 RFPs (of which 36 contracts were finalized, one RFP resulted in 3 separate contracts) occurring during the period under review. The results of the review indicated 12 RFPs or 35% of the files were awarded after the 75% threshold was established for the technical proposal evaluation stage. Of these 12 files, had the HRM used a minimum pass mark of 75%, (essentially a pass/fail option) the potential for cost savings could have amounted to \$228,533 out of a total awarded value of \$6,344,229.00. The average cost of each additional point over the 75% threshold of the 14 RFP files reviewed was \$1,981.

Excluded from this calculation of potential cost savings was a large RFP which the OAG acknowledges is likely an anomaly. However, the evaluation results and cost differential of this

particular RFP³⁰ directly supports a number of points identified in this report. In this particular RFP file, the evaluation point spread between the successful proponent and the next lowest vendor was 13 points. The price differential between the highest scoring and next highest scoring proponent was \$983,054.30 higher or a cost of \$75,619.56 for each additional percentage point, well above the average of the other files. This file appears to be a case where HRM awarded the contract to the vendor with the highest technical scoring proposal with the higher cost. The weighting assigned to the technical portion of the evaluation was 80%, leaving a 20% weighting to be applied to the cost portion. This would appear to suggest technical capability was more important as the standard technical weighting used by HRM is 70%.

Applying a 75% threshold to the technical phase would have resulted in the lower scoring technical proposal likely being awarded the contract. The question remains as to what is the true value to the HRM of the extra points and can HRM afford it? Other questions which might be asked include, for example, how relevant was the criteria used in the scoring? How accurate was the evaluation team in the scoring of the technical components? How close is close when each vendor appeared to achieve a reasonable pass mark (75%)? Are the results adequately explained and is this explanation included in the official RFP file? While the specific answers to these questions fall outside the scope of this review, the OAG has made recommendations to improve the RFP process in general terms which may be applicable to this file.

The OAG feels it is reasonable to conclude in all cases, the evaluation process has been applied in a fair, consistent and appropriate manner. The RFP process “needs to be accountable to the public because of the intangible nature of RFPs. RFP outcomes are more subjective than tenders, making the awarded bidder and the municipality subject to more scrutiny.”³¹ The evaluation process is designed to ensure the right people are making the right decisions by involving multi-disciplinary subject matter experts, independent discussion and structured scoring. Group decisions are arrived at through consensus rather than a majority vote. From the internal survey results, 99% of respondents believed the HRM had arrived at the best decision and received the desired goods or services for the cost quoted.

Another writer, John O. Adler³², State Procurement Administrator for the State of Arizona and Past President of the National Association of State Procurement Officials suggests the recording of points without documenting the “facts and assumptions that we observe when we read the proposals”, is not adequate to convey the reasons for the procurement decision. Mr. Adler writes:

³⁰ Award RFP #09-195, Report to Regional Council. March 30, 2010

³¹ Financial Municipal Corporation Recommended Practice: Purchasing Policy, Page 6

³² Why Score Proposals?, John O. Adler, CPPO, April 21, 2010

Procurement decisions must be based on facts and facts are best expressed in a narrative report. Words that are based on the facts observed by the evaluator will form the basis for clarification and negotiation objectives. Once negotiations are concluded, the facts documented by the evaluation committee serve as the basis for the selection. The words help the competing firms understand the source selection decision. If audited or protested, the words in the technical evaluation committee report help the auditor or judge understand the decision. Sure, those words may be used to support numerical scores, but the words convey the reasons for the decision.³³

Mr. Adler is not suggesting procurement officials eliminate scoring. He is merely suggesting scoring be supported with documented facts used to arrive at those scores using a formal and well documented approach, something the Office of the Auditor General would fully support.

Recommendations:

- 2.3.1 HRM Administration should determine whether or not the establishment of a pass/fail threshold for the technical proposal phase for some or all goods/services acquired under the RFP process is appropriate. All technical proposals meeting (or exceeding) the pass/fail threshold would become eligible for the cost proposal evaluation process. With respect to establishing the percentage weighting to be assigned, the OAG would recommend HRM Administration consider setting a higher pass/fail threshold than the currently established rate of 75%. The use of a higher pass/fail threshold (80% or higher) would improve the quality of goods and services, likely to a level where the performance risks are clearly mitigated and the deciding factor can be solely price. The HRM should document its methodology and reasons for setting any pass/fail threshold. If this is determined to be an acceptable standard for some or all RFPs, then the practice of combining technical points with cost points should be discontinued.
- 2.3.2 Alternatively, should HRM Administration determine it appropriate to retain the combined scoring approach to acquire consulting and other services under the RFP process, the OAG would recommend simplifying the technical proposal evaluation stage to focus on sector and functional expertise of the proponent.
- 2.3.3 HRM Administration should review the results (in terms of resulting in value for money) of having used a 30% cost weighting in its past RFP contracts and determine and set an appropriate standard weighting for evaluating the cost component (which may be based on the nature and type of purchase) to be applied consistently where a combined scoring approach is used to enable comparability and reporting of results.

³³ Why Score Proposals?, John O. Adler, CPPO, April 21, 2010, page 2

- 2.3.4 HRM Administration should require all scoring decisions be supported by narrative sufficient to explain the reason for the decision taken. This information should be retained in the official RFP file.

2.4 Best and Final Offers

Perhaps an alternative or complementary approach which may be more appropriate to the RFP process in achieving the principle of ‘best value’ might be to implement the “Best and Final Offers” (BFAO) method, which is growing in use in the United States and currently in use in much of Europe. Although the OAG has not done exhaustive research into this methodology, according to the literature reviewed, this approach is thought to add the flexibility needed to find the right solution at the right price for those RFPs involving large or complex projects and where the organization is not able “to specify objectively in the RFP either the technical means capable of satisfying its needs and objectives, or the legal and/or financial attributes of the project.”³⁴

The first phase of the BFAO process is for the organization to publicly describe the needs and requirements of the project and then evaluate the responses after receipt, without considering price or payment. This is described by Denis Chamberland as the start of “competitive dialogue”³⁵. This mirrors the technical stage of the current HRM process. The purpose of this phase is to create a short-list of potential vendors who would be formally invited to participate in the ‘competitive dialogue’. All technical aspects of the potential contract (concepts, direction, and approach) would be discussed with each of the short-listed vendors, respecting the confidentiality of proprietary information, etc. During this phase, some short-listed vendors may be eliminated. However, according to Denis Chamberland, “the public organization is negotiating the terms of the proposed solution – which makes it much more likely that it will receive greater value.”³⁶

At some point in the competitive dialogue stage, the organization ends the dialogue part of the process and moves into the final stage which is the call for final submissions from the remaining short-listed vendors. It is at this point where price is the focus. The short-listed vendors understand the requirements and the organization understands each of the proposed solutions. Pricing submitted at this stage will be “more sensitive to the solutions being proposed.”³⁷ The final submissions form the ‘best and final offer’ from the proponents. One objection to this methodology is the increased time it may take to reach a final decision. However, theoretically, in large dollar value or complex problems, this approach is considered more likely to achieve

³⁴ Procurement Zone, “Municipal Infrastructure Products: Leveraging the European Competitive Dialogue to Increase Value for Money”, December 2010, Municipal World, page 25

³⁵ Procurement Zone, “Municipal Infrastructure Products: Leveraging the European Competitive Dialogue to Increase Value for Money”, December 2010, Municipal World, page 25

³⁶ Procurement Zone, “Municipal Infrastructure Products: Leveraging the European Competitive Dialogue to Increase Value for Money”, December 2010, Municipal World, page 26

³⁷ Procurement Zone, “Municipal Infrastructure Products: Leveraging the European Competitive Dialogue to Increase Value for Money”, December 2010, Municipal World, page 26

the best value for the organization and the additional time needed worth the additional value received.

Due to the fact that the Contract A/Contract B approach is so entrenched in practice in Canada, moving to the “best and final offer” model will take time and significant support.

Recommendation:

- 2.4.1 With respect to certain identifiably large value or complex requirements and where the additional effort is projected to result in added value, HRM Administration should consider adopting the ‘best and final offer’ methodology for RFPs where the specifications and/or solution cannot be clearly and measurably described.

3.0 Survey Outcomes

As part of this review and to gain a better understanding of the usefulness and success of the Request for Proposal process from the users' perspective, the review team held a round table discussion with "sophisticated" HRM staff (frequent users) and circulated an internal survey to other HRM staff who use the RFP process on a less frequent basis. In addition, in order to gauge the level of acceptance and success of the RFP process from the perspective of the vendor community, an on-line survey was placed on the HRM Finance (Procurement) website and vendors were invited to complete the survey. All survey responses were compiled independently by the OAG. Respondents were assured of anonymity and only aggregate information has been provided in this report.

3.1 Round Table Discussions

Representatives from 5 business units³⁸ and senior procurement staff were invited to participate in a round table discussion on the use of the Request for Proposal process as a procurement tool. Participants included project managers with technical expertise in a variety of fields such as architecture, engineering, information technology, planning, etc. One purpose of the discussion was to understand the decision process used by each business unit in choosing the RFP process over other alternatives and the subsequent development of the RFP, including the design of the evaluation criteria. The other anticipated outcome of the discussion was to share experiences with peers as to what works best in the RFP process and where improvements could be made.

Discussion Highlights:

Highlights from the round table discussion focussed primarily on the critical importance of developing a clear and articulated understanding of the scope and nature of the work to be acquired. The general consensus of the group was the RFP process can result in better pricing/deliverables than other procurement methods but is heavily dependent upon good preparation which takes commitment and time. This statement is supported by others in the field of procurement who advocate the more effort expended up front to define the need and requirements, the better the outcome. A secondary issue identified with scope development is the need to define what is "out of scope" to avoid "scope creep" and corresponding cost increases. "Scope creep" may inadvertently lead to the acquisition of goods or services beyond the minimum needs or standard established by the technical pass mark.

³⁸ Infrastructure and Asset Management, Transportation and Public Works, Business Planning and Information Management, Community Development and Police Services

Another area of agreement within the group was the importance of Procurement staff taking the lead and managing the process. Procurement staff are perceived as being responsible for encouraging and ensuring team members operate within established policy and process. The group also felt the sooner the business unit identified their need to Procurement staff, the more successful the outcome. According to round table participants, Procurement should become involved in the RFP process as soon as a need is identified. Procurement staff should maintain on-going interactions with their clients which assist in developing a joint understanding that the RFP is a collaborative effort across business units, not the responsibility of the business unit or Procurement staff.

The group also discussed the role and make-up of the evaluation team. RFP evaluation teams should represent different perspectives, subject matter expertise (may just be a resource), client groups, and relevant stakeholder representation (IT, Legal, Finance, outside interests, etc.). The role of the evaluation team should include the following:

- To be cognizant of the market place in terms of availability and affordability of goods or services and be familiar with options. It is expected they will do further research on what is needed and options
- Produce generic specifications
- Scope out and define the requirements as completely as possible.
- Focus on the “need”, not the “want”
- Review the submission requirements, evaluation criteria/weighting in light of particular requirements/priority areas and work with Procurement to ensure appropriateness and completeness of the criteria
- To consider the final performance/completion requirements of the project when evaluating the proposals to ensure the full scope of the project has been addressed in the proponent’s proposal
- To be able to confidently and adequately defend perceived “subjective” scores resulting from the RFP process.

Overall, the respondents recognized they were charged with overseeing HRM’s interests and ensuring adherence to appropriate principles of fairness, objectivity, equal access and a competitive result. They acknowledged the need to ensure any biases are identified and mitigated early in the process and each member is to remain free of real or perceived conflicts throughout the entire process.

3.1.1 Measuring “Success” of the RFP Process:

The HRM Procurement Policy includes the attributes of fairness, openness and consistency as guiding principles. When asked how they would measure the level of performance of the RFP method, round table participants identified the following elements:

- High quality proposals (consistent, common understanding of requirements)
- Appropriate level of effort as documented in the Level of Effort table which the proponent provides, identifying the specific resources to be assigned to tasks or desired outcomes. (relatively new requirement in the RFP process)
- Debriefings are felt to go well, vendors understand the process and have constructive feedback regarding the process
- The evaluation committee reaches a decision by consensus (reflects a variety of differing perspectives/expertise)

3.1.2 What works well in the RFP Process:

When asked to describe what they liked about the RFP process and what seemed to work well, the participants identified:

- Interaction/feedback with/from Procurement
- Process appears fair and results in best value
- Allows for the selection of vendor, based on industry standards and a balanced approach
- Multiple stakeholders can participate, which leads to a balanced decision
- The process allows for difficult decisions to be made.

3.1.3 Identification of any areas of improvement which could be made in the RFP process.

Comments included:

- The RFP process is misunderstood. Training around preparing submissions for an RFP is needed for vendors, to improve the quality of submissions. However, it was also pointed out one of the risks of this approach might be the organization simply teaching vendors how to prepare a winning proposal as opposed to what they will realistically be able to deliver.
- Training should be provided to participants new to the RFP process such as vendors and employees and possibly, elected officials to heighten their knowledge.
- Providing evaluation team members with a more detailed breakdown of the evaluation criteria prior to the evaluation would be helpful. Documentation or

guidance on how to execute the evaluation process would be helpful to ensure consistency, but the process should not be “carved in stone.”

- Project managers of RFPs should be more confident in taking greater “risks” such as using other pricing structures (cost plus) where it seems more appropriate.
- Business units should ensure the integration of Procurement into the RFP process as early as possible.
- Enhanced management of awarded contracts to ensure promised performance is delivered and outcome information is available for feedback on future solicitations and potential vendor “exclusions” from future contracts if performance is lacking.
- Ensure contract payment is tied directly to deliverables through the use of “earned value reports” for projects that do not have specific deliverables throughout the contract.
- Move to a three envelope/stage process – mandatory criteria stage, technical stage, and costing stage.

When asked which of the evaluation criteria they considered the most important, the group identified evaluation criteria around past performance of the vendor’s team and their ability to handle similar projects. At the end of the round table, all participants agreed to work with Procurement staff in developing and fine-tuning the evaluation criteria.

HRM staff believe the RFP process achieves ‘best value’ for the organization because the results of the process meet their expectations. However, the question remains does this equate to meeting the organization’s expectations? HRM has not established key performance indicators which could be used to quantify or indicate organizational expectations. For example, one indicator to measure performance might be the overall difference between the technical and price components of vendor submissions. Significant differences between individual RFP proposals might indicate the quality of the initial RFP proposal issued by HRM was not adequate.

Observations:

Overall, the review team was pleased with the level of participation and engagement of the round table participants. Discussion was frank and each participant was afforded an opportunity to better understand the roles, responsibilities, challenges and potential opportunities of their peers. Future group discussions similar to the round table format may be a useful approach for Finance (Procurement) to take to discuss issues or planned improvements to the RFP process.

Recommendations:

- 3.1.1 HRM Finance (Procurement) should develop key performance indicators which measure the direct outcomes and therefore the level of success of the RFP process. This might include both technical and price indicators. HRM should establish a baseline year which could be used to measure performance in subsequent years. This would assist HRM Administration in determining and articulating when and to what extent 'best value' has been achieved.
- 3.1.2 HRM should consider establishing an independent process to which complex RFP files would be referred for an independent review regarding the evaluation team's preliminary results. This may be most appropriate where a call for proposal results in few competitive bidders, or where there has been significant public concern raised during or about the process, or where the point spread between two viable vendors is within a predetermined range, for example, within 5 points on technical value (should an earlier recommendation concerning a technical threshold not be adopted).

3.2 Internal Survey Results³⁹

The review team invited a number of managers and supervisors who had infrequent exposure to the RFP process to complete a questionnaire designed to gauge their knowledge and use of the HRM RFP process. The response rate to the survey was 73% from staff distributed across all 8 business units.

Part 1 of the survey focussed on comparing participants' levels of knowledge of the RFP process to their level of experience with the RFP process. Respondents were asked to identify the nature of their involvement in the RFP process (RFP lead, evaluation team member, subject matter expert, all of the above) and then answer specific questions about the RFP process (i.e. when it is most appropriate to use). An answer was considered as correct when the participant was able to match the dollar range of the purchase with a/the correct procurement method, as stated in the HRM Procurement Policy. The assumption was those employees having acted in all of the listed roles in the RFP process would achieve the greater number of correct responses.

The average overall response rate for correct answers to questions around understanding the RFP process was 53% which might indicate a lack of knowledge of the HRM Procurement Policy. The responses of individuals were then compared to the participants' levels of engagement in the RFP process. Scores ranged from 44% for those identified only as subject matter experts to 58% for those who identified as having acted in "all the above positions".

During round table discussions, the "sophisticated" users identified a vendor's team experience and their previous success in delivering similar projects as the most important criteria (past performance). It is interesting to note the response of "sophisticated" users is consistent with the opinions expressed by Cal Harrison in his paper "A Decent Proposal", noted previously in this report, where he states the focus of evaluation efforts should be on sector and industry experience. When the internal survey respondents were asked to rank the evaluation criteria, the ranking differed significantly from that provided by round table participants. Internal survey respondents ranked the importance of evaluation criteria in the following order: 1. Quality of Solution (goods or services), 2. Capability, 3. Work plan and Approach, 4. Past Performance, and finally, 5. Cost.

The review team also asked the internal survey respondents to describe what worked well with the RFP process and what could be improved. Support received from procurement staff was generally given a high value, including turn-around time for responses. The evaluation process, in particular the team approach to using internal expertise, was also rated highly.

³⁹ Results of Internal Survey on RFP Process, Appendix C, page 63

Observations:

The low correct response rate to those questions relating to when to use the RFP process and the expected outcome might indicate additional training and education of all RFP users is warranted to ensure a better understanding of the RFP process and its use.

Recommendation:

- 3.2.1 HRM Administration should develop and implement a training program aimed at assisting staff in the planning and scoping of the needs and requirements for an RFP.

3.3 External Survey Results

Vendors were afforded a 30-day period in which to complete an online survey designed to reach both current and potential participants in the RFP process. A total of 44 vendors chose to answer some or all of the survey. (HRM issued a total of 34 RFPs during the period under review from September 1, 2009 to August 31, 2010). Respondents were asked to identify the type of services their organization provides. A number of vendors provided more than one response to this question, possibly due to having participated in more than one RFP type (goods, services, consulting). A total of 31 (70.5%) out of 44 respondents indicated they had participated in the RFP process.

Table 3.3.1: Survey Responses by Organization Type

Organization Type	Number of Respondents	Response Percent %
Goods	12	27
Construction Services	7	16
Consulting Services	6	14
Other Services (cleaning, security, etc.)	11	25
No Response Provided	8	18
TOTAL	44	100

The survey responses indicated many vendors were not able to differentiate between a Request for Proposal, a Tender or other procurement methods. As noted earlier, there are significant differences in the processes (i.e. a tender usually results in a contract to the lowest bidder, an RFP is more likely to be awarded to a vendor receiving the highest combined points); however, all procurement methods provide for a debriefing opportunity once an award has been made. Questions 7 and 8 of the survey focussed on those vendors who self-identified as unsuccessful vendors. Seventeen respondents indicated they were not successful in their bid with HRM. Of these, 61% indicated they did not request a debriefing from Procurement. When asked why they did not request a debriefing, 56% (5/9) indicated they were not aware the opportunity was available.

The external respondents were also asked to provide feedback on the nature and satisfaction of the service received from Finance (Procurement). Of the 19 responses received to this question, 58% indicated they were “satisfied” and 16% indicated they were “very satisfied” with how well HRM communicates its needs (are bid documents understandable?). When asked if the HRM Procurement Process was “open, fair and equitable”, 6 out of 16 (38%) of respondents “somewhat agreed”, and 4 out of 16 (25%) respondents “strongly agreed”. When asked if HRM

procurement staff provided “overall, excellent customer service”, 38% of respondents stated “somewhat agreed” and 31% indicated they “strongly agreed”. When asked to rank procurement staff’s response to telephone and email inquiries, the respondents rated them even higher at 40% as “satisfactory” and 47% as “very satisfactory”.

External vendors were invited to describe how well the RFP process seemed to work and if there were areas where improvement was needed. Seven respondents spoke to a need to improve the level of detail around specifications and/or scoping of the work. Four respondents expressed concern with the time it takes HRM to post the results of an RFP, while one was concerned with the short turn-around time allowed to respond to an RFP. Two spoke positively about the ease and usefulness of the online tool used by HRM.

Observations:

Generally, vendors responding to the external survey were quite satisfied with the overall level of service received during the RFP process, and with the level of service received directly from Finance (Procurement) staff. Comments around improving the level of detail in describing the scope and specifications of the work being requested are in keeping with the general consensus of the internal HRM round table group who felt the RFP process results in better pricing/deliverables but is heavily dependent upon good preparation which takes commitment and time.

Recommendation:

- 3.3.1 HRM Finance (Procurement) should either partner with the Province of Nova Scotia or develop their own training tool to assist potential vendors in better understanding the RFP process and the minimum submission requirements. This may expand the level of engagement of the vendor community and subsequent competition.

3.4 Follow-up After the Award

Good business practice would suggest an organization should appropriately monitor and evaluate the goods and services it procures and receives, regardless of the methodology used. This is critical to ensuring both vendors and the organization meet their individual obligations as set out in contractual agreements. A well-defined process to evaluate the actual/delivered goods and services will contribute to the achievement of the organization's goal to receive 'best value'.

Better management of the poor performance of selected vendors was an area of concern raised by HRM staff during round table discussions and from the internal survey. While this appears to be the "flip side" of the evaluation process mentioned above, it does indicate staff's awareness of the importance of dealing appropriately with poor - or lack of - performance of selected vendors, after an RFP award has been issued.

Currently, HRM has developed and is selectively testing a "Vendor Evaluation Process" on higher risk tendered contracts which have a high public profile or those believed to be possibly problematic. The approach taken by procurement staff is to educate the HRM project manager to first identify the potential risks associated with the project and then specifically monitor and measure outcomes to these risks. Specific areas of greater potential risk include service delivery contracts, new vendors or the introduction of new products.

Follow-up after an award also includes the processing of payments to the vendor after execution of the contract. Depending on the nature of the contract, this can include a one-time payment or a series of payments. Fortunately, time and progress milestones tied to payment schedules are the more common method of administering contracts within HRM.

Timing of payments was raised as a concern by staff. Initial project cost estimates often become unreliable due to the significant time difference between first preparing the estimate, 'the bid', and the issuance of the contract by HRM and therefore the completion of a project. Project managers are faced with the potential for significant cost increases and reduced time frames for project completion to stay within original time frames, which may lead the project manager to respond to unusual payment pressures from the vendor.

This can be particularly problematic in instances where the payment component of the project is not tied to deliverables but payments are all front-end loaded. A contract based on front-end loaded payments could impact the project manager's ability to cancel a contract due to poor performance because HRM may have less control or leverage over the contract – HRM having paid for more of the contract than has been delivered. HRM does not have a formal policy in place which addresses the appropriate use of a front-end loaded payment contract, although we understood the practice has been used in the past and could be used in the future.

Recommendations:

- 3.4.1 The Office of the Auditor General would suggest the 'vendor evaluation process', currently being tested for tenders, be rolled out to all business units and be included in the Requests for Proposal process.
- 3.4.2 HRM Administration should consider developing a policy which speaks to the appropriateness of payment methods in use for large projects and ensure they are based on specific and measurable deliverables to assist project managers in providing more accurate estimates for internal purposes and to better measure the success of the project and work of the vendor. Also, this would provide for far better overall control and management.

4.0 Document Review of the Procurement RFP Files

Following the results of the review team's research and discussions with Procurement staff, an initial checklist was developed generally based upon the expectations contained in current policies and procedures specific to the HRM environment. The initial checklist items were divided into three basic categories which mirror the HRM RFP process – Administration, Evaluation and Final Contract. The review team evaluated the 34 RFP files for completeness against these three basic categories. The eight criteria used to review the 34 RFPs (resulting in 36 files) were identified by HRM Finance (Procurement) as the current minimum documents expected to be held in all official RFP files.

Items falling under the category of Administration included:

1. the tender list
2. original RFP
3. addendums
4. proposals
5. site visit sheet(s).

Evaluation included:

6. notes related to the evaluation requirement in the RFP policy and could encompass all the evaluation sheets completed by the evaluation team or just the summary results of the evaluation.

Final Contract included:

7. the award document
8. proof of insurance/letter of good standing.

Table 4.1 outlines the results of the review of the files against the initial checklist. The RFP policy does not specifically outline record keeping requirements for RFP files. Items from the checklist designated as "required", which were not found within the RFP files, could be maintained elsewhere as it is not a requirement in the policy to maintain them all in the same location. For review purposes however, if the documentation was not in the file, the check failed. We reviewed the RFP files against the initial checklist criteria, which included items required for all RFPs, and items which are not applicable to all RFP files, as noted in the column "Files with requirement not applicable".

Table 4.1: Results of Document Review against RFP Files

Category	Requirement	Files with requirement complete:	Files with requirement missing:	Files with requirement incomplete:	Files with requirement not applicable:	Total number of files evaluated: (36)
Final Contract	1. Award Document	63%	9%	28%	0	100%
Final Contract	2. Proof of Insurance/ Letter of good standing (successful proponent only)	66%	0	0	34%	100%
Evaluation	3. Evaluation Notes	100%	0	0	0	100%
Administration	4. Site Sheet (if applicable)	16%			84%	100%
Administration	5. Proposals, with letters to unsuccessful proponents	75%	0	25%	0	100%
Administration	6. Addendums (if applicable)	56%	0	0	44%	100%
Administration	7. Original RFP	100%	0	0	0	100%
Administration	8. Tender List	69%	31%	0	0	100%

Observations:

The review team found 9 out of 36 (25%) of the RFP files reviewed met all basic requirements of the definitions developed in the initial checklist indicating or supporting a complete RFP file. Although all RFP files contained a hardcopy of the original RFP and evaluation notes, only 75% of the files reviewed contained copies of letters advising unsuccessful vendors the RFP had been awarded to another vendor. Once a contract has been awarded, the successful proponent is expected to provide a letter in good standing from Workers' Compensation and proof of valid insurance. We are pleased to note where applicable, all the required files contained this information.

Best Practice Checklist:

Research was carried out to determine the best practices used to validate procurement decisions and how and where the information is maintained. Working from information provided in the book, Auditing the Procurement Function, by David O'Regan, CIA, FCA and released by the IIA Research Foundation Handbook Series, a more enhanced theoretical checklist was developed for procurement to use to review the completeness of future HRM Finance (Procurement) RFP files. The checklist was then compared to those used in other organizations. Even though the HRM policy does not identify what a "complete" RFP file should look like, the OAG took into consideration what is considered as required documentation as suggested in the handbook material and using checklist examples from other organizations. See Table 5 Best Practices – RFP File Document Checklist in the appendices for the enhanced Checklist developed.

Recommendations:

- 4.1.1 HRM Administration should clearly define a set of minimum requirements making up a 'complete' RFP file. This business practice should assign roles and responsibilities for maintaining these files and include a quality assurance check on a regular but random basis.
- 4.1.2 HRM Administration should consider adopting the attached checklist⁴² developed in consultation with HRM Finance (Procurement) and implement the practice of including all suggested documents in the official RFP file.

⁴² See Appendix B, Table 5, Suggested Best Practice - RFP File Document Check List for HRM, page 60

Appendices

Appendix A

Table 1: Total Requests for Proposals (RFPs) Issued During Review Period, by Category

RFPs Issued by Type	Number	% of Total
Goods	9	26.5%
Consulting	20	58.8%
Services	5	14.7%
Total	34	100%

Table 2: Public Inquiries Received/Submissions Received to RFP Notices

Type	Number of Initial Inquiries	Number of Actual Submissions	Number of Compliant Bids	Submissions as a % of Inquiries
Goods	67	31	25	46%
Consulting	200	74	73	37%
Services	46	18	15	39%
Total	313	123	113	

Table 3: Non-compliant Submissions – by Reason and Category

Non-Compliant Submissions by reason and category		
Type	Reason for Rejection	Total
Consulting	No separate cost proposal	1
Goods	Incomplete proposals	4
Services	No bid bond included	3
Total		8

Table 4: Contracts issued with Low Bid, by type (36 contracts, 34 RFPs Issued)

Contracts issued by type								
	Consulting		Goods		Services			
Low Bid	Number of Contracts	Percent of Contracts	Number of Contracts	Percent of Contracts	Number of Contracts	Percent of Contracts	Total Number of Contracts	Percent of Total Contracts
No	13	65.00%	3	33.33%	1	14.29%	17	47.22%
Yes	6	30.00%	4	44.44%	4	57.14%	14	38.89%
One Bid, N/A	1	5.00%	2	22.23%	2	28.57%	5	13.89%
Total	20	100.00%	9	100.00%	7	100.00%	36	100.00%

Appendix B: Suggested Best Practices - RFP File Document Check List (jointly developed with HRM Finance (Procurement))

The ordering of the list in Table 5 is based on the timing of individual activities (from most recent) within each category (change orders, final contract, evaluation process, RFP/Contract Administration). The organization can change the order of alignment to suit the business process but best practice would suggest these documents are required to adequately support an award decision made using the RFP procurement method.

Table 5: Suggested Best Practices - RFP File Document Check List

Category	Item	Competitive Procurement Process Stage	Document	Required Y/N	G/C/S ⁴³ All
Change Orders	41	Change Orders	Signed by appropriate authority	Y	All
Final Contract Evaluation	40	Award	Proof of mandatory insurance, worker's compensation, safety policy, admin order 40/41 – sign off from vendor	Y	All
	39		Written contact with unsuccessful vendors	Y	All
	38	Agreeing to Form of Contract, Formal Appointment, Evaluation of Contract Performance.	Debriefing request, notes from meetings	Y	All
	37		Award approval by appropriate authority.	Y	All
	36		Purchase order, final contract	Y	All
	35		Award Letter (if complex contract/award - sign off by Legal Services)	Y	All

⁴³ Legend: All – Mandatory requirement for all RFP files.

G – Mandatory requirement for RFPs involving the acquisition of goods.

C – Mandatory requirement for RFP files involving the acquisition of consulting services.

S – Mandatory requirement for RFP files involving the acquisition of services, not including consulting.

34		Signed by proper authority, Vendor evaluation form	Y	All
33		Account number, confirmed budget and signing authority for requisition, award of contract and change order approvals.	Y	All
32		Maintenance and spare parts requirements	y	G
31		Insurance & Warranty Information, if appropriate	Y	All
30		Prior RFP, if applicable(or identified)	Y	All
29		Confirm request does not include brand name specifications, without "equivalent allowance"	Y	G/S
28	Evaluation of Bids	Technical Evaluation	Y	All
27		Date and times of Meetings	Y	All
26		Confirmation of decision making process – consensus, majority vote	Y	All
25		Official notes from meetings, sufficient to support decisions made by group	Y	All
24		Evaluation criteria ranking – description as awarded to each vendor	Y	All
23		Review and sign off of scored components	Y	All
22		Reference checks conducted by evaluation team	Y	All
21		Proof of financial viability and past performance	Y	All
20		Cost Evaluation (Stated method of awarding points to cost submission)	Y	All
19		Pricing structure	Y	All
18		Proposed cost assumptions	Y	All

	17		Value of Trade-ins	Y	G
	16		Payment Terms	Y	All
	15		Time value of money calculation, where appropriate	Y	All
	14		Other relevant costs	Y	All
	13		Economic evaluation of differences in technical approach (level of effort reflects costing)	Y	All
Administration	12	Assessing the need	Email with proper signatory, OR	Y	All
	11		Requisition with proper signatory, OR	Y	All
	10		Other: Report of Council, CAO, etc.	Y	All
	9	Agreeing List of Potential Suppliers	Original RFP document – date of posting, date of closing	Y	All
	8		Addendums – who, how, when issued and to whom	Y	All
	7	Invitation to Tender or Respond to RFP	List of vendors inquiring into RFP	Y	All
	6		Formal record of all bids received, original marked as such with stamp, punch out or signature/date.	Y	All
	5		One original of all submitted bids	Y	All
	4		Compilation of information relating to all non-conforming bids	Y	All
	3	Evaluation of Bids	Evaluation Team: name, position, business unit, contact information	Y	All
	2		Contract/Project Manager – name, position, business unit, contact information	Y	All
	1		Conflict of interest declaration statement from all members of evaluation team	Y	All

Appendix C: Results of Internal Survey on Results of RFP Process

Summary:

The Office of the Auditor General issued 36 letters to internal managers who would have familiarity with the process, requesting feedback on the results of goods/services acquired for HRM using the RFP process; the OAG received 24 responses or 67%. Overall, the responses were positive and supportive of the RFP process as a means to achieve best value for HRM. Areas of concern related primarily to timeliness of delivery and customer service. The end product procured appeared appropriate and to requirements, according to respondents.

Details:

1. Question around whether or not the successful proponent fulfilled the objectives expected in the following areas:
 - A. Strategic
 - i. Did the final product support or enhance the organization's strategic direction? 100% yes
 - ii. Met expectations - 18 yes (75%), 6 no
 - B. Service
 - i. Did the vendor keep to their described methodology?
Timeliness - 18 yes (75%), 6 no
Deliverables - 21 yes (88%), 3 no
 - ii. Did the vendor's approach meet the business unit's expectations? - 18 yes (75%), 4 no, 2 no answer
 - iii. Was the Customer Service received from the vendor appropriate/sufficient - 20 yes (83%), 4 no
 - iv. Exceed expectations - 14 yes (58%), 9 no, 1 no answer
 - C. Quality
 - i. Did the vendor solution provide the expected quality as described in the proposal and references - 20 yes (83%), 2 no, 2 no answer
 - ii. Exceed expectations - 10 yes (42%), 14 no
 - D. Fair Access
 - i. Do you feel the RFP process resulted in sufficient vendor interest? - 24 yes (100%)
 - E. Do you believe 'best value' was received by HRM? - 20 yes (83%), 3 no, 1 no answer.