

**Contracts Backgrounder:  
Competitive Solicitation Template  
for  
 Agency Contracts**

*Dated July 9, 2025*

This Backgrounder is designed for use by the Agency Contracts team for competitive procurements for goods and services Small Agency Contracts.

This Backgrounder applies to the Competitive Solicitation Template dated January 22, 2025.

The Backgrounder – and our ability to deliver contract services efficiently and cost effectively – will be improved with input from all team members. The Backgrounder is designed, in part, to leverage the knowledge and experience of our team members.

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**Table of Contents**

[**Introduction** 1](#_Toc202949088)

[Competitive Procurement Terminology 1](#_Toc202949089)

[The Competitive Procurement Process 2](#_Toc202949090)

[**Before Starting** 3](#_Toc202949091)

[Strategic Plan. 3](#_Toc202949092)

[**Using the Template** 4](#_Toc202949093)

[**Solicitation – Competitive Solicitation** 5](#_Toc202949094)

[Competitive Solicitation – Introduction 6](#_Toc202949095)

[**Section 1 - Opportunity** 7](#_Toc202949096)

[Section 1.1 Scope of Included Goods/Services 7](#_Toc202949097)

[Section 1.2 Contract Award 11](#_Toc202949098)

[Section 1.2: Bid Response Summary 17](#_Toc202949099)

[Section 1.3: Estimated Contract Value 18](#_Toc202949100)

[**Section 2 – Deadlines, Bidder Questions, Procurement Coordinator, & Modification** 21](#_Toc202949101)

[Section 2.3: Competitive Solicitation Deadlines 21](#_Toc202949102)

[Section 2.4: Pre-Bid Conference 23](#_Toc202949103)

[Section 2.5: Competitive Solicitation Questions 24](#_Toc202949104)

[Section 2.6: Bidder Communication During Competitive Solicitation 26](#_Toc202949105)

[Section 2.7: Complaints, Debriefs, & Protests 26](#_Toc202949106)

[Section 2.8: Competitive Solicitation – Amendment & Modification 26](#_Toc202949107)

[**Section 3 – Submitting a Bid** 27](#_Toc202949108)

[Section 3.2: Pricing 28](#_Toc202949109)

[Section 3.3: Submitting Bids 29](#_Toc202949110)

[Section 3.4: Additional Bid Submittals 30](#_Toc202949111)

[Section 3.5: Public Records 30](#_Toc202949112)

[**Section 4 – Bid Evaluation** 31](#_Toc202949113)

[Section 5.1: Overview 31](#_Toc202949114)

[Section 4.2: Bid Responsiveness (Step 1A) 34](#_Toc202949115)

[Section 4.3: Bid Evaluation – Scored Factors (Step 2) 37](#_Toc202949116)

[Non-Cost Factors (Step 2A) 37](#_Toc202949117)

[Cost Factors - Bid Pricing (Step 2B) 38](#_Toc202949118)

[Section 4.4: Washington State Procurement Priorities & Preferences (Step 3) 43](#_Toc202949119)

[Section 4.5: Bidder Responsibility Analysis (Step 4) 47](#_Toc202949120)

[(optional) Section 4.6: Contract Negotiations (Step 5) 50](#_Toc202949121)

[Section 4.6: Announcement of Apparent Successful Bidder (Step 5) 51](#_Toc202949122)

[Section 4.7: Bid Information Availability (Step 6) 52](#_Toc202949123)

[Section 4.8: Award of Contract (Step 7) 53](#_Toc202949124)

[Section 4.9: Additional Awards 54](#_Toc202949125)

[**Appendix A - Summary Table Of All Included Exhibits & The Required Bid Submittals** 55](#_Toc202949126)

[**Standard Exhibits to Competitive Solicitation** 58](#_Toc202949127)

[Exhibit A – Bidder’s Certification 59](#_Toc202949128)

[Exhibit B – Scored Non-Cost Factors 62](#_Toc202949129)

[Optional Additional Exhibit B-# – Scope of Services/Specifications 64](#_Toc202949130)

[Exhibit C – Bid Price 66](#_Toc202949131)

[Exhibit [] – Statutory Preference for PCB-Free Products 68](#_Toc202949132)

[Exhibit [] – Additional State Procurement Priorities 70](#_Toc202949133)

[Exhibit D – Contract 71](#_Toc202949134)

[*Optional* Exhibit E – Contract Issues List 73](#_Toc202949135)

[*Optional* Exhibit [] – Bidder’s Diverse Business Inclusion Plan - Subcontractors 74](#_Toc202949136)

[*Optional* Exhibit [] – Workforce Diversity Strategy 75](#_Toc202949137)

[*Optional* Exhibit [] – Supply Chain Diversity Inclusion Plan 76](#_Toc202949138)

# **Introduction**

This Backgrounder covers the following templates for goods and/or services procurements for Agency Contracts:

* Competitive Solicitation Template for Contracts
* Exhibit A – Bidder’s Certification Template
* Exhibit B – Scored Non-Cost Factors
* Exhibit E – Bidder’s Contract Issues List
* Exhibit [] – Diverse Business Inclusion Plan - Subcontractors
* Exhibit [] – PCB Certification Template (standalone version)

The current version of each template is posted to the WA Procurement Manual and Contracts & Procurement for Agency Contracts. The tools discussed herein should be used for agency procurement solutions (i.e., ‘internal contracts’).

## Competitive Procurement Terminology

Historically, Enterprise Services’ predecessor, the Washington State Department of General Administration, through its Office of State Procurement, used a variety of terms to identify competitive solicitations for government procurements. The wide variety and often conflicting terminology created unnecessarily complicated procurement processes, uncertainty, and confusion. It also made it difficult for qualified, innovative vendors to compete for the state’s business, especially non-incumbent, small businesses. The legacy terms included:

* Invitation for Bid (IFB)
* Request for Proposal (RFP)
* Request for Quotation (RFQ)
* Request for Quotes & Qualifications (RFQQ)
* Etc.

RCW 39.26 does NOT use the former Office of State Procurement’s complex terminology. Rather, Procurement Reform was designed to streamline state procurement. Accordingly, RCW 39.26 focuses simply on competitive solicitations and does NOT make artificial distinctions between IFBs, RFPs, RFQs, RFQQs, etc. Prior to Procurement Reform, the Office of Financial Management and the State Legislature had expressed interest in implementing strategies to simplify and streamline state procurement rules, administrative codes, and laws. *See, e.g.*, OFM, 2008 Office of Financial Management Roadmap Implementation Plan.

This Agency Competitive Solicitation template and related tools are designed to align with RCW 39.26 and to avoid unnecessary procurement hurdles and access barriers. The Competitive Solicitation template and tools also are designed to align with Legislative direction regarding bid award considerations. *See, e.g.*, RCW 39.26.160.

## The Competitive Procurement Process

Enterprise Services uses a process that comprises the following tasks, within the confines of the State’s Procurement Code for Goods/Services and procurement integrity and is described on the [Washington State Procurement Manual](https://des.wa.gov/purchase/washington-state-procurement-manual), to conduct a competitive solicitation:

**Before Starting**

The Competitive Solicitation template is a tool designed to help Agencies deliver government contracting services more cost-effectively and efficiently and in alignment with evolving state procurement priorities. This tool is designed to help procurement teams optimize relationships with businesses/contractors and accomplish increasing expectations for public procurement, including improving the customer experience.

The Competitive Solicitation template is NOT written in stone. Although the template represents the current summation of informed strategic choices (and will be continuously updated as we develop better or alternative approaches to create value for our customers and optimize vendor relationships), the template is a starting point for competitive solicitations.

### Strategic Plan.

**BEFORE** doing ANY work on a Competitive Solicitation or the related Contract, initiate, develop, and complete a strategic plan for the proposed procurement. This strategic plan should enable you, your team, and your agency to:

* + Confirm that the proposed procurement is a priority for your Contracts & Procurement Division. For example:
  + Develop strategies to meet and exceed customer expectations and increase utilization of the Contract by eligible purchasers. For example, consider whether the Competitive Solicitation (and resulting Contract) should: be unbundled by category or region, have small business inclusion, and implement state procurement priorities.
  + Develop strategies to optimize the contractor relationship – e.g., pricing, term, volume discounts, rebates, logistical enhancements such as inventory control or a purchaser dashboard, performance level commitments, etc.
  + Align the proposed procurement with state requirements (e.g., legislative and executive procurement requirements, policies, and initiatives) such as -
    - Procurement preferences (e.g., blind-made products, Polychlorinated Biphenyls-free (PCB-free) products, Environmentally Preferred Purchasing, etc.)
    - Workers/Employees Rights (e.g., wage theft, pay equality, mandatory individual arbitration)
    - Small, diverse, and certified veteran-owned business inclusion
  + Ensure that the proposed procurement aligns with procurement integrity goals and obligations. For example, the proposed procurement and the procurement process (e.g., specification development, bid evaluation) –
    - Does not undermine competition
    - Is free of biased vendor selection
    - Is free of corrupt development, contract negotiation, or contract management

**Using the Template**

To Do:

* Track Changes.
  + To expedite review by team members, make proposed changes to the Contract template using Microsoft(MS) Word’s track changes (redline/strikethrough) functionality.
  + Track changes enables transparency and allows team members to review the proposed Contract significantly more efficiently. It also enables quick adjustments and easily finalization.
* Formatting.
  + Do not reformat the template.
  + Reformatting the template does not create value. Rather, it may delay review and result in Contracts that do not look like they originate from a ‘world-class’ procurement organization.
  + Enterprise Services offers a variety of courses pertaining to MS products, including MS Word. In addition, many team members are highly capable with using standard MS Office products. Accordingly, if you lack experience using MS Word or have questions regarding MS Word, please ask.

**Solicitation – Competitive Solicitation**

This Backgrounder discusses the Competitive Solicitation Template for Agency Contracts. The discussion starts at the top of the Competitive Solicitation Template and proceeds through the template from beginning to end. Accordingly, the following sections are addressed:

* Introduction – Competitive Solicitation Process, Purpose, Scope of Included Goods/Services; Contract Form & Term; Contract Awards: and Summary Table of Included Exhibits & Required Bid Submittals
* Section 1 – Opportunity
* Section 2 – Deadlines, Questions, Procurement Coordinator, & Modification
* Section 3 – Contract Award
* Section 4 – Submitting a Bid
* Section 5 – Bid Evaluation
* Exhibit A – Bidder’s Certification Template
* Exhibit B – Scored Non-Cost Factors
* Exhibit C – Bid Price
* Exhibit D –Contract
* Exhibit E – Bidder’s Contract Issues List
* Exhibit [] – PCB Certification Template (standalone version)
* Exhibit [] – Diverse Business Inclusion Plan – Subcontractors
* Exhibit [] – Workforce Diversity Strategy
* Exhibit [] – Supply Chain Diversity Inclusion Plan

This Backgrounder is designed to explain each section of the Competitive Solicitation and, as appropriate, provide options or alternatives that could be used depending on the particular situation. In addition, this Backgrounder includes relevant notes for each section.

## Competitive Solicitation – Introduction

|  |  |
| --- | --- |
| Title/Caption | |
|  | * Replace the first yellow blank in the document caption (title) with the applicable ‘Competitive Solicitation Number.’ *Note*: This number also is inserted into the document footer (which appears on each page of the Competitive Solicitation) as well as each exhibit to the Competitive Solicitation. * Replace the second yellow blank in the document caption (title) with the applicable goods/service category. For example:   + Elevator Inspections, Maintenance, & Repair   + Waterborne Traffic Marking Paint   + Catch Basin Cleaners   + Motor Vehicles * Indicate if the solicitation will be awarded by Category or Geographic Area. Adjust or delete the third yellow highlighted line accordingly. |

|  |  |
| --- | --- |
| Document Footer | |
|  | * Replace the first yellow blank with the applicable ‘Competitive Solicitation Number. *Note*: This is the same number as inserted in the Title/Caption. * Replace the second yellow blank with the applicable ‘goods/service category’ for this Competitive Solicitation. |

|  |  |
| --- | --- |
| Introduction | |
|  | * Nothing. This is template language on the competitive solicitation process and purpose that is applicable to all solicitations. |

## **Section 1 - Opportunity**

|  |  |
| --- | --- |
| Section 1.1 Scope of Included Goods/Services | |
|  | * Replace the first yellow blank with the applicable goods/service category. *Note*: this insert needs to be descriptive enough to enable potential bidders to determine whether their business has a viable opportunity to compete for this business. This is case-by-case, but it is okay to be a couple of lines long. * Replace the second yellow blank with a parenthetical to reference a shortened version of the applicable goods/service category and use this ‘term of art’ or definition throughout the Competitive Solicitation (and the related Contract) (e.g., “Plumbing Supplies”). *Note*: This shortened version should be the same as used in the Title/Caption above and the document footer. * Replace the third yellow blank with a brief description that helps potential bidders understand the procurement opportunity and determine whether it is worth their time and money to compete for the Contract. * Replace the fourth yellow blank with where in the solicitation documents the product/service/business requirements are located. This is intended to be a quick reference so that businesses can find the procurement specific requirements to determine whether they meet minimum standards. This was a direct request from business community. * Replace the last yellow blank with the estimate on the time it will take to complete. The is an estimate of the total time that is reasonable for a business to review and complete the bid response on the solicitation. Think in terms of vague estimates in 5 hour ranges. This was a direct request from business community. * Do NOT repeat the full text of what is included in ***Exhibit B – Performance Requirements***. Rather, provide a concise explanation of the procurement opportunity. Below are examples:   ***Example 1***   1. **Scope of Included Goods/Services**. Enterprise Services is utilizing this Competitive Solicitation to solicit value-added bids from innovative, qualified Bidders to provide Employee Service award pins (“Pins or “Goods/Services”) that, at a minimum, meet or exceed any mandatory minimum specifications for the Goods/Services and/or the mandatory minimum performance requirements for Bidders who are awarded a Contract as set forth in ***Exhibit D - Contract***.   The Department of Enterprise Services Print and Mail (P&M) Division is seeking a Contractor to produce and deliver employee service award pins. The pins are created using a die cast provided by P&M using the seal of the State of Washington. Pins are in a variety of metals including copper, bronze, silver, and gold. A small number of pins include synthetic ruby, sapphire, and diamond stones. The pins must come in individual hinged gift boxes. The Contractor must provide quality pins, maintain the die cast required to produce the pins, and deliver the pins within a twenty-five (25) business day time frame. Additional product/service requirements are on page 15 of ***Exhibit D – Contract*** in the section titled "Included Goods/Services." Enterprise Services expects a response to take a bidder around 5-10 hours to complete.  ***Example 2***  **Scope of Included Goods/Services**. Enterprise Services is utilizing this Competitive Solicitation to solicit value-added bids from innovative, qualified Bidders to provide on-site uniformed security guard services provided by trained, and qualified professionals (“Security Guard Services” or “Goods/Services”) that, at a minimum, meet or exceed any mandatory minimum specifications for the Goods/Services and/or the mandatory minimum performance requirements for Bidders who are awarded a Contract as set forth in ***Exhibit D***.  Purchasers who own or manage governmental properties have operational needs for Security Guard Services to establish, support, and maintain safety and security of properties, service areas, and employees, customers, and the public. Contractors and the provided guards must have licenses as described in RCW 18.170.060 and meet all requirements of RCW 18.170. In addition, guards must meet or exceed the training requirements of WAC 308-18-300 and WAC 308-18-305. Additional service requirements are on page 18 of ***Exhibit D – Contract*** in the section titled "Included Goods/Services." Enterprise Services expects a response to take a Bidder around 5-10 hours to complete.  ***Example 3***  **Scope of Included Goods/Services**. Enterprise Services is utilizing this Competitive Solicitation to solicit value-added bids from innovative, qualified Bidders to provide elevator full service maintenance, preventative, testing, document and logging service visits, conduct repair services, and other service components (“Elevator Services” or “Goods/Services”) that, at a minimum, meet or exceed any mandatory minimum specifications for the Goods/Services and/or the mandatory minimum performance requirements for Bidders who are awarded a Contract as set forth in ***Exhibit D*.**  Elevator Services include:   * Full Service Maintenance (Monthly, Quarterly, and Annually) * Logging Service Visits and maintain Purchaser’s Maintenance Control Plan (MCP) Documentation * Equipment Testing and Audit Services * Repair Services including repairs required by L&I * Elevator Standby Services * Elevator Emergency Services * Inventory, Replacement Parts, Repair Parts, and Obsolete Parts, * Provide timely and exceptional Customer service including accurate and detailed invoicing, and communication   Note: Elevator Services, as solicited in this Competitive Solicitation and as awarded in any resulting Contract, does NOT include:   * Public Work Projects which, under Washington law, are procured under RCW 39.04 ; or * Elevator Modernization upgrades; or * Elevator Overhauls; or * Elevator Improvement to existing systems; or * New Elevator System Installations   Additional product/service requirements are on page 19 of ***Exhibit D – Contract*** in the section titled "Included Goods/Services." Enterprise Services expects a response to take a bidder around 10-15 hours to complete.  ***Example 4***  **Scope of Included Goods/Services**. Enterprise Services is utilizing this Competitive Solicitation to solicit value-added bids from innovative, qualified Bidders to provide Snow and Ice Removal Services (”Snow and Ice Removal Services” or “Goods/Services”) that, at a minimum, meet or exceed any mandatory minimum specifications for the Goods/Services and/or the mandatory minimum performance requirements for Bidders who are awarded a Contract as set forth in ***Exhibit D - Contract***.  Snow and Ice Removal Services include clearing snow and ice from all drive lanes, fire lanes, parking areas, sidewalks adjacent to buildings and public sidewalks. The services are needed as soon as snow or ice accumulation reaches two (2”) inches. The services are expected to be performed on business days between November 1st and May 31st which is considered the snow season.  Enterprise Services is utilizing this Competitive Solicitation to solicit qualified Bidders to provide reliable snow and ice removal services at designated state-operated facilities to ensure safe access for employees and the public. Timely and effective service is essential to maintain operational continuity during winter weather conditions. Additional product/service requirements are on page 19 of ***Exhibit D – Contract*** in the section titled "Included Goods/Services." Enterprise Services expects a response to take a bidder around 5-10 hours to complete.  ***Example 5***  **Scope of Included Goods/Services**. Enterprise Services is utilizing this Competitive Solicitation to solicit value-added bids from innovative, qualified Bidders to provide Radio Frequency Identification integration services (“RFID” or “Goods/Services”) that, at a minimum, meet or exceed any mandatory minimum specifications for the Goods/Services and/or the mandatory minimum performance requirements for Bidders who are awarded a Contract as set forth in ***Exhibit D***.  RFID integration are services that involve the ongoing, independent assessment of project management processes and activities. RFID Integrators will provide consultation to evaluate purchasers needs, proposing a full solution which may include tags, equipment/hardware, and software. After installing the solution Integrators will test and validate all systems and services to ensure functionality is as expected. The State of Washington is looking for businesses that have the qualifications for and experience with technical troubleshooting, root cause analysis, and operate in accordance with WaTech requirements and abide by the minimum qualifications outlined on the WaTech Website. These services are not intended to cover installation of RFID equipment that would be considered Public Works under RCW 39.04. Additional product/service requirements are on page 2 of ***Exhibit F – Scope of Services*** in the section titled "Performance Requirements" and page 5 of ***Exhibit F – Scope of Services*** in the section titled "RFID Tag Requirements" Enterprise Services expects a response to take a bidder around 20-25 hours to complete. |
|  | * How to estimate a bid response time frame.   The estimate should be a reasonable determination based on the complexity of the solicitation (how long it takes to read and understand) and how much effort is required to submit a bid response (the amount and type of responses). Lowest number for estimate should be 5 hours for a simple solicitation based on the defaults. There could be solicitations that have as high an estimate as 30 hours for a very complex one. Anything longer than 30 hours should be a red flag that the solicitation is too complex. Below is a list of guidance to determine that number based on the documents included.   * Reading the entire solicitation - reading all template documents would reasonably take 1 hour.   As general guidance on the additional language for scope of work/included goods/requirements or additional exhibits add an additional hour for every 10 pages beyond the templates. The 1 hour estimate for each additional 10 pages includes the time to understand the documents as reading 10 pages would take 10-20 minutes to read through the documents. It would then take 50-40 minutes for the bidder to understand what they are being asked to do.There are some exceptions to this if the added scope/exhibits are documents that are already known by the industry/bidders. For example, a bus solicitation might include the 200 page APTA specifications. By the rule above this would add 20 hours to the estimate, however the bidders are very familiar with that document and will not have to read it line by line to submit a bid. Therefore adding 20 hours would not be reasonable and would inflate the reasonable estimate.  Another exception would be if the specifications are links to other longer documents. The estimated hours should be based on what the bidder would actually have to read including the length of any linked document/requirement/specification/law. Include the length of linked documents if the expectations is that bidders will be reading these for the first time. This is especially important for any Washington specific information which bidder's would be unfamiliar with.   * Exhibit A - 1 hour should be the default time. The document has simply yes/no style prompts that are quick to complete for those familiar with it. This might take 2-3 hours for a first time bidder that is taking their time reading through the document. * Exhibit B - Non-Cost - Use critical thinking to determine response based on the amount of effort to respond to the questions.   If using easily answered questions, like filling out resumes where the bidder already knows the answer and just has to complete the form with the known answers then 1 hour per question would be reasonable. This would also include attaching example documents, providing customer services response times, or other similar operational questions that should be easily answered.  If the response requires drafting a narrative response that is specific to this solicitation then estimate 1 hour for each 250 words/half a page of response. This would be for questions like describing past performance, details of approaches to issues, or sample work products.   * Exhibit C - Cost sheet - 1 hour should be the default on the simplest cost sheet. The more complex, the longer it will take a bidder to complete. * Exhibit D - Contract - included in the reading the template estimate above   + Additional exhibits - follow the reading the entire solicitation estimate above |

### Section 1.2 Contract Award

|  |  |
| --- | --- |
| Categories and Geographic Area | |
|  | * Contract Category. If not awarding by category, delete. Insert the category names and a short description of each category, as needed.   **Examples:**  Security Guards   * + - * Category 1 – Level 1 (Unarmed) Security Guard [Security Guards who are never equipped with weapons of any kind (including non-lethal)].       * Category 2 – Level 2 (Armed, Non-Lethal) Security Guard [Specialized Security Guards who are always equipped with, and professionally trained to use non-lethal (less than lethal) weapons].       * Category 3 – Level 3 (Armed, Firearm) Security Guard [Specialized Security Guards who are always equipped with, and professionally trained and licensed to use, a firearm].       * Category 4 – Add-On Services [Note: These are add-on services for awarded bidders in Categories 1, 2, and/or 3. Bidders must be awarded at least one of the other specified Contract Categories to be eligible to provide Category 4 Add-On Services to eligible Purchasers in the bidder’s awarded specified Geographic Area.] Add-On Services include the following: * Vehicles: Non-emergency motor vehicles (golf carts, ATVs, and automobiles) used to support security services, such as when conducting patrols. * Supervisors: Experienced guards who are on site to supervise the assigned security guard/s, and may be unarmed, armed with non-lethal/less than lethal weapons, or a firearm as specified by Purchaser.   Trailers:   * Category 1 – Light Duty (less than 10,000 lbs.)   Subcategories:   1. Standard – Bidders do not need to provide and comply with the Exhibit A-3 Bidder’s Federal Requirements Certification. 2. FTA Compliant - Bidders must provide at least ONE Buy America/FTA certified product and comply with the Exhibit A-3 Bidder’s Federal Requirements Certification. If awarded, these bidders would ONLY be able to sell Buy America/FTA certified products.  * Category 2 – Medium Duty (10,001-26,000 lbs.) Subcategories:  1. Standard 2. FTA Compliant  * Category 3 – Heavy Duty (more than 26,001 lbs.) Subcategories:  1. Standard 2. FTA Compliant   RFID:   * Category 1 – Asset Inventory Management Solution – Services, products, equipment/hardware, and software to implement RFID solutions, commonly known as Electronic Identification (EID), to include passive, active, interactive components, or combinations to deliver a complete RFID solution. * Category 2 – Library Collection Inventory Management Solution – Services, products, equipment/hardware, and software to implement solutions for a library collection to include passive tags that enable circulation, security, collection management, interactive components, or combinations to deliver a complete RFID solution. * Geographic Area. If not using award by geographic area, delete. If using regional or county-based awards. The information in the template is for a 6 region award. Other options include:   Geographic Area. This Competitive Solicitation will be awarded by county.  4 Regions  This Competitive Solicitation uses the following Geographic Areas for purposes of Contract awards:  Region 1 – Southwest – Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum counties  Region 2 – Northwest – Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom counties  Region 3 – Central – Benton, Chelan, Douglas, Grant, Kittitas, Klickitat, Okanogan, and Yakima counties  Region 4 – East – Asotin, Adams, Columbia, Ferry, Franklin, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties  This Competitive Solicitation uses the following Geographic Areas for purposes of Contract awards:  Region 1 – Western – Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom counties  Region 2 – Central – Benton, Chelan, Douglas, Grant, Kittitas, Klickitat, Okanogan, and Yakima counties  Region 3 – Eastern – Asotin, Adams, Columbia, Ferry, Franklin, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties  2 Regions  Western - Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom counties  Eastern - Asotin, Adams, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties |
|  | * Contract Award type. If using Main and Reserved Awards do nothing. This is the explanation of those award types. * **Contracts valued at $150,000 or less**:   If the Competitive Solicitation is designed to result in a Contract award valued at $150,000 or less over the term of the contract, revise as appropriate. For example:  Based on prior procurement experience and business judgment, Enterprise Services estimates that the total value of each Contract to be awarded is $150,000 or less. Accordingly, because the total Contract value (over the full term of the Contract) is estimated to be $150,000 or less, Enterprise Services, consistent with state procurement policy, *see* Enterprise Services Policy No. POL-DES-090-06 – Supplier Diversity Policy.  **Example:**  This Contract is designed to increase opportunities for specified innovative and qualified firms to contract with Washington state agencies. Enterprise Services intends to award the contract to the lowest responsive and responsible bid from a small business (as defined in RCW 39.26.010(22)(a) or veteran-owned business, unless none of these businesses are responsible and responsive to this solicitation. Accordingly, businesses that meet either of the qualifications and provide the bidder certification set forth in ***Exhibit A – Bidder’s Certification*** as Washington Small Businesses or Certified Veteran-Owned Businesses are eligible to bid and compete for this Contract.   In the event that Enterprise Services does not receive responsive bids from responsible qualifying firms for the Contracts, Enterprise Services, at its discretion, shall evaluate bids from non-qualifying firms for Contracts and award Contract(s) to the highest scored responsive, responsible bidder(s).  **Options:**  **Regional Contracts valued at $150,000 or less**  Pursuant to this Competitive Solicitation, Enterprise Services intends to award [# of contracts] Contracts for specified [area].  In the event that Enterprise Services does not receive responsive bids from responsible qualifying firms for the Contracts, Enterprise Services, at its discretion, shall evaluate bids from non-qualifying firms for Contracts and award Contract(s) to the highest scored responsive, responsible bidder(s).  **Total score:**  To be awarded, a Washington Small business or Veteran-owned business bidder must be within X% of the highest scoring non-Washington Small business or Veteran-owned business bidder.  For example, if the overall highest scored bid is submitted by a non- Washington Small business or Veteran-owned business bidder scores 900 points and the specified percentage is 10%, then the highest scored bidder would be awarded the Contract UNLESS a Washington Small business or Veteran-owned business bidder scores 810 points or more.  **Minimum for price:** To be awarded bidder must be within a competitive range of the lowest cost bidder.  To be awarded, bidders cost must be within X% of the lowest cost bidder.  **Minimum score for responsiveness:** The policy handbook discusses setting a minimum score for responsiveness to limit award to small or veteran businesses. Using a minimum score for responsiveness is an additional risk for limiting competition. This is a case-by-case decision for when there is a clear reason for the minimum score. It is better to have clarity in minimum requirements rather than setting a potentially arbitrary minimum score for responsiveness. If this approach is used it is recommended to meet with the legal team on the specific use case to review the impact on competition and risks.   * Consider utilizing tables to explain the award structure – Sample  | Environmental Consulting Services | | Total Potential Contract Awards | | | --- | --- | --- | --- | | No. | Contract Category | Main Awards | Reserved  Awards | | 1 | Planning and Permitting | Up to 10 | Up to 5 | | 2 | Hydrology and Hydraulics | Up to 4 | Up to 2 | | 3 | Water Resources | Up to 3 | Up to 2 | | 4 | Biology | Up to 8 | Up to 4 | | 5 | Hazardous Materials and Solid Waste | Up to 5 | Up to 3 | | 6 | Geology | Up to 8 | Up to 4 | | 7 | Air, Noise, Energy, and Climate Change | Up to 4 | Up to 2 | | 8 | Cultural and Historical Resources | Up to 6 | Up to 3 | | 9 | Forestry | Up to 3 | Up to 2 | | 10 | Agriculture | Up to 3 | Up to 2 |   Sample Award Table for Regional Awards   |  |  |  | | --- | --- | --- | | County | Main Awards | Reserved Awards | | Adams | 5 | 2 | | Asotin | 5 | 2 | | Benton | 7 | 4 | | Chelan | 5 | 2 | | Clallam | 5 | 2 | | Clark | 5 | 2 | | Columbia | 7 | 4 | | Cowlitz | 5 | 2 | | Douglas | 5 | 2 | | Ferry | 5 | 2 | | Franklin | 5 | 2 | | Garfield | 5 | 2 | | Grant | 5 | 2 | | Gray's Harbor | 5 | 2 | | Island | 5 | 2 | | Jefferson | 5 | 2 | | King | 10 | 5 | | Kitsap | 7 | 4 | | Kittitas | 5 | 2 | | Klickitat | 5 | 2 | | Lewis | 5 | 2 | | Lincoln | 5 | 2 | | Mason | 5 | 2 | | Okanogan | 5 | 2 | | Pacific | 5 | 2 | | Pend Oreille | 5 | 2 | | Pierce | 10 | 5 | | San Juan | 5 | 2 | | Skagit | 5 | 2 | | Skamania | 5 | 2 | | Snohomish | 7 | 4 | | Spokane | 7 | 4 | | Stevens | 5 | 2 | | Thurston | 10 | 5 | | Wahkiakum | 5 | 2 | | Walla Walla | 5 | 2 | | Whatcom | 7 | 4 | | Whitman | 5 | 2 | | Yakima | 7 | 4 |  * Consider setting a parameter for Washington Small or Certified Veteran-Owned Businesses awards.   + For reserved awards – consider if the award structure is such that you would like to include language that the awarded bidder must be within a certain percentage of the highest scored responsive, responsible bidder. Utilize the following provision in the Contract Award Type. Determine the % difference from the highest scored responsive, responsible bidder.   \*\*For otherwise not awarded, highest scored responsive, responsible bidder who certifies and qualifies as a Washington Small Business and/or Certified Veteran-Owned Business and whose score is within 30% of the highest scored winning bid for a Statewide Award. |
|  | * For reserved award – alternative for no subcontractor. Remove the last sentence of the reserved award paragraph and replace with the following: Contractors resulting from a reserved award cannot utilize subcontractors to perform on the resulting Contract. * If utilizing points for small business or veteran-owned businesses and no reserved award. Delete the reserved award and add the following to the award paragraph.   If subcontractors are utilized on a contract resulting from an award where the contract earned preference points due to business status as a Washington Small Business or Washington Certified Veteran-Owned Business, those subcontractors must also qualify as either a Washington Small Business or Washington Certified Veteran-Owned Business as described in *Exhibit A – Bidder’s Certification*. |
| Use of Multiple Award Contractors | |
|  | * If this is a contract that results in multiple awards it is helpful to provide bidders with an understanding of how those Contractors would be used. If not awarding multiple contracts this is not needed. * Right of first refusal:   [Agency] intends to award multiple contractors due to the large amount of potential orders on this contract that would be unlikely to be fulfilled by a single Contractor. Further details on estimated orders is described in the contract value section below. When making orders on the resultant Contract [Agency] intends to make the first offer to the highest scored bidder with a right of first refusal and then make the offer to the subsequent highest scored bidders until the order is accepted.   * Right of first refusal (split work order):   [Agency] intends to award multiple contractors due to the large amount of potential orders on this contract that would be unlikely to be fulfilled by a single Contractor. Further details on estimated orders is described in the contract value section below. When making orders on the resultant Contract [Agency] intends to make the first offer to the highest scored bidder with a right of first refusal with the ability to accept a portion of the order and then make the offer to the subsequent highest scored bidders until the entire order is accepted.   * Pick and Choose:   [Agency] intends to award multiple contractors due to the large amount of potential orders on this contract that would be unlikely to be fulfilled by a single Contractor. Further details on estimated orders is described in the contract value section below. When making orders on the resultant Contract [Agency] intends to make a selection from all awarded Contractors. |

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| Section 1.3: Estimated Contract Value | |
|  | * The template is designed for procurements in which the Agency has purchase data. If the Competitive Solicitation is for a new good/service that has not previously been a Contract, the template language will need to be revised. *Se*e options. * Estimated spend data communicates the information fully and accurately to enable potential bidders to understand the potential market and opportunity so that they can bid with greater confidence. *Note*: The incumbent vendor, as a result of doing business with the State has this data. Accordingly, it is critical – to level the playing field and to provide open, fair, transparent competitive procurements – that Agency conduct procurements that enable innovative vendors – beyond the incumbent vendor – to participate. This is especially true for small businesses that, unlike very large firms, may lack the capacity to ‘finance’ a single bad bid over a large portfolio of contracts. * Adjust the data to match the procurement strategy. For example, if the procurement strategy is to award by region, the sales data – by product – should be detailed by the same regions. Bidders interested in competing for contracts in Eastern Washington, for example, are not interested in Western Washington sales data or aggregated state-wide sales data. Such non-aligned information does not communicate and does not provide bidders other than the incumbent vendor a fair, open, and transparent opportunity to compete. * For solicitations with known prior spend:   + Replace the first yellow blank with the applicable historical contract usage/spend data.   + Depending on what makes the most sense for the solicitation, either (1) Replace goods/services with the applicable procurement-specific category; or (2) keep as goods/services and remove the yellow shading.   + Charts: Replace the yellow text with value-added graphics to depict relevant historic data (e.g., total spend, trend-line spend by year, type of purchasers, etc.). Note: When inserting such graphics, use the same document font as the Competitive Solicitation. |

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|  | * When Agency has prior purchase data (e.g., contract rebid), include value-added Charts (examples provided). * To the extent practicable, provide the data in alignment with the intended procurement. For example,   + If Contracts will be awarded by geographic area, provide relevant data by the intended geographic regions.   + If Contracts will be awarded by category, provide relevant data by the intended categories.   Doing so enables bidders to evaluate the potential opportunity and more aggressively structure their bid to compete for the state’s business.   * Economic Opportunity. Include a narrative description and graphic charts to inform bidders of the sales potential as well as the purchaser distribution mix. This effort will improve the procurement and provide innovative suppliers with critical data to inform their bids. The following are examples of simple graphic charts: * For new goods/services that have NOT been the subject of a Contract:   + **Estimated Sales**. Agency has not previously established a Contract for the goods/services being solicited in this Competitive Solicitation. Accordingly, the total potential contract sales are not known. |

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|  | * Section 1.1 is a procurement integrity provision. Procurements in which only the incumbent vendor has access to the procurement data are NOT fair, open, transparent, and competitive procurements. All bidders need equal access to relevant procurement data (e.g., purchase volume, by purchaser/region, by good/service, etc.). Accordingly, as a procurement integrity matter, the procuring agency is obligated to make such data available as part of the Competitive Solicitation. For contract ‘rebids,’ the procuring agency, at a minimum, always can require the incumbent bidder to provide contract information. * Rational, economically-motivated bidders will be more interested in state procurements where the purchase amount is significant and/or the total contract spend is growing. In addition, bidders are interested in the number of purchases and delivery locations. These factors fundamentally impact their operating costs. * Bidders – especially new bidders and small businesses – need detailed and specific information to help inform their decision whether to participate in procurements. * Relevant data also may be available at data.wa.gov. * Do not just ‘cut and paste’ the data into the Competitive Solicitation template. Rather, make sure to adjust and format the data so that it is legible, in a common order (e.g., alphabetically), and is in the same font as the rest of the Competitive Solicitation document. |

## **Section 2 – Deadlines, Bidder Questions, Procurement Coordinator, & Modification**

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| Section 2.1: Purpose of the Competitive Solicitation | |
|  | * Nothing. |

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| Section 2.2: Contract Form and Term | |
|  | * Determine the potential length of the Contract. This is the total contract length including all extensions. Adjust the first yellow highlighted section if needed. * Determine the length of time for the initial length of time bidders are to specify contract pricing. Adjust the second yellow highlighted section if needed. Delete sentence if you are not allowing a price adjustment. |

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| Section 2.3: Competitive Solicitation Deadlines | |
|  | * **Pre-Bid Conferences are expected for complex solicitations and recommended for all competitive solicitations**. There, however, may be limited circumstances in which a pre-bid conference may not add value. Determine whether a Pre-Bid Conference is needed for the procurement at issue.   + If yes, use the table in the template.   + If no, use the alternative/options set forth below. *Note*: In this situation, you also will have to adjust the template language in Section 2.4. *See* below. * Pre-Bid Conference Format: Physical, Virtual, or Both. The template is designed for the Pre-Bid Conference to include virtual opportunities to participate (including any teleconference option). If, however, there will be a physical opportunity to participate, either modify the template or delete the existing table and replace it with the option below. * Insert the applicable dates in the ‘Competitive Solicitation Deadlines’ table for the procurement at issue.   + Question and Answer Periods:     - Deadline for Submitting Questions should be at a minimum 6-8 business days before the bid due date.     - Anticipated Deadline for Answers should be at a minimum 5 business days before the bid due date to allow for the complaint period. * Review and revise as necessary the yellow highlighted text depending on whether the Competitive Solicitation will result in one Contract or multiple Contracts. |

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|  | * If a Pre-Bid Conference will NOT be held:   + Delete the applicable row in the table (the row labeled ‘Pre-Bid Conference’); * If a Pre-Bid Conference will be held in person:   + Replace the pre-bid section so it appears like the following (adding in the relevant dates):  | **Competitive Solicitation Deadlines** | | | | --- | --- | --- | | **Item** | | **Date** | | Competitive Solicitation Posting Date: | | \_\_\_\_\_\_, 20\_\_ | | Pre-bid Conference | | \_\_\_\_\_\_\_\_\_\_, 20\_\_  at \_\_\_\_\_\_\_\_\_\_ (Pacific Time)  Location  Attend via Insert Platform  Weblink: Insert applicable weblink  Password: Insert any applicable password | | Question & Answer Period: | Deadline for Submitting Questions | \_\_\_\_\_\_, 20\_\_  11:59 pm (Pacific Time) | | Anticipated Deadline for Answers | \_\_\_\_\_\_, 20\_\_  11:59 pm (Pacific Time) | | Deadline for submitting Bids: | | \_\_\_\_\_\_, 20\_\_ | | Anticipated Announcement of Apparent Successful Bidder(s): | | \_\_\_\_\_\_, 20\_\_ | | Anticipated Award of Contract(s): | | \_\_\_\_\_\_, 20\_\_ | |

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|  | * Confirm timing and logistical requirements (e.g., meeting rooms, virtual solution (e.g., teams, zoom), etc.). * Pre-Bid Conferences often are a crucial opportunity for non-incumbent vendors to better understand the procurement opportunity and more easily raise questions or concerns with Agencies. This is especially so for small businesses that lack the resources of large firms and necessarily have limited opportunity to dedicate resources to competing for a state procurement. **The 2019 Disparity Study identified the lack of Pre-Bid Conferences as a barrier for small firms to compete for state contracts.** | |
| Section 2.4: Pre-Bid Conference | | |
|  | | * If a Pre-Bid Conference will be used, determine whether attendance is mandatory or optional. As explained in the notes below, absent unusual circumstances, Pre-Bid Conferences should NOT be mandatory or otherwise create unnecessary barriers to competing for the State’s procurement opportunities. |
|  | | * If a Pre-Bid Conference will NOT be used, delete the existing provision and replace with the following:   + **Pre-Bid Conference**. Agency will not host a pre-bid conference for this Competitive Solicitation. Questions and comments should be emailed to the Procurement Coordinator during the question and answer period established in Section 2.3 of this Competitive Solicitation. If changes to the Competitive Solicitation are required as a result of the question and answer period, the Procurement Coordinator will post an amendment to this Competitive Solicitation to WEBS. * If Pre-Bid Conference attendance is Mandatory, delete the existing text and replace it with the following:   + **Pre-Bid Conference**. Agency will host a Competitive Solicitation pre-bid conference at the time and location indicated in Section 2.3 of this Competitive Solicitation. Attendance is mandatory. The purpose of the pre-bid conference is to clarify the Competitive Solicitation as needed and raise any issues or concerns that bidders may have. If changes to the Competitive Solicitation are required as a result of the pre-bid conference, the Procurement Coordinator will post an amendment to this Competitive Solicitation to WEBS. Assistance for disabled, blind, or hearing-impaired persons who wish to attend the pre-bid conference is available. |
|  | * The template is structured to provide a Pre-Bid Conference in which bidder attendance is optional. If that is not the situation for the Competitive Solicitation, modify the document as set forth above. * Mandatory Attendance: This is a business decision. Requiring mandatory attendance for a Pre-Bid Conference, however, obviously creates a procurement hurdle for potential bidders and may result in fewer bidders and less competition and disproportionally impacts small businesses. Accordingly, requiring mandatory attendance is NOT the universal, default requirement. If mandatory attendance is a requirement for the Competitive Solicitation, Agency should work to minimize the procurement hurdle (e.g., provide virtual Pre-Bid Conference such that potential bidders do not have to spend resources to travel to Olympia, Washington). Although there is no single rule, generally speaking, mandatory Pre-Bid Conferences are more appropriate for procurements that:   + Are new/novel, complex, or high risk;   + Involve specialized equipment or highly particularized personnel;   + Involve a service rather than a good; or   + Require a site visit or equipment demonstration. Note, however, that if a site visit or equipment demonstration is required – either as part of a pre-bid or an evaluation, the strategic plan for the procurement must plan who pays for such costs (and also not operate to unnecessarily reduce competition). * Using a PowerPoint deck to facilitate the pre-bid conference is highly recommended. Not only does this approach help bidders contextualize the procurement opportunity (and provide an effective tool for participants to consult), the tool enables team members to focus the procurement strategy and design a procurement that improves the customer experience and creates an opportunity to optimize the vendor relationship. The Division has a model template for the Pre-Bid PowerPoint which easily can be customized for each particular Pre-Bid Conference. * Assistance. If you receive a request for assistance (e.g., bidder who is disabled, blind, or hearing-impaired), follow the State Procurement Manual processes to identify and secure appropriate resources such that the bidder(s) may participate. | |

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| Section 2.5: Competitive Solicitation Questions | |
|  | * Replace the first yellow blank with name of the Procurement Coordinator. * Replace the second yellow blank with the email address that bidders may use to contact Agency regarding this specific Competitive Solicitation. Note: Enterprise Services’ preferred practice is to ***use a team email*** or a procurement-specific email rather than a specific individual’s email address. Following the preferred practice avoids communication problems in the event a team member is out of the office or otherwise unavailable. * If a Pre-Bid Conference will NOT be provided for the procurement at issue, revise this section using the option set out below. |

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|  | * Section 2.5 is a procurement integrity provision. Pursuant to Washington’ Procurement Code for Goods/Services (RCW 39.26), competitive procurements must be open, fair, transparent, and competitive. Accordingly, it is important to have disciplined communication regarding the Competitive Solicitation and to ensure that bidders have access to the same information. * The ‘Question & Answer’ is prepared and posted to WEBS. This is NOT an amendment to the Competitive Solicitation. Answers must be reviewed at the Supervisor level or higher prior to posting. * If, however, a question or concern results in a decision to change the posted Competitive Solicitation, then Agency would post an amendment to the Competitive Solicitation identifying the change. |

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| Section 2.6: Bidder Communication During Competitive SolicitationSection 2.7: Complaints, Debriefs, & ProtestsSection 2.8: Competitive Solicitation – Amendment & Modification | |
|  | * Leave as is. |

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|  | * Section 2.6 details communication from potential bidders and the State. Often this is cited in Q&A or any requests from potential bidders to discuss the solicitation with State employees. * Section 2.7 details the information and requirements pertaining to complaints, debriefs, and protests. |

## **Section 3 – Submitting a Bid**

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| Section 3.1: Bid Format | |
|  | * If electronic signatures are not acceptable, revise as appropriate. |

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|  | * The template is designed to enable bidders, where required, to sign using either a physical or an electronic signature. |

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| Section 3.2: Pricing | |
|  | * Determine whether credit card (P-Card) fees are appropriate.   + For example, the template language is not appropriate in certain types of contracts in which payment by P-Card does not make practical or economic sense (e.g., the Fuels contract).   + Also, keep in mind that small businesses typically pay higher credit card merchant fees than their larger firm competitors. Banks, typically charge vendors 1% to 3% for purchases made via credit card. Typically, large, well-capitalized firms are charged the lowest rate and small firms are charged higher rates. Between such firms, the difference can be over 100% - i.e., a credit card fee of 1.1% versus a fee of 2.4%. * Determine whether the Competitive Solicitation will seek, through a bid preference, a prompt payment discount. |

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|  | * Depending on the specific procurement, if state agencies are not likely to pay by P-Card, consider deleting the P-Card clause. Otherwise, bidders – especially small businesses – may be required to inflate their prices to account for credit card processing fees that won’t exist. |

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|  | * Pricing is a critical component of competitive procurements. Agency’ customers often have highly valuable experience and perspective regarding pricing alternatives. Accordingly, as part of the procurement strategy, it is essential to facilitate this analysis and discussion. * Pricing is tied directly to product (the goods and/or services being procured) and performance (the product and/or service performance level expectations). * In regard to P-Card payment, keep in mind that vendors are subject to different credit card processing fees. In general, larger firms with more market leverage have lower merchant bank fees. Accordingly, requiring firms to accept credit card payment when such specific payment is not necessary can disproportionately impact small businesses who have higher operating costs for sales involving payment by credit cards. |

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| Section 3.3: Submitting Bids | |
|  | * Replace the yellow \_\_\_\_\_\_\_\_\_\_ with the procurement-specific email address that will receive the bids. *Note*: This should be the same email address for all required submittals. * If accepting electronic AND physical bids, delete the existing provision and use the alternative provision below. * The template is designed for electronic bid submission (which usually is easier for bidders). If not accepting electronic bids, revise. |

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|  | * If bids may be submitted in hard copy or electronic form, delete the existing provision and insert the following (*Note*: insert the appropriate team email address):   + **Submitting Bids**. Your bid – either hard copy or electronic – must be delivered to the following:  |  |  |  | | --- | --- | --- | | **Deliver Bids to:** | | | | Hard copy: | *Mail your bid to the following*:  \_\_\_\_\_\_ | *Deliver your bid to the following*:  \_\_\_\_\_\_ | | Electronic: | *Email your bid to the following*:  \_\_\_\_\_\_\_ | |   Note for hard copy bids only: Utilizing the United States Postal Services creates an additional 1 to 2 days of mail processing. Agency does not accept responsibility for late bids.  Note for electronic bids only: Agency’ email boxes only can accept emails that total less than 30MB in size. Bidders are cautioned to keep email sizes to less than 25MB to ease delivery. Zipped files cannot be accepted. |

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|  | * If the Competitive Solicitation will be electronic, remember to adjust the email address for any required exhibits that must be returned to Agency. * If you expect bidders to provide large files in response to the Competitive Solicitation, consider working with your supervisor to determine whether to allow bidders to send multiple email messages and attachments rather than sending in a single submission to a specified ‘Box’ account. |

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| Section 3.4: Additional Bid Submittals | |
|  | * Nothing * The template language is designed to provide bidders information on sending additional information with their bid. |

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| Section 3.5: Public Records | |
|  | * Nothing. * The template language is designed to provide that the public records act applies. |

## **Section 4 – Bid Evaluation**

Bidders typically are keenly interested in understanding precisely how their bid will be reviewed and evaluated by the Agency. Accordingly, it is critical to be clear and precise so as not to inadvertently create bidder uncertainty or confusion. In addition, each Agency must follow the bid review and evaluation process set forth in the Competitive Solicitation. If not, the bid award is subject to protest.

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| Section 5.1: Overview | |
|  | * Confirm/revise the state procurement priorities set forth in the table. * Decide whether the procurement strategy will include pre-ASB designated contract negotiations. If so, modify the existing summary table or use the alternative summary table provided below. |

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|  | * Narrative Approach: Replace final bullet and summary chart in Section 4.1 with the following:   + Agency will use the following process and evaluation criteria to determine eligibility for an award of a Contract:   ***Step 1: Bid Responsiveness.***  ***Step 2: Bid Evaluation.***  ***Step 3: State Procurement Priorities.***  ***Step 4: Responsible Bidder.***  ***Step 5: Contract Negotiations.***   * Alternative Summary Table Approach: Replace summary table with alternative summary table such as the sample provided below.  | Step | Item | Points | | --- | --- | --- | | *Bid Responsiveness Review* | | | | 1A | Bid Responsiveness Review | Pass/Fail | | 1B | Performance Requirements Review ***Exhibit D - Contract*** | Pass/Fail | | *Bid Evaluation* | | | | 2A | Non-Cost Factors ***Exhibit B – Scored Non-Cost Factors*** | [insert] | | 2B | Cost Factors: Bid Pricing Evaluation ***Exhibit C – Bid Price*** | [insert] | |  | Subtotal: | [insert] | | *State Procurement Priorities* | | | | 3 | Executive Order 18-03 | [insert] | | RCW ## | [insert] | | \_\_\_\_\_\_ | [insert] | | Total: | | [insert] | | Responsible Bidder | | | | 4 | Bidder Responsibility Analysis | Pass/Fail | | Negotiations | | | | 5 | Contract Negotiations | N/A |   Summary Table Approach – Multiple Resulting Contracts: Replace summary table with alternative summary table such as:   | Step | Item | Goods  Points | Services  Points | | --- | --- | --- | --- | | *Bid Responsiveness Review* | | | | | 1 | Bid Responsiveness Review  See Section 4.2, below | | | | A | Required Bid Submittals  Review Bidder’s Required Bid Submittals to determine whether Bidder’s bid is responsive to the Competitive Solicitation | Pass/Fail | Pass/Fail | | B | Performance Specifications Review ***Exhibit D – Contract***  Review whether Bidder’s Goods/Services and/or Bidder’s performance capability meets the mandatory minimum performance specifications for the Competitive Solicitation | Pass/Fail | Pass/Fail | | 2 | **Bid Evaluation** *See* Section 4.3, below | | | | A | Non-Cost Factors ***Exhibit B – Scored Non-Cost Factors***  Evaluate and score Bidder’s response to stated non-cost factors including, as applicable, Bidder’s Goods/Services and/or Bidder’s performance capability that exceeds mandatory minimum performance specifications for the Competitive Solicitation | [insert] | [insert] | | B | Cost Factors: Bid Pricing Evaluation ***Exhibit C – Bid Price***  Evaluate and score Bidder’s cost factors | [insert] | [insert] | | Subtotal: | | [insert] | [insert] | | 3 | **Washington State Procurement Priorities for Goods/Services Contracts** *See* Section 4.4, below | | | | Executive Order 18-03 | [insert] | [insert] | | \_\_\_\_\_\_ | [insert] | [insert] | | Total: | | [insert] | [insert] | | 4 | **Responsible Bidder Determination** *See* Section 4.5, below | | | | Bidder Responsibility Analysis  Review and determine Bidder responsibility | Pass/Fail | Pass/Fail | | 5 | **Announce Apparent Successful Bidders (ASBs)** *See* Section 4.6, below | | | | 6 | **Bid Information Is Available for Public Disclosure & Posted to Enterprise Services Website** *See* Section 4.7, below | | | | 7 | **Contract Awards** *See* Section 4.8, below | | | |

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|  | * Both as a procurement integrity matter and as an agency authority matter, bid evaluation and award is regulated. *See, e.g.,* RCW 39.26.160; *see also*, RCW 42.52 (e.g., no special privilege; no using state resources for private gain). * Historically, procurements most commonly fail because the procuring agency did not adhere to applicable law and/or the evaluation process set forth in the procurement. | |
| Section 4.2: Bid Responsiveness (Step 1A and 1B) | | |
|  | | * Leave as is, unless you are asking bidder to submit samples. |

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|  | * Product Samples. This language is used in the rare circumstances where product samples are required. Product samples are used when there is highly specialized equipment and specifications for the states needs. This means that the state has special/custom built equipment that would not work with off the shelf products and the test is required to ensure the products work with state equipment. If the state is using commercially available equipment which has no customization, there is no need to use product samples. The use of product samples adds extra time and complexity for evaluation and extra cost to bidder’s submission which are deterrents to competition. If using product samples insert the following as part of Step 1B for the responsiveness check.   Bidder’s Samples will be evaluated based upon compliance with stated requirements and technical specifications. To be responsive, Bidder’s Samples must conform with all requirements and technical specifications for the relevant Category as specified in Exhibit A of ***Exhibit D - Contract***. Bidder’s Samples that do not meet all requirements and technical specifications will be deemed nonresponsive and Bidder will be disqualified from further consideration.  Description of Product Samples: add the high-level description of the requested product samples. This should be the product names/titles that are consistent with the product specifications that are detailed in Exhibit A the Contract. Do not include the specifications themselves here.  Bidder’s Samples must be mailed or delivered by the deadline for submitting bids. Samples mailed by USPS, UPS or FedEx must be sent with shipment tracking and delivery confirmation. Delivery confirmation must not require signature.   |  |  | | --- | --- | | **Mail or Deliver Bidder’s Samples To:** | | | ***Mail*** *your bidder’s samples to the following*:  Address | ***Deliver*** *your bidder’s samples to the following*:  Address |  * If using an optional Exhibit B for complex customizable goods/services. Delete the last paragraph and replace with:   Review Minimum Required Performance Requirements (Step 1B). [Agency] will review each bid to determine whether Bidder’s Goods/Services and/or Bidder’s performance capability meets the minimum required specifications and/or performance requirements or describes an acceptable alternative/approach to the specifications/performance requirements stated in ***Exhibit B-# – Specifications/Scope of Work***. *Note*: [Agency] reserves the right to request additional Bidder information or perform tests and measurements before selecting Apparent Successful Bidders. If Bidder fails to provide such requested information to Enterprise Services within five (5) business days, Bidder may be disqualified. |

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|  | * Generally, a responsive bid meets the material terms for bids set forth in the Competitive Solicitation. Accordingly, a deviation from the solicitation terms must be carefully evaluated to determine whether it is a **material** irregularity/deviation requiring bid rejection or is an immaterial irregularity that can be waived by the Agency. * The general rule for ‘bid responsiveness’ is that public agencies are required to reject non-responsive bids; *Provided*, however, that immaterial irregularities can be waived. In other words, minor defects can be overlooked. Similarly, the Agency properly may waive informalities in a bid or permit a bidder to cure minor irregularities. * The legal test for whether an irregularity is material is whether the irregularity gives a bidder a substantial advantage or benefit not enjoyed by other bidders. The test focuses on the public policy behind competitive procurement statutes – i.e., free and equal competition among bidders. Accordingly, a bid variation or irregularity will be held to be material (and require bid rejection) if it gives a bidder a substantial advantage or benefit not enjoyed by other bidders. Material defects/irregularities often include the following:   + The bid does not meet minimum bid requirements (e.g., quantity, size, etc.) or performance requirements expressly set forth in the Competitive Solicitation for the goods and/or services (e.g., quality, certification, response time, essential delivery terms, etc.).   + The bid is submitted without pricing or with conditional pricing.   + The bid is untimely (e.g., meaningfully/inexcusably misses deadline). Lateness is fatal to a bid and rejection mandatory if there is a bid opening time, except in rare circumstances. For bids without bid openings, rejection of late bids is based on any mitigating circumstance and whether the lateness is prejudicial other bidders (bids that are a few hours late for a long solicitation posting [more than 30 days] and evaluation are not prejudicial, especially since no bid information is known and there is no material impact on the evaluation timeline). When determining rejection for lateness it is a best practice to include a supervisor to authorize acceptance of late bids.   + Unless allowed in the Competitive Solicitation (e.g., contract issues list), the bid takes exception to terms and conditions in the Competitive Solicitation. * Evaluation of whether a bid irregularity or deviation is material requires case by case analysis of each situation based on the specific requirements of the applicable solicitation and may require analysis in light of applicable case law. * If preferences or other exhibits are required, the bid will not be responsive if the bidder fails to submit the required exhibits. *Note*: If a bidder submits a bid but inadvertently fails to provide a required exhibit that does not impact the bid (e.g., Bidder Profile), Agency should proactively reach out to any such bidders and alert them that they did not include a required exhibit. Competitive procurements are not designed to reduce competition by unnecessarily excluding potential bidders who inadvertently omits an exhibit, a signature, etc. |

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| Section 4.3: Bid Evaluation – Scored Factors (Step 2) | | |
|  | | * Confirm that the evaluation criteria promote competition and appropriately weights performance requirements as part of the Competitive Solicitation evaluation. * See instructions and comments in this Backgrounder for *Exhibit B – Scored Non-Cost Factors*. * If the intended procurement does not require agency tests or measurements for the goods/services, modify this provision to delete that. Bidders – understandably – can be worried about unknown tests and associated costs. |
| Non-Cost Factors (Step 2A) | | |
|  | | * The Competitive Solicitation must include a clear evaluation methodology, which Agencies must follow. *See* RCW 39.26.160(4). Accordingly, develop and confirm that the Competitive Solicitation “clearly set[s] forth the requirements and criteria that [Enterprise Services] will apply in evaluating bid submissions.” *See* RCW 39.26.160(4). The Template is the ***starting point*** – but, consistent with the strategic plan for the procurement, the procurement’s evaluation methodology must be articulated and, as a legal matter, comply with the Procurement Code for Goods/Services. * Develop and include a procurement-specific *Exhibit B – Scored Non-Cost Factors* that includes scoring information. The templates include language on evaluation that includes the necessary information |
|  | * Sample – for Competitive Solicitation involving multiple categories and Contracts.   + - **Non-Cost Factors (Step 2A)**. [Agency] will evaluate and score the specified non-cost factors stated in *Exhibit B-1 – Scored Non-Cost Factors* (Category # - Parts) and *Exhibit B-2 – Scored Non Cost Factors* (Category # - Services) by evaluating and scoring Bidder’s response – i.e., Bidder’s Goods/Services and/or Bidder’s performance capability that exceeds the stated minimum required performance specifications. Note: [Agency] reserves the right to request additional Bidder information or perform tests and measurements before selecting Apparent Successful Bidder(s). If Bidder fails to provide such requested information to [Agency] within five (5) business days, Bidder may be disqualified. | |

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|  | * Designing Specifications/Scope of Services that meet the procurement need and also comport to procurement integrity principles is a critical aspect of developing a fair, open, transparent, and competitive procurement. This area presents significant risk for undermining competitive procurements. Accordingly, procurement requirements must be designed to effectuate a competitive procurement – e.g., not favor a particular vendor or a vendor’s goods/services. For example, a losing bidder will object – properly – if the Contract specifications for the awarded bidder appear to match the specifications set forth on the awarded bidder’s website or the bidder’s standard terms and conditions. These requirements should be think of as minimum acceptable criteria for a business to provide goods/services * The Specifications/Scope of Services performance requirements for the particular goods/services will be set forth in *Exhibit B-1 – Specifications/Scope of Services Performance*. This section of the Competitive Solicitation (Bid Responsiveness Review) simply is designed to inform bidders how Agency will evaluate each bidder’s particular goods/services against the performance requirements set forth in *Exhibit B-1 – Specifications/Scope of Services*. For example, Agency could evaluate and score as:   + Pass/Fail – i.e., the bidder’s goods/services either meet the minimum product performance requirements or do not.   + Earned Points – e.g., enable bidders to offer goods/services that exceed minimum performance requirements and thereby earn more points (for example, the bidder will implement and provide product tracking, a value-added web portal or purchaser dashboard, more extensive warranty, etc.). * For services, think about minimum performance requirements (e.g., qualifications, certifications, years of experience, etc.). * Licenses: If a service provider must be licensed, make certain that the procurement includes the appropriate licensing requirement. |

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| Cost Factors - Bid Pricing (Step 2B) | |
|  | * The Competitive Solicitation must include a clear evaluation methodology, which the Agency must follow. *See* RCW 39.26.160(4). Accordingly, develop and confirm that the Competitive Solicitation “clearly set[s] forth the requirements and criteria that [Agency] will apply in evaluating bid submissions.” *See* RCW 39.26.160(4). The Template is the ***starting point*** – but, consistent with the strategic plan for the procurement, the procurement’s evaluation methodology must be articulated and, as a legal matter, comply with the Procurement Code for Goods/Services. *See* sample below. * If Agency is using best value criteria, the Competitive Solicitation **must** specify the criteria. *See* RCW 39.26.160(3). Adjust as appropriate, consistent with the Strategic Plan for the procurement. The default template language is based on a simple lowest total cost evaluation, for other options see below. * If using a different evaluation method insert the applicable evaluation scoring (price and best value) criteria as developed in the strategic plan for this procurement. As a legal matter, the evaluation scoring criteria must, of course, comply with the Procurement Code for Goods/Services. Accordingly, ensure that the evaluation scoring criteria, for example, promotes competition and procurement integrity and, as appropriate, addresses state procurement priorities.   + The Competitive Solicitation must communicate – precisely – how bidders are scored and win the competitive procurement.   + Bidders, by reading the Competitive Solicitation, should have a clear understanding of precisely how Agency will evaluate and score their bid.   + Use a summary table/example to provide evaluation clarity. * Develop and include a procurement-specific *Exhibit C – Bid Price*. * Include the applicable points for scoring. Provide details as to how bidders are to submit their pricing. Are they bidding all or nothing? By category? Can they give different prices in different regions? Perhaps a mix of all of the above. Also, outline the specifics regarding HOW Agency will be evaluating the submitted prices. |

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|  | * Be clear about the price evaluation methodology. The following is a *sample*: * Cost by line Item:   Agency will evaluate bid prices – to identify the lowest – by comparing the submitted bid prices provided in *Exhibit C – Bid Price* as described below. It is imperative that Bidders read all of the instructions included in *Exhibit C – Bid Price* and follow them precisely. The Bidder with the lowest evaluation price per line item will receive 100 points for the line item. Those bids with a higher evaluation price will receive proportionately fewer evaluation points based upon the bid with the lowest evaluation price for the line item, using the following formula:  Lowest bid evaluation price for the line item divided by a higher total bid evaluation price (i.e., the bid that is being evaluated) multiplied by the total number of available points equals the cost factor evaluation points. Points will be rounded to three places to the right of the decimal point using standard rounding method.  Sample Calculation for cost factor bid pricing evaluation points  Using Bidder A = $100,000 (lowest total evaluation price) and Bidder B = $110,000  Bid B calculation: $100,000 (Bidder A, lowest total evaluation price) / $110,000 (Bidder B’s evaluation price) = 0.909 x 100 (maximum points available) = 90.900.  Bidder A is the lowest bid evaluation price on the line item, so it would be assigned the maximum available points, 100 points. Bidder B would be assigned 90.900 points for the relevant line item based on the formula above.   * If using a percentage discount pricing model, delete existing text and replace with the following:   + **Bid Pricing Evaluation (Step 3A)**. Agency will evaluate the percentages bid to identify the highest percentage off the Manufacturer’s published Suggested Retail Price (MSRP), per manufacturer, by reviewing and comparing the submitted bid percentages provided in *Exhibit C – Bid Price*. Bidders may bid one or more regions and manufacturers. Bidders may include additional manufacturers and corresponding percentage discounts appropriate to the scope of this Competitive Solicitation in *Exhibit C – Bid Price*. The optional items will not be evaluated, and Agency reserves the right not to award these optional items. The bidder with the highest MSRP discount percentage will receive 100 points. Those bids with a lower MSRP discount percentage will receive proportionally fewer evaluation points using the following formula. [choose one of the two options]   + **Option: cost evaluation based on the percentage**. Focuses on the impact of discount on the final cost.   The cost percentage of the highest bid MSRP discount percentage divided by the cost percentage of bidder’s MSRP discount percentage multiplied by the total number of available points equals the cost factor evaluation points. Points will be rounded to three places to the right of the decimal point.  Sample calculation: (100 – Highest MSRP discount percentage)/(100 - bidder MSRP discount percentage)\*points available. Example: Bidder A bids 20% discount, Bidder B bids 10% discount. Bidder B evaluation: (100 – 20)/(100 – 10) = 80/90 = 0.899 X 100 (points) = 89.999 points Bidder A as the highest MSRP discount would receive 100 points and Bidder B would receive 89.9 points based on the formula above.   * + **Option**: formula: % to %. Focuses on the discount only, not the final cost.   The bidder’s bid MSRP discount percentage divided by the highest MSRP discount percentage multiplied by the total number of available points equals the cost factor evaluation points. Points will be rounded to three places to the right of the decimal point.  Sample calculation: (bidder MSRP discount percentage)/(highest MSRP discount percentage)\*points available.  Example: Bidder A bids 20% discount, Bidder B bids 10% discount. Bidder B evaluation: 10/20 = 0.50 X 100 (points) = 50.000 points  Bidder A as the highest MSRP discount would receive 100 points and Bidder B would receive 50 points based on the formula above.   * Best Value Evaluation. Note, start with this provision and specify how the best value factors will be evaluated.   + **Bid Pricing Evaluation (Step 3A)**. Agency will evaluate bids – to identify the lowest evaluation total – by reviewing and comparing the submitted bid prices provided in *Exhibit C – Bid Price*. In determining the lowest responsive and responsible bidder, Agency will consider the following best value criteria:     - Whether the bid satisfies the needs of the state as specified in the solicitation documents;     - Whether the bid encourages diverse contractor participation;     - Whether the bid provides competitive pricing, economies, and efficiencies;     - Whether the bid considers human health and environmental impacts;     - Whether the bid appropriately weighs cost and non-cost considerations; and     - Life-cycle cost. |

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|  | * It is **CRITICAL** to develop a procurement-specific evaluation model that is designed to promote competition, obtain innovative goods/services that meet minimum requirements (and optimize the vendor relationship to improve the customer experience), and that appropriately implements state procurement priorities and preferences. * If the pricing model is a ‘percentage off MSRP’ or a ‘percentage off catalog,’ it is critical to have a defined, baseline price (MSRP, catalog). In addition, this defined price should be published and generally applicable for similar purchase/sale of the goods/services. Otherwise, it is way too easy for bidders to thwart competition and prudent procurement practices. * If the procurement strategy contemplates multiple awards, the strategy must be consistent with Agency’ requirements for multiple awards. * Remember, this is a competitive procurement. Agency may ONLY award a contract for the goods/services that were competitively solicited. * The evaluation criteria, ultimately, should be designed appropriately to ***differentiate the competing bids*** to award the contract as required by Washington’s Procurement Code for Goods/Services. |

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| Section 4.4: Washington State Procurement Priorities & Preferences (Step 3) | |
|  | * Confirm/delete the included placeholders for state procurement priorities. For those that are included, replace the yellow text with the applicable points or percentages. * For each of the Washington State Procurement Priorities and Preferences include the appropriate provisions (see options below) to inform bidders how to qualify for such state procurement priorities and preferences and how Agency will evaluate (i.e., weigh the applicable state procurement priorities).   + Note: Consistent with the procurement strategy, delete any of the procurement priorities set forth in the Template that are not relevant to the procurement. * If the Competitive Solicitation will include other state procurement priorities, coordination with the Chief Procurement Officer, Procurement Strategy team, and legal to develop and include the provision and add the appropriate Bidder Certification provision to *Exhibit A – Bidder’s Certification*. * If you are utilizing reserve awards delete procurement preferences for Washington Small and Certified Veteran-Owned Businesses. * For executive order 18-03 the preference % or points cannot exceed 5% of the evaluation total per the policy. |

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|  | * PCBs. If the Competitive Solicitation will include a standalone Certificate for PCB-Free Products preference, delete the template placeholder and add a provision similar to the following bullet point to the existing bullet list and add the referenced *Exhibit []* (*note*: These provisions will be procurement-specific and, as a result, will need to be customized to the specific procurement):   + Statutory Preference for PCB-Free Products & Products-In-Packaging. Pursuant to RCW 39.26.280, Agency is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products or products-in-packaging that do not contain Polychlorinated Biphenyls (PCBs) or are paints/printing inks verified in the ChemForward iPCB Pigment Resource Tool as not containing chlorine or manufactured using chlorinated solvents[; *Provided*, however, that there will be a maximum preference of five percent (5%) across all items submitted for this preference]. Accordingly, all bidders must certify whether they are seeking the Statutory Preference for PCB-Free Products & Products-In-Packaging for [insert applicable goods] in this Competitive Solicitation. Bidders must make the certification on the certification form attached as *Exhibit [] – Statutory Preference for PCB-Free Products & Products-In-Packaging*. Bidders who seek to obtain the five percent (5%) bid preference for PCB-Free Products & Products-In-Packaging must, in regard to the products and products-in-packaging pertaining to this procurement, certify either that (a) all of their products & products-in packaging; or (b) specific products & products-in-packaging are PCB-free. To be deemed to be ‘PCB-free,’ the applicable product(s) must be tested, within the previous 365 days, by an independent, third-party laboratory using Environmental Protection Agency Analytical Method 1668c, and have been found NOT to contain PCBs above the practical quantification limit. Such test for the applicable products must be attached to the certification. The cost for conducting any such testing is at the bidder’s expense. * Prompt Payment. If the procurement encourages Prompt Payment Discounts, add the following:   + Prompt Payment Discount. Agency will evaluate bids for best value and provide a bid preference in the amount of \_\_\_\_\_\_\_\_ to any bidder who certifies, pursuant to the Bidder Certification attached at *Exhibit A – Bidder’s Certification*, that bidder will offer a Prompt Payment Discount. * Blind-Made Products. If the procurement includes a bid preference for Blind-Made Products, add the following:   + Blind-Made Products. Pursuant to RCW 39.26.285, Agency will provide a bid preference TBD to any bidder who certifies, pursuant to the Bidder Certification attached as *Exhibit A – Bidder’s Certification*, that bidder’s products qualify as Blind-Made Products. * Nonmercury-Added Products   + Statutory Preference for Nonmercury-Added Products. Pursuant to RCW 70A.230.060, Agency is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that have the least amount of mercury added to the product necessary for the required performance for products identified in the Interstate Mercury Education and Reduction Clearinghouse Mercury-Added Products Database or where the product containing mercury is designed to reduce electricity consumption by at least 40%. Bidders who seek to obtain the five percent (5%) bid preference in *Exhibit C-Bid Price* must identify the amount of mercury added to the product or indicate the reduction in electricity consumption for identified products in *Exhibit C – Bid Price*. * Purchase of electronic products meeting environmental performance standards. Use the applicable preference based on EPEAT registration or reduced hazardous material.   + Statutory Preference for Electronic Products meeting Environmental Performance Standards. Pursuant to RCW 39.26.265, Agency is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that have achieved Electronic Product Environmental Assessment Tool (EPEAT) Silver or Gold registration. Bidders who seek to obtain the five percent (5%) bid preference in *Exhibit C-Bid Price* must identify the EPEAT registered products in *Exhibit C – Bid Price*.   + Statutory Preference for Electronic Products Meeting Environmental Performance Standards. Pursuant to RCW 39.26.265, Agency is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that contain the least hazardous materials. Bidders who seek to obtain the five percent (5%) bid preference must identify the amount of identified hazardous material in the products as stated in *Exhibit C – Bid Price*. * Products containing hydrofluorocarbons.   + Statutory Preference for Products Containing Hydrofluorocarbons. Pursuant to RCW 39.26.310, Agency is providing a bid preference in the amount of five percent (5%) per product line item tested to any bidder that provides products that [do not containing HFCs/contain a low amount of global warming potential refrigerants/are not designed to function only in conjunction with HFCs/are not manufactured using HFCs/are manufactured with a low amount of global warming potential refrigerants] . Bidders who seek to obtain the five percent (5%) bid preference in *Exhibit C-Bid Price* must identify the products [not containing HFCs/contain a low amount of global warming potential refrigerants/that are not designed to function only in conjunction with HFCs/are not manufactured using HFCs/are manufactured with a low amount of global warming potential refrigerants] as indicated in *Exhibit C – Bid Price*. * Recycled Content Purchasing.   + Statutory Preference for Recycled Content Purchasing. Pursuant to RCW 39.26.255, Agency is providing a bid preference in the amount of ten percent (10%) per product line item tested to any bidder that provides products that have exceeded one of the recommended content level percentages or the minimum product specification, as designated by the current EPA’s CPG standard. Bidders who seek to obtain the 10 percent (10%) bid preference in *Exhibit C-Bid Price* must identify the recycled content level of the product or indicate the product meets product specifications in *Exhibit C – Bid Price*. * Other. If the Competitive Solicitation will include other priorities or preferences, develop and include the provision and add the appropriate Bidder Certification to *Exhibit A – Bidder’s Certification* or, if necessary, a separate Certification (*note*: These provisions will be procurement-specific and, as a result, will need to be customized to the specific procurement). |

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|  | * Which, if any, state procurement priorities and preferences impact the Competitive Solicitation need to be evaluated as part of the strategic plan and addressed in the Competitive Solicitation and Contract.      * Preference and priority utilization is in tension with purely competitive procurements. Accordingly, which particular procurement preferences and the magnitude of such preferences in any particular procurement, must carefully be evaluated, on a case-by-case basis. This is more important if the required preference has not been established by the Legislature. |

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| Section 4.5: Bidder Responsibility Analysis (Step 4) | |
|  | * Agency **MUST** consider the statutory elements set forth in RCW 39.26.160(2) to determine whether a bidder is a responsible bidder. Agency has no authority not to consider these elements as directed by the Legislature. * Pursuant to Legislative authorization, Agency has no authority to award a contract unless, ***prior to award of the contract***, the bidder has provided a wage theft certification signed under penalty of perjury. *See* RCW 39.26.160(4). |

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|  | * A bidder’s failure to comply with the required Bidder’s Wage Theft Prevention certification means that the bidder is not responsible, and Agency has no statutory authority to award such bidder a Contract. *See* RCW 39.26.160(2)(f) & (4). *Note*: The Wage Theft Prevention certification is set forth in the Bidder’s Certification (see *Exhibit A – Bidder’s Certification*). * Responsible Bidders. Washington’s Procurement Code for Goods and Services requires that, in a competitive procurement, the contract be awarded to the “lowest responsive and responsible bidder.” *See* RCW 39.26.160(1)(a)(iii). This is both a procurement integrity requirement as well as fairness requirement that all bidders be treated equally. * Pursuant to Washington’s Procurement Code for Goods/Services, in determining whether the bidder is a responsible bidder, Agency “must consider the following elements:”   (a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;  (b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;  (c) Whether the bidder can perform the contract within the time specified;  (d) The quality of performance of previous contracts or services;  (e) The previous and existing compliance by the bidder with laws relating to the contract or services;  (f) Whether, within the three-year period immediately preceding the date of the bid solicitation, the bidder has been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW [49.48.082](http://app.leg.wa.gov/RCW/default.aspx?cite=49.48.082), any provision of chapter [49.46](http://app.leg.wa.gov/RCW/default.aspx?cite=49.46), 49.48, or [49.52](http://app.leg.wa.gov/RCW/default.aspx?cite=49.52) RCW; and  (g) Such other information as may be secured having a bearing on the decision to award the contract.  *See* RCW 39.26.160(2). [*Note*: (f) above is the ‘Wage Theft’ requirement.]   * In regard to “such other information as may be secured having a bearing on the decision to award the contract,” Agency properly may consider a variety of factors. For example, Agency could consider whether the bidder:   + Is debarred by any governmental entity.   + Has appropriate financial, material, equipment, facility, and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.   + Has completed previous contracts of a similar nature with a satisfactory record of performance.   + Is legally qualified to contract with the State.   + Complies with all applicable tax laws. * In making its responsibility assessment, Agency must, at least, engage in a minimum level of due diligence, investigation, and evaluation. This may include notifying a bidder of an apparent disqualification and providing the bidder an opportunity to respond. * In short, the responsible bidder analysis and determination is focused on whether the bidder is capable and qualified to perform the contract. * In a competitive procurement, Agencies can set forth minimum requirements regarding responsibility (e.g., number of years of experience). Agencies, however, must exercise caution and judgement so that any such experience or other requirement does not result in procurement integrity issues (e.g., favoring incumbent vendor or a particular vendor) and does not operate to disadvantage small businesses. Keep in mind, however, that past existence does not guarantee that a firm will be in business in the future. Absent other requirements, it simply rewards existence and functions as a barrier to competition. If future viability is a significant concern, the procurement should be designed to manage that concern – e.g., design the procurement for a short contract term or require a performance bond. * Agency **CANNOT** reject the lowest responsive and responsible bidder simply because another bidder is more responsible. Instead, Agency must simply determine whether the lowest responsive bid also is responsible. *See* RCW 39.26.160(2). * Agency may reject any bid of any bidder who has failed to perform satisfactorily on a previous contract with the State of Washington. *See* RCW 39.26.160(5). * Bidder Certification addresses several important bidder responsibility requirements. *See* *Exhibit A – Bidder’s Certification*. |

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| (optional) Section 4.6: Contract Negotiations (Step 5) | |
|  | * Consider whether pre-ASB contract negotiations will be part of the Competitive Solicitation. This should be determined as part of the strategic plan. * A majority of goods/services contracts where terms are not likely to be different for businesses in the industry this section is not necessary, especially if the default language of negotiation through the question and answer process. * For contracts with finalizations of industry/solution specific terms, such as large-scale IT system procurements, negotiations are likely rather than addressing potential changes in question and answer period. * If using negotiations as a step delete the last two sentences of 2.3 Competitive Solicitation Questions that begins with “Note: ….” and adjust the other section numbers |

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|  | * If there are specified contract negotiations it allows Agency the opportunity to improve the proposed Contract. It also, obviously, may incentivize bidders to inflate proposed pricing to allow room to negotiate later. * If using a ‘Contract Issues List,’ consider a bidder’s response (i.e., the scope of their issues). * Best & Final Offers. The Legislature has authorized Agency to request ‘best and final offers’ from responsive and responsible bidders.’ *See* RCW 39.26.160(1)(a)(ii). Agency does NOT need to modify the Competitive Solicitation template to exercise its discretion to request such offers. *Note*, however, that if exercised, the best and final offer cannot impermissibly modify the competitive procurement (e.g., bidder agrees to decrease prices twenty percent in exchange for the State adding goods/services that were not previously bid as part of the competitive procurement). |

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| Section 4.6: Announcement of Apparent Successful Bidder (Step 5) | |
|  | * If the Competitive Solicitation is design for multiple Contracts, revise Section 4.6 to make Apparent Successful Bidder and ASB plural. Otherwise, leave as is. |

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|  | * Once Agency announces the Apparent Successful Bidder(s), all bid submissions and bid evaluations are subject to public disclosure as set forth in the Public Records Act (PRA) (RCW 42.56). *Se*e RCW 39.26.030(2). * Requests for public records, of course, may be subject to limitations set forth in the Public Records Act. Keep in mind that bidders who are not designated as ASB (as well as members of the public) are entitled to those records (as allowed by the PRA) to, among other things, review the procurement and protest the procurement decision. * Individuals and entities are NOT required to make a formal ‘public records disclosure request’ for bid submissions, evaluations, or other public records. A person simply may send an email – typically to the procurement coordinator – requesting such records. That email is sufficient to trigger Agency’ obligations under the Public Records Act. * If Agency has posted the requested record to a publicly accessible website, Agency may direct the requestor to that website. Requestors, however, are entitled to ask for a hardcopy of any record. * Requests for procurement records should be timely addressed and documented. Such requests also should be raised, at a minimum, to the Procurement Supervisor to help provide resources in the event of disclosure exceptions or complexity. |

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| Section 4.7: Bid Information Availability (Step 6) | |
|  | * Leave as is. |

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|  | * This is a procurement integrity provision. Upon announcement of ASB (and prior to contract award), Agency must make all bid submissions and all bid evaluations transparent (available for public disclosure). *See* RCW 39.26.030(2). Without this information, public review is thwarted and a bidder’s ability to engage in meaningful protest would be limited substantially. |

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| Section 4.8: Award of Contract (Step 7) | |
|  | * Consistent with the procurement strategy for the specific procurement and the State’s Procurement Code for Goods/Services determine whether the Competitive Solicitation will be structured to result in a single Contract or multiple Contracts. * If the Competitive Solicitation will be structured to result in multiple Contracts, delete the existing provision and use one of the options (revised as appropriate) set forth below. |

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|  | * N/A |

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|  | * Agency “must enter into the state’s enterprise Vendor registration and bid notification system [WEBS] the name of each bidder and an indication as to the successful bidder.” *See* RCW 39.26.160(7). * Check the relevant boxes in WEBS (e.g., EO 18-03, PCBs). *See* State Procurement Manual regarding how to post to WEBS. |

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| Section 4.9: Additional Awards | |
|  | * Leave as is. |

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|  | * This provision is **NOT** designed to award contracts outside of a competitive procurement. Rather, the provision is designed to address a very limited scenario where a bidder has submitted a bid in a competitive procurement, but the winning bidder goes bankrupt, for example, and the un-awarded bidder has a competitive bid that is still available for acceptance. This is NOT a substitute for conducting a competitive procurement. * Cannot have new pricing; That is a new procurement. |

## **Appendix A - Summary Table Of All Included Exhibits & The Required Bid Submittals**

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| Included Exhibits: | |
|  | * Determine whether the procurement requires bidders to complete/execute additional exhibits and, if so, adjust as appropriate. * For each required Bid Submittal, develop the appropriate procurement-specific exhibit. In the case of *Exhibit A – Bidder’s Certification* start with the templates. * Attach the procurement-specific versions of each of the ‘required bid submittals’ documents to the Competitive Solicitation. * Determine whether additional exhibits are necessary or appropriate. For example:   + Additional Exhibit B (renumber to be Exhibit B-1 and B-2 if this results in multiple Exhibit B documents) - See Optional Additional Exhibit B-# – Scope of Services/Specifications section below for full explanation.   + *Exhibit [] – PCB Certification*   + *Exhibit E - Contract Issues List* – by default it is assumed that this will not be utilized as issues are anticipated to be handled in the Q&A period; however, this may be needed for more complex industries where contract negotiation is common; such as customized software or for industries with specific service level agreements. Note: inclusion of a contract issues list will require addition of negotiation language in section 3 of the solicitation.   + *Exhibit [] -Diverse Business Inclusion Plan-Subcontractors*   + *Exhibit [] - Federal Requirements* * Confirm all referenced Exhibits are complete, accurate, and necessary. * Exhibit B-1: This assumes that, for simplicity, Bidders simply will be required to certify in Exhibit A rather than submit another document. * Exhibit D: Delete “and timely raise any issues with the Contract terms and conditions during the Question and Answer Period” if A Contract Issues List is used. * Adjust the list of included exhibits as necessary and appropriate. * If any exhibits are renamed or renumbered, be certain to review the entire Competitive Solicitation to adjust exhibit references accordingly. *Note*: The exhibit templates are designed such that additional renumbering is not necessary. |

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|  | * Subject to supervisor approval, adjust the list of Required Bidder Information exhibits as appropriate, consistent with the documented strategic plan for the procurement. * Depending on the specific procurement, additional exhibits may need to be added. For example:   + *Exhibit E – Contract Issues List*   + *Exhibit [] – PCB Certification*   + *Exhibit [] – Bidder’s Diverse Business Inclusion Plan – Subcontractor* * *Exhibit [] – Federal Certifications* * ***Exhibit B-1 – Scope of Service/Specifications*** Identifies minimum specifications and/or performance requirements for Bidder’s goods/services and provides Bidders with an opportunity to provide details on how their goods/services meet the minimums or propose equivalent alternatives. Bidder must complete *Exhibit B-1 – Scope of Service/Specifications*, as specified therein, and submit it as part of Bidder’s bid. Required Bid Submittal: Yes Required * ***Exhibit [] – Federal Certifications*** Identifies required federal Bidder certifications. Required Bidder Action: Bidder must complete *Exhibit [] – Federal Certifications*, as specified therein, and submit it as part of Bidder’s bid. Required Bid Submittal: Yes Required * **PCB** ***Exhibit [] – Bidder Certification for Statutory Preference for PCB-Free Products & Products-In-Packaging.*** Provides Bidders an opportunity to identify products and products in packaging that have been tested for PCB. Required Bidder Action Bidder must complete ***Exhibit [] – Bidder Certification for Statutory Preference for PCB-Free Products & Products-In-Packaging***, as specified therein, and submit it as part of Bidder’s bid if seeking the statutory preference. Bid Submittal If applicable. * **Others as necessary. TBD** |

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|  | * The list of ‘required bid submittals’ may vary depending on the procurement at issue. * Specific comments and instructions for each of these exhibits are set forth on the following pages. * This Backgrounder includes comments about each specific Exhibit, in Exhibit order, following the instructions for the Competitive Solicitation template. It is important to review those comments and instructions. |

**Standard Exhibits to Competitive Solicitation**

This Backgrounder discusses the following Exhibits:

* Exhibit A – Bidder’s Certification
* Exhibit B – Scored Non-Cost Factors
* Exhibit C – Bid Price
* Exhibit D – Contract
* Exhibit E – Contract Issues List
* Exhibit [] – Bidder’s Diverse Business Inclusion Plan – Subcontractors
* Exhibit [] – Statutory Preference for PCB-Free Product

## Exhibit A – Bidder’s Certification

The Bidder’s Certification (*Exhibit A – Bidder’s Certification*) is designed to collect necessary contract administration and management information from bidders and function as a clear, accurate, efficient competitive procurement tool both to communicate procurement expectations and to filter or differentiate potential competing bidders. For example, the State of Washington has determined that bidders who are deemed to be a ‘wage thief’ simply are not responsible bidders who are allowed to contract with the State of Washington. Accordingly, the Bidder’s Certification enables Enterprise Services efficiently and cost-effectively to screen potential bidders for the particular procurement opportunity.

*Note*: The Bidder’s Certification (*Exhibit A – Bidder’s Certification*) is ‘stand-alone’ document. The template for the Bidder’s Certification (*Exhibit A – Bidder’s Certification*) is on the DES Procurement Manual. The instructions regarding it are set forth below. Utilizing the ‘stand-alone’ template reduces confusion and avoids the need to ‘cut and paste’ and format the document. Instead, simply use the template and revise as appropriate consistent with this Backgrounder and the procurement strategy for the particular procurement. Except as noted, changes to the template must be reviewed by a supervisor and legal.

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|  | | * Strategic Tasks for Bidder’s information:   + Adjust as appropriate. For example –     - Cost Components: If cost components are relevant to procurement at issue (e.g., the pricing is not based on percentage discount), include as appropriate the ‘Cost Component Breakdown’ section. * Strategic Tasks for Certifications:   + Confirm the completeness and situational relevancy of each of the certifications set forth in *Exhibit A – Bidder’s Certification*.   + Identify and include (at the end) any additional appropriate, procurement-specific, certifications as described in *Exhibit A - Backgrounder*. * Exhibit Tasks: Complete the information per *Exhibit A Backgrounder*. |
|  | **Subcontractors**  Bidders who, if awarded a Contract, intend to utilize subcontractors to perform the Contract must identify such subcontractors.  ***Instructions***: Bidders who, if awarded a Contract, intend to utilize subcontractors to perform the Contract must complete the table set forth below. Bidders who do NOT intend to utilize subcontractors to perform the Contract should check the box below:  Bidder does NOT intend to utilize subcontractors to perform the Contract.   |  |  |  |  | | --- | --- | --- | --- | | **Subcontractors (expand as necessary)** | | | | | Business Name | UBI # | TIN# | Services Covered by Subcontractor | |  |  |  |  | |  |  |  |  | |  |  |  |  |  * Cost Component Breakdown. If a Cost Component Breakdown is a necessary element as detailed in the Strategic Plan for the procurement, include an appropriate provision:   **Cost Component Breakdown** A cost breakdown shows the individual components that comprise the total cost of the good and/or service. The individual components are expressed as a percent of the total cost. All the individual component percentages should equal 100 percent when added together. To better estimate market fluctuations and influences with regard to the product(s) being bid, bidders are to identify the percent breakdown for the factors that comprise their bid price. Some common cost categories are provided for your convenience but are not mandatory to use. Bidder may modify the table below as needed:   |  |  | | --- | --- | | **Cost Breakdown** | | | **Activity** | **Percentage Breakdown** | | Labor |  | | Delivery (fuel, vehicles) |  | | Insurance |  | | Overhead |  | | [Insert Goods/Service Cost Here] |  | | [Insert Goods/Service Cost Here] |  | |  | 100% |  * See the *Exhibit A Backgrounder* for sample certification. | |

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|  | * This is a critical document. If, for example, the Bidder is NOT able to certify compliance with the Wage Theft Prevent certification, the Bidder is not eligible to be awarded a Contract. * Bidders are required to be registered with the Washington Secretary of State and the Washington Department of Revenue to be eligible to be awarded a Contract. See Contract Requirement – Business Registration in Washington (located on the Legal Page). * Bidders are NOT permitted to alter the form of the certification. |

## Exhibit B – Scored Non-Cost Factors

This Exhibit is used to communicate the applicable qualifications/performance for the goods and/or services to potential bidders and allow for scoring of how the bidder exceeds the minimum standards. The Exhibit, necessarily, must be designed for the specific procurement at issue.

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|  | * Strategic Tasks:   + Be certain to include the relevant minimum standards from Exhibit A of the Contract to set the minimum for scoring bidder performance.   + Include, description of what factors would be value added criteria for the goods/services. This would be the guide to indicate what bidders should focus on in their response.   + Include a response section that matches the requirements and allows bidders to clearly reply with any value add they provide in relation to the value-added criteria.   + Consistent with the strategic plan for the procurement, draft specific performance requirements (e.g., experience, customer service levels, special certifications). These performance requirements should, at a minimum, be designed to:     - Improve the customer experience – focus on the criteria that will differentiate bidder’s ability to increase the value to customers/programs;     - Enable value added response – enable bidders to describe what how their goods/services include features, functionality, etc. that creates value; and     - Promote competition – not exclude or favor certain market participants by setting values that are based on what a single business can do. * Exhibit Tasks:   + If the Contract will be awarded geographically (e.g., region, county, etc.), address any specifications that apply to regions/counties.   + If the Contract will be awarded categorically (e.g., by ‘contract category’), address any specifications that apply to individual categories separately.   + Insert applicable content. This MUST be thought out as part of the strategic assessment that is conducted BEFORE the Competitive Solicitation and Contract are developed.     - Note: Any minimums from *Scope of Services/Specification and Exhibit B Scored Non-Cost Factors* must be the same content for both the Competitive Solicitation and the Contract.     - Note: Responses from *Exhibit B – Scored Non-Cost Factors* may be inserted as part of Exhibit A to the Contract, depending on the strategy and contents the format may need to be adjusted to make it clear for bidder commitments in responses. |

## Optional Additional Exhibit B-# – Scope of Services/Specifications

This optional exhibit is used in the rare circumstances where the goods/services are highly complex and customizable and as part of the strategy Bidders must respond to mandatory pass/fail requirements to provide details or propose an equivalent alternative to be assessed on pass/fail basis. Often this is for custom designed software (appropriate for software that is custom designed for the Purchasers purposes rather than for commercial off the shelf) or where manufacturing of the goods is highly customized on an individual bases (appropriate for transit/school buses rather than mass produced cars). This Exhibit, necessarily, must be designed for the specific procurement at issue.

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|  | * Strategic Tasks:   + Be certain to include item specifications, applicable quality standards (e.g., USDA approved, ASTM, etc.) that would normally be in Exhibit A of the Contract. Provide a narrative response for bidders to describe how their products/services meet the specifications/quality standards view alternate methods.   + Include “minimum requirements,” “mandatory requirements,” “tasks and responsibilities,” etc. that give context for a bidder’s response on how their approach meets the pass/fail requirement. * Exhibit Tasks:   + If the Contract will be awarded categorically (e.g., by ‘contract category’), address any specifications that apply to individual categories separately.   + Insert applicable content. This MUST be thought out as part of the strategic assessment that is conducted BEFORE the Competitive Solicitation and Contract are developed.     - Note: The responses in *Exhibit B-# – Scope of Services/Specifications* will be inserted into *Exhibit A* to the Contract if the bidder uses an approved alternative. |

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|  | * **Equal or Alternative Goods and/or Services**. If accepting equal or alternate to what is specified in solicitation:   + Bidders may bid a product or service that is an equal to what is specified in the solicitation. An “equal” for purposes of this solicitation is “an offer of materials, supplies, services and/or equipment that meets or exceeds the quality, performance, and use of the performance requirements identified in a solicitation.” Bidders may suggest equal alternatives by providing a detailed description and relevant supporting documentation for how the bidder’s proposal meets the specifications/expectations. * **Multi-Category Procurement**. If the Competitive Solicitation will have multiple categories with significant amount of scope of work/specifications for each category with limited overlap, increase clarity for bidders (and subsequent ease of use for purchasers) by structuring the Competitive Solicitation to have multiple exhibits. The following is an example:   + *Exhibit B – \*\*\* Parts Specification and Services Scope of Work*: These exhibits outline the required performance requirements for the goods and servicesthat are the subject of this Competitive Solicitation.     - Exhibit B-# – Parts Specifications     - Exhibit B-# – Services Scope of Work   **Alternative Multi-Category Procurement**. As an alternative the example B-#s can be combined into a single document with specifications as one section and the services scope of work as another by copying the relevant portions of one template into the other. The exhibit should be clear to bidders regardless of the form it takes. |

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|  | * Do NOT include a ‘laundry list’ of contract terms for the good/service in this section. The contract terms (e.g., delivery, shipping, invoice, defects, liability, etc.) belong in the Contract; Not in the Competitive Solicitation. Accordingly, modify the Contract template, as appropriate to develop a single contractual document for the purchase/sale of the goods/services. |

## Exhibit C – Bid Price

The Bid Price Exhibit is used to receive and evaluate each of the Bidders’ bids for the specific procurement. Accordingly, the exhibit, necessarily, is procurement-specific and must be developed and designed for the specific procurement.

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|  | * Strategic Tasks:   + Determine the best approach for the procurement. If it entails multiple categories (e.g., goods and also services), consider ‘multi-category’ procurement exhibits. See Options below.   + Determine and document whether the procurement is subject to any state procurement priority or preference that impacts a bidder’s price or evaluation. For example:     - Preference for PCB-Free Products or Products-In-Packaging     - In-State Preference for Bidders     - Executive Order 18-03 (Workers’ Rights/Mandatory Individual Arbitration)     - Blind-Made Products     - Washington Small Businesses     - Certified Veteran-Owned Businesses     - Environmentally Preferable Paper     - Products Containing Recycled Materials     - Electronic Products/Hazardous Material Reduction     - Mercury-Free Products     - Firefighting Chemicals that do not contain PFAS     - Washington Grown Food     - Prompt Payment Discount   This will impact how the Competitive Solicitation is designed and how bids are to be evaluated. Accordingly, it is critical to plan ahead and build this into the Competitive Solicitation in an organized, consistent fashion.   * Exhibit Tasks:   + Develop and attach applicable content – e.g., the applicable worksheet/tool, which will become *Exhibit C – Bid Price*. Note that this will be a required bid submittal (see, e.g., Section 4 of the Competitive Solicitation).     - Note: This is the key bidder document to respond to the Competitive Solicitation. The Contract award will be based on the bid evaluation. The price set forth in the bidder’s response will be inserted into the resulting Contract.     - The Procurement Coordinator is responsible for including instructions on HOW the bidder is to complete the price worksheet. |

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|  | * **Price sheet**: Bidders must record their bid pricing in the appropriate cells on the price sheet. Bidders must submit pricing for [item breakdown]; failure to do so may result in disqualification from award. * Pricing provided on the Price Worksheet is to be rounded to the nearest whole cent. * Multi-Category Procurement. If the Competitive Solicitation will have multiple categories, increase clarity for bidders (and subsequent ease of use for purchasers) by structuring the Competitive Solicitation to have multiple exhibits. The following is an example:   + *Exhibit C – Bid Price***:** These exhibits provide the pricing information that bidders will complete as part of their bid and the price evaluation tool that Agency will use to evaluate bids.     - *Exhibit C-1 – Parts*     - *Exhibit C-2 – Services* |

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|  | * It is critical to begin with a planned procurement strategy. The strategy must consider potential state procurement priorities and work to build those into the Competitive Solicitation. |

## Exhibit [] – Statutory Preference for PCB-Free Products

The PCB Certification (*Exhibit [] – Statutory Preference for PCB-Free Products*) is designed to function as a clear, accurate, efficient competitive procurement tool both to enable innovative suppliers to benefit from a bid preference for providing statutorily preferred products and products-in-packaging and to enable Agency to track, efficiently, procurement results.

*Note*: The PCB Certification (*Exhibit [] – Statutory Preference for PCB-Free Products*) is a ‘stand-alone’ document. The template for the PCB Certification (*Exhibit C-1 – Statutory Preference for PCB-Free Products*) is on the State Procurement Manual. The instructions regarding it are set forth below. Utilizing the ‘stand-alone’ template reduces confusion and avoids the need to ‘cut and paste’ and format the document. Instead, simply use the template and revise as appropriate consistent with this Backgrounder, the procurement strategy for the particular procurement, and Agency’ Policy. *See* Agency Policy No. POL-DES-280-00, *Purchasing Preference for Products and Product Packaging That Do Not Contain Polychlorinated Biphenyls (PCBs)* (dated January 1, 2019). Except as noted, changes to the template must be reviewed by a supervisor and legal.

Note: The Competitive Solicitation has incorporated the PCB Certification into the Bidder Certification (*Exhibit A – Bidder’s Certification*). The *Exhibit [] – Statutory Preference for PCB-Free Products* is a separate certification to document the PCB Certification, if desired.

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|  | * If applicable, include a PCB Certification (*Exhibit [] – Statutory Preference for PCB-Free Products*). * Use the template.   + Exhibit Number: Replace [] with the appropriate Exhibit number for the specific Competitive Solicitation.   + Summary Table: Replace the two yellow blanks with the applicable Competitive Solicitation No. & the name of the Contract – e.g., No. 01620 – Business Consulting Services.   + Introduction paragraphs: Replace the yellow text with the applicable preference percentage. Note: The preference percentage MUST be a minimum of at least five percent (5%).   + Replace the yellow blank at the end of the document with the applicable email address for the procurement coordinator. This could be an email address for:     - Individual Procurement Coordinator;     - Project email (i.e., specific email for the procurement); or     - Team email.   The email used just needs to be consistent throughout the procurement documents. And, regardless of the email address used, the procurement still will specify an individual procurement coordinator. The option to use a ‘multi-person’ email address simply is designed to preclude missed communications. |

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|  | * If the PCB Certification will be used, remember to revise the Competitive Solicitation, including the list of required bid exhibits. * If used, the PCB Certification is a required bid submittal. * Additionally, Sections 3 and 4 of the Competitive Solicitation would need to be revised. |

## Exhibit [] – Additional State Procurement Priorities

Exhibits may be used for additional state procurement priorities. Alternatively (and preferably), such additional procurement priorities may be addressed in the Bidder’s Certification.

The procurement strategy for the particular procurement will determine whether a ‘stand-alone’ exhibit is more appropriate or whether this procurement priority may be addressed in the Bidder’s Certificate. No additional exhibits should be added to the Competitive Solicitation without review and approval from the procurement supervisor, procurement strategy team, and legal.

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|  | * Determine (as part of the Strategic Plan) whether any additional bid/price preferences should be used in the Competitive Solicitation. | |

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|  | * Resist the temptation to over-complicate the Competitive Solicitation with unnecessary exhibits. This is especially true for exhibits that bidders are required to submit to Agency. Although the incumbent vendor and large bidders may have extensive resources to review and prepare multi-exhibit bids, unnecessarily complicated procurements disadvantage small bidders who may lack the resources or experience to prepare unnecessarily complicated bids. In short, unnecessarily complicated Competitive Solicitations may function to preclude meaningful participation in state procurements by small businesses. |

## Exhibit D – Contract

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|  | * Strategic Tasks:   + Determine the best approach for the procurement. If it entails multiple categories (e.g., goods and also services), consider using separate contracts (e.g., to increase competition as some vendors may be able to provide services but not goods). See Options below.   + Determine whether the procurement will utilize a ‘contract issues list.’   + Make certain that the Contract was developed consistent with the Backgrounder for Contract Template and the applicable Strategic Plan for the procurement. * Exhibit Tasks:   + Insert the applicable Competitive Solicitation No. in the space provided.   + Attach the applicable Contract for the procurement. The terms and conditions of the Contract need to be aligned with the procurement plan developed as part of the Strategic Plan.   + *Exhibit A – Included Goods/Services - Scope of Services/Specifications* - This Exhibit of the Contract is used to communicate the applicable minimum specifications and/or service expectations for the applicable goods and/or services to potential bidders. The Exhibits, necessarily, must be designed for the specific procurement at issue. Exhibit A of the Contract is based on the Specification and Scope of Service templates that provide prompts for minimums on goods/services. |

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|  | * Multi-Category Procurement. If the Competitive Solicitation will have multiple categories, increase clarity for bidders (and subsequent ease of use for purchasers) by structuring the Competitive Solicitation to have multiple Contracts. The following is an example:   + *Exhibit D – Contract*: These exhibits represent drafts of the Contracts that the successful bidder(s) will execute with Agency.     - *Exhibit D-1 – Parts*     - *Exhibit D-2 – Services* * Contract Issues List. If the Competitive Solicitation will use a ‘Contract Issue List,’ add the following exhibit.   + ***Exhibit E – Contract Issues List***: This exhibit outlines bidder’s issues, if any, and bidder’s proposed resolution/solution if bidder has any business concerns with the form of the Contract (*Exhibit D*) to be awarded. Note, however, that Agency reserves the right not to modify the Contract and to award the Contract on the basis of a bidder’s willingness to agree to the Contract. * If the Competitive Solicitation will allow Bidders to redline the proposed Contract, specify that option. * It also is possible to require Bidders to submit exceptions to the Contract prior to Bid submittal. |

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|  | * If the Competitive Solicitation will use a ‘Contract Issues List,’ this Exhibit will need to be added to the list of required bid submissions, *see* Section 4.4. *See* Exhibit E in this Backgrounder. * If the Competitive Solicitation will allow Bidders to redline the proposed Contract, you may wish to consider whether to inform Bidders that Agency reserves the right to prioritize bids that do not contain any or do not contain extensive revisions. * Including a Contract Issues List can be problematic and requires considerable planning and caution. Using Contract Issues Lists that then results in a material change to the contract or procurement may invalidate either the bidder and/or the procurement. Accordingly, this is an exceptional practice that requires, at a minimum, coordination and review and approval with the procurement supervisor, strategy team, and legal. |

### *Optional* Exhibit E – Contract Issues List

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|  | * Subject to the note below, if desired, develop and include an *Exhibit E – Contract Issues List*. * If a Contracts Issues List is utilized (which is an exception), be certain to revise the Competitive Solicitation to take into account this ***if applicable*** required bid submission. * Exhibit E   + Exhibit Number: Confirm or revise the exhibit number.   + Summary Table: Replace the two yellow blanks with the applicable Competitive Solicitation No. & the name of the Contract – e.g., No. 01620 – Business Consulting Services   + Replace the yellow blank at the end of the document with the applicable email address for the procurement coordinator. This could be an email address for:     - Individual Procurement Coordinator;     - Project email (i.e., specific email for the procurement); or     - Team email.   The email used just needs to be consistent throughout the procurement documents. And, regardless of the email address used, the procurement still will specify an individual procurement coordinator. The option to use a ‘multi-person’ email address simply is designed to preclude missed communications. |

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|  | * See State Procurement Manual: Template for *Exhibit E – Contract Issues List*. |

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|  | * Including a Contract Issues List can be problematic and requires considerable planning and caution. Using a Contract Issues Lists that then results in a material change to the contract or procurement may invalidate either the bidder and/or the procurement. Accordingly, this is an exceptional practice that requires, at a minimum, coordination and review and approval with the procurement supervisor, strategy team, and legal. |

### *Optional* Exhibit [] – Bidder’s Diverse Business Inclusion Plan - Subcontractors

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|  | * Subject to the note below, if desired, develop and include an *Exhibit [] – Bidder’s Diverse Business Inclusion Plan – Subcontractors*. * Change Exhibit [] to the appropriate exhibit designation. |

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|  | * See State Procurement Manual: Template for *Exhibit [] – Bidder’s Diverse Business Inclusion Plan – Subcontractors*. |

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|  | * If a Diverse Business Inclusion Plan is to be used, be certain that it aligns with the procurement strategy for the Competitive Solicitation and has been reviewed by the PIE Team. |

### *Optional* Exhibit [] – Workforce Diversity Strategy

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|  | * Subject to the note below, if desired, develop and include an *Exhibit [] – Workforce Diversity Strategy*. * Change Exhibit [] to the appropriate exhibit designation. |

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|  | * See State Procurement Manual: Template for *Exhibit [] – Workforce Diversity Strategy*. |

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|  | * The PIE team should be consulted as to whether the particular procurement opportunity is a good fit for this tool. |

### *Optional* Exhibit [] – Supply Chain Diversity Inclusion Plan

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|  | * Subject to the note below, if desired, develop and include an *Exhibit [] – Supply Chain Diversity Inclusion Plan*. * Change Exhibit [] to the appropriate exhibit designation. |

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|  | * See State Procurement Manual: Template for *Exhibit [] – Supply Chain Diversity Inclusion Plan.* |

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|  | * The PIE team should be consulted as to whether the particular procurement opportunity is a good fit for this tool. |

⬩ ⬩ ⬩ End of Backgrounder ⬩ ⬩ ⬩