

Indiana University Office of Procurement Services

STANDARD OPERATING PROCEDURE

SOP NO:	SOP-PURCH-03
SUBJECT:	Competition and Sourcing
SOURCE:	University Procurement Services
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DISCLAIMER:	The information provided in this Standard Operating Procedure (SOP) is designed to provide helpful information on this procedure. Purchasing reserves the right to determine on a case by case basis if a SOP should be adjusted for a particular situation. This SOP is not intended to cover each and every situation nor can it anticipate specific circumstances.
RATIONALE:	While the University Purchasing Department is the sole purchasing authority for the University, cooperation between the requesting department (requestor) and University Purchasing is essential.
PROCEDURES	<p>Many of the steps involved in the process are the direct responsibility of University Purchasing Department or the requestor; therefore, both units have ownership of the outcome. Close cooperation is essential if the best results are to be obtained. After-the-fact purchase orders, except in the event of an emergency, will be avoided by early involvement of University Purchasing Department in the development of specifications or the identification of needs for goods and services.</p> <p>University Procurement Services may terminate purchasing authority for an organization when on-going abusive activities warrant such action. University Procurement Services may also restrict personal reimbursements which may be construed as another form of after-the-fact purchases. This applies to all Indiana University units and employees.</p> <p>By institutional requirement, the procurement process calls for the Purchasing Department to develop and maintain an adequate audit trail for every transaction that creates a liability for the University. (FIN-PURCH-01 Purchasing Authority and FIN-PURCH-03 Competition and Sourcing)</p> <p>An audit trail is defined by the documentation of a transaction from its beginning to its end which is usually the creation of the liability such as a purchase order, contract, or agreement of some nature. This documentation must illustrate how the procurement process was handled, who was involved, what decisions were made and how and why a supplier was selected to provide goods or services.</p> <p>Part of this documentation process may involve formal solicitations. FIN-PURCH-03 Competition and Sourcing)</p> <p>There are three basic solicitation processes employed to gather data, technical specifications, contractual and cost information. These processes are a Request for Information (RFI), a Request for Proposal (RFP) or a Request for Quotation (RFQ).</p> <p>It should be noted that a Request for Information (RFI) cannot lead to a purchase order or contractual agreement. Only the other two processes can accomplish this. By definition, an RFI requires a follow-up process of an RFP or RFQ.</p>

1. An RFI is generally used when you have very undefined needs and/or little information at hand as to what is available in the market that might fit your requirement. You are merely collecting "information" with which you may later define your needs.
2. An RFI may be used to identify and/or pre-qualify Bid Participants. This method of use for an RFI outlines the scope of what we wish to accomplish and asks participants to provide us with their capability to meet these requirements. This process offers the ability to pare down those providers who cannot provide the service or technology we require before we proceed to a more complex RFP or RFQ solicitation.

A. A solicitation process typically follows these basic steps:

1. Development of the solicitation document language and potential supplier list: ([FIN-PURCH-03 Competition and Sourcing](#))
 - a. Purchasing Department individual(s) are a de facto member(s) of any procurement committee which should also include requestor personnel.
 - b. Purchasing personnel develop the legal or contractual elements of the document while the requestor personnel may develop their needs and the technical specifications of the document. It may be a collective effort with Purchasing personnel and the requestor.
 - c. Per institutional policy, development and selection of Bid Participants (sourcing) is mandated to the Purchasing Department. However, this does not mean that the requestor will have no input into the process of selecting participants.
 - d. A calendar of events is developed governing how long the solicitation process should take.
 - e. Evaluation criteria and scoring matrix must be established prior to issuing an RF(X). The solicitation document must include the evaluation criteria in order of the relative importance.
2. If it is determined that walk-throughs, supplier presentations, interviews or other follow-up methods are appropriate, Purchasing will schedule these events with all or some of the selected respondents.
 - a. Some presentations are pre-scheduled within the calendar of events and noted in the solicitation document when it is drafted. Other presentations or interviews may be scheduled after all responses are returned. In either event, the document should reflect this intent.
3. Mandatory supplier meetings may be held during the course of a solicitation process. Where there is important technical data or other relevant information concerning the project, it may be important to impart this to all participants so they all have the same understanding.
 - a. Proposals will not be accepted from participants who do not attend a required meeting or do not submit required information during the solicitation process
4. Purchasing issues the solicitation document to a list of mutually agreed upon participants.
5. Purchasing fields all questions (referring to the department or committee members for clarification when appropriate) ([FIN-PURCH-09 Procurement Ethics](#), [UA-17 Conflicts of Interest and Commitment](#))
 - a. On some occasions where the nature of the transaction is highly technical, Purchasing may request a technical contact be appointed from the requestor.
6. Participants in a solicitation process must send all responses to the Purchasing Department by the due date. Responses may not be accepted by the requestor.
 - a. Sufficient copies of responses are typically requested so that all personnel involved have copies of the responses.
 - b. Individual responses are not provided to the requestor or committee prior to the due date or until all responses are received, whichever occurs first.
7. Purchasing compiles responses into response packages and distributes the packages to the requestor and committee participants for review.
 - a. Sufficient copies of responses are typically requested so that all personnel involved have copies of the responses.
 - b. Individual responses are not provided to the requestor or committee prior to the due date or until all responses are received, whichever occurs first.

8. A review of all responses begins. Purchasing or the requestor may schedule committee meetings to discuss the proposals.

B. Procedures to follow during a solicitation process for Indiana University. ([FIN-PURCH-09 Procurement Ethics, UA-17 Conflicts of Interest and Commitment](#))

1. Pricing, terms, and conditions: All information garnered from Bid Participants during a procurement process is considered at all times Institutional Data. At no time may this information be shared or divulged to any person other than the individuals involved with the selection process of the particular transaction. ([FIN-PURCH-10 Release of Procurement Records](#))
 - a. This rule applies at all times even for the process of acquiring simple pricing or quotations.
2. If a consultant participates in a solicitation process this individual(s) may have access to the data from a solicitation process but is also under the same governance as IU employees. A [non-disclosure agreement](#) should be secured from any consultant during a solicitation process.
3. IU is subject to Indiana's Open Records law, I.C. 5-14-et seq. for disclosure of information. However, this process may only be executed by the Purchasing Department and University Counsel. No other IU employee has the authority to release information from a procurement process at any time to anyone. ([FIN-PURCH-10 Release of Procurement Records](#))
 - a. The Purchasing Department does not release competitive information during the solicitation process - only after a contract has been awarded.
 - b. Provision of Information: During a solicitation process, information provided to any supplier participating in a transaction must be equal and the same as that provided to all Bid Participants participating in the process. It is solely Purchasing's responsibility to send any information to the participants in a solicitation process. All inquiries or requests for clarification must also be directed to the Purchasing Department. RF(X) review committee members must not talk independently to bid participants.
4. Providing different or additional information to one or more bid participants participating in a transaction and not to all of the participants corrupts the process and allows the solicitation process to be challenged or perhaps may require that the process be canceled or re-done. ([FIN-PURCH-09 Procurement Ethics, UA-17 Conflicts of Interest and Commitment](#))
5. In a solicitation process, all participants are prohibited from contacting anyone but the Purchasing Department. ([FIN-PURCH-09 Procurement Ethics, UA-17 Conflicts of Interest and Commitment](#))
6. At all times, the requestor should keep in mind that you may have to walk away from a project in the event that contractual terms cannot be mutually agreed upon with a supplier.
 - a. Consequently, requestors should not have a preconceived idea of the outcome of a competitive solicitation process nor have shared that with any supplier or provider of services.
 - b. It is imperative in any transaction that the University be contractually protected and no agreement undertaken that puts the institution at peril in a legal or ethical sense.
7. During any procurement function, the elements of non-collusion govern all parties in their conduct of procurement processes. Collusion is defined as a secret agreement or cooperation especially for an illegal or deceitful purpose. Most standard RFPs and RFQs include a Non-Collusion form or clause. If a form is used, it requires the agreement and signature of the Bid Participants. ([FIN-PURCH-09 Procurement Ethics, UA-17 Conflicts of Interest and Commitment](#)). The essence of non-collusion requires that each party confirm that:
 - a. No employee of the University or their consultant(s) has received or will receive:
 - i. any payment or any other form of financial return including gratuities;
 - ii. entertainment or gifts offered by a supplier, his agent or representative with a view toward securing favorable treatment with respect to the award; and/or
 - iii. an amendment or determination of a contract or the promise of such.
 - b. The pricing, terms and conditions in a solicitation response have been arrived at independently without collusion, consultation, communications, or agreement for the purpose of restricting competition.
 - c. No attempt has been made or will be made by the supplier to persuade any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

- d. Unless otherwise required by law, the prices stated in a response have not been knowingly disclosed by the supplier and will not knowingly be disclosed by the supplier, directly or indirectly to any other supplier or to any other competition.

C. Selection of supplier(s) and negotiation: ([FIN-PURCH-01 Purchasing Authority](#), [FIN-PURCH-09 Purchasing Ethics](#), [UA-17 Conflicts of Interest and Commitment](#))

1. Upon the selection of one or more Bid Participants to continue with a transaction, Purchasing will notify all those selected.
 - a. In some instances, participants not selected to proceed further will be notified that they have been eliminated. In all cases, this is the responsibility of the Purchasing Department.
2. Subsequent negotiations with one or more Bid Participants in a solicitation process can be a joint process with Purchasing and the requestor or handled only by the Purchasing Department. In no case should negotiations in a solicitation process proceed without a representative of the Purchasing Department participating.
3. Contract language as required by Indiana University policies and/or State regulations will be handled solely by the Purchasing Department or in concert with University Counsel. From time to time, certain processes may require the participation of another University department such as Risk Management, Environmental Health & Safety, Capital Projects, etc.

D. Contract issuance and monitoring: ([FIN-PURCH-01 Purchasing Authority](#))

1. Purchasing will develop and sign the final contract with the supplier. ([FIN-PURCH-01 Purchasing Authority](#))
 - a. Signature authority: By institutional policy, only the Treasurer of the University or category managers in the Purchasing Department have authority to sign contracts and commit funds of the institution.
2. On most occasions, a purchase order will be issued to facilitate payments to the supplier.
3. Purchasing and the requestor must play a role in monitoring the supplier's adherence to the terms and conditions of the contract. Notice must be given to the Purchasing Department at any time performance of the contract does not meet the original terms and conditions.
 - a. This is a critical element of any contract and particularly long-term contracts. Failure to enforce any term or condition can lead to setting precedent whereby the supplier may continually chose to ignore elements of a contract.
 - b. It is imperative that the Purchasing Department be notified immediately when any element of a contract is ignored or performance measures less than contractually guaranteed.

PROCESSES

INPUT/ PROCESSES	RFI	RFP	RFQ
When to Use	- When you don't know exactly what you want or you don't know what is available in the market place	- When you have a general need with some specifications and/or it's a large, complex project with the potential for multiple solutions	- When you know precisely what product(s)/service(s) you need and have precise requirements and specifications
Departmental Input	- User or committee contact - Rough sketch or outline of presumed need or desired information	- User or committee contact - General scope of work,	- User or committee contact - Model numbers, color, finishes, technical data, timelines and delivery

			<p>approximations of need, timelines, performance wishes to meet a specific goals</p> <p>*Subject to Uniform Guidance Rules</p>	<p>necessities, performance requirements, quantities or service required.</p> <p>*Subject to Uniform Guidance Rules</p>
	Purchasing Input	<ul style="list-style-type: none"> - Modified contractual & document language - Protect the Institution w/fair and ethical process 	<ul style="list-style-type: none"> - Contractual & document language - Protect the Institution w/fair and ethical process - Draft RFP language to department - Clarification of responses - Assure all terms & conditions known including freight, delivery, etc. 	<ul style="list-style-type: none"> - Contractual & document language - Protect the Institution w/fair and ethical process - Clarification of responses - Assure all terms & conditions known including freight, delivery, etc.
	Purchasing & Department Input	<ul style="list-style-type: none"> - Suggested supplier list - Language of document - Express limited terms for dealing with IU 	<ul style="list-style-type: none"> - Suggested supplier list - Language of document - Terms & legal conditions for dealing with IU 	<ul style="list-style-type: none"> - Suggested supplier list - Language of document - Terms & legal conditions for dealing with IU
	Supplier Input	<ul style="list-style-type: none"> - Catalogs, specification sheets, product information, service outlines, conceptual data, suggestions, etc. 	<ul style="list-style-type: none"> - Suggested solution(s) to our request - Price, terms, conditions, delivery, performance, contract language 	<ul style="list-style-type: none"> - Price, terms, conditions, delivery, performance, contract language
	Purchasing Processes	<ul style="list-style-type: none"> - Solicitation process, documentation of audit trail, supplier contact or meetings, elimination of some participants 	<ul style="list-style-type: none"> - Solicitation process, documentation of audit trail, supplier contact or meetings 	<ul style="list-style-type: none"> - Solicitation process, documentation of audit trail, supplier contact or meetings
	Public Posting If the cost estimate is >= \$250,000	No	Yes	Yes
	Decision-Making Process	<ul style="list-style-type: none"> - Terminate the process or proceed to RFP or RFQ solicitation 	<ul style="list-style-type: none"> - Further negotiation - Acceptance of most advantageous offer - Contract appropriate for the University 	<ul style="list-style-type: none"> - Further negotiation - Acceptance of most advantageous offer - Contract appropriate for the University

			- Make award - Cancel process	- Make award - Cancel process
	Make Award	No	Yes/No	Yes/No
	Post Contract Award – Purchasing & Department	None	- Monitor performance & adherence to contract. Immediate notice to Purchasing if failure to perform	- Monitor performance & adherence to contract. Immediate notice to Purchasing if failure to perform
DEFINITIONS:	Quotation Process: Soliciting price and terms from two or more suppliers.			
CROSS REFERENCE:	FIN-PURCH-01 Purchasing Authority FIN-PURCH-03 Competition and Sourcing FIN-PURCH-04 Sole Source Orders FIN-PURCH-09 Procurement Ethics FIN-PURCH-10 Release of Procurement Records Non-Disclosure Form UA-17 Conflicts of Interest and Commitment Federal Uniform Guidance Procurement Rules			