Test Your Request For Proposal Knowledge

Harvesting Knowledge

Paul Bachman, Jenny Fung & Chris Gosh

NYS COMPTROLLER
THOMAS P. DiNAPOLI

AGENDA

- Request For Proposals (RFP) Overview
- Ten Interactive RFP Case Studies

Request for Proposals (RFP)

Request For Proposals (RFP) are generally used for the procurement of services or technology in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value).

What is Best Value?

- **State Finance Law §163.j.**

  "Best value" means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers."

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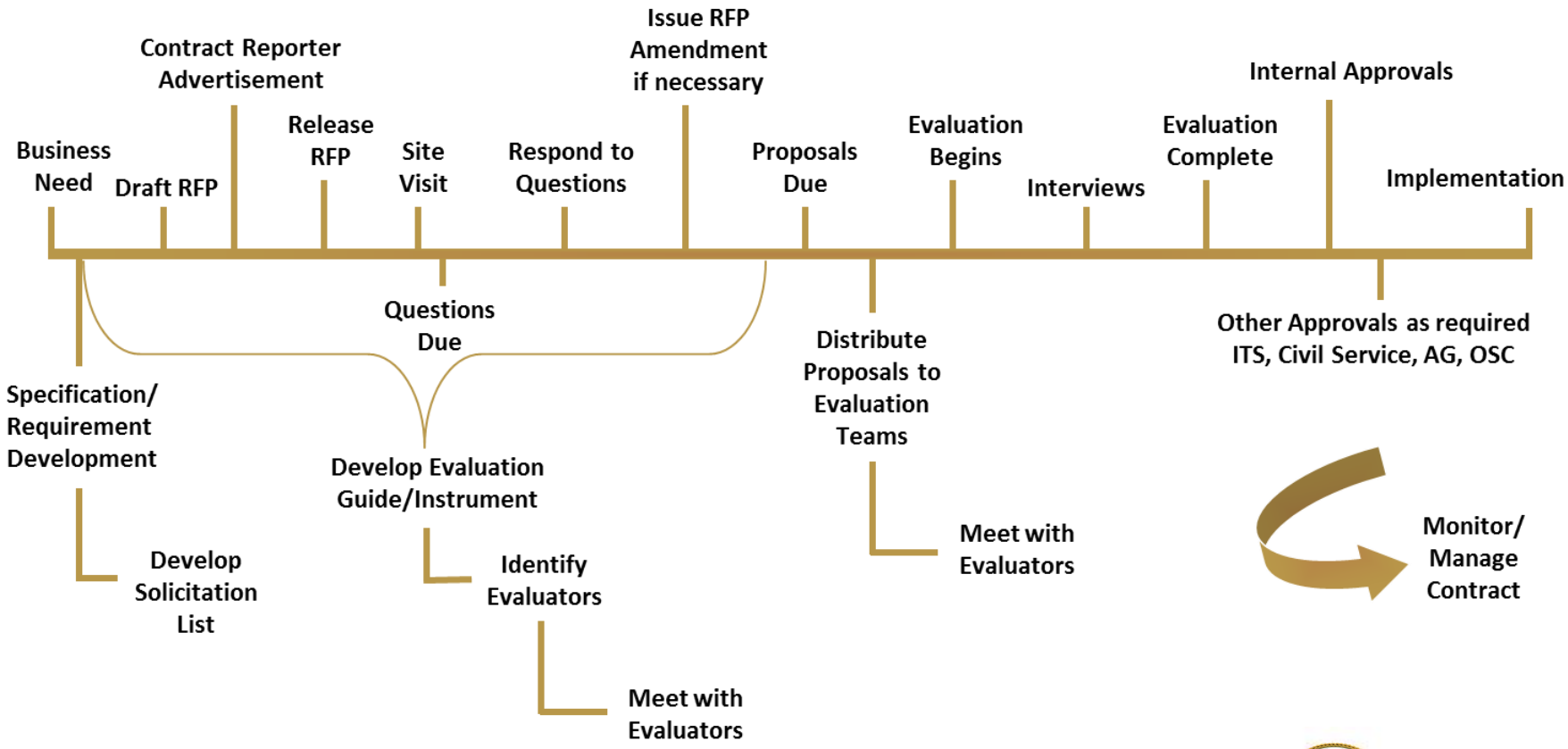
RFP Procurement Process



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RFP
CASE STUDY 1

RFP Case Study 1

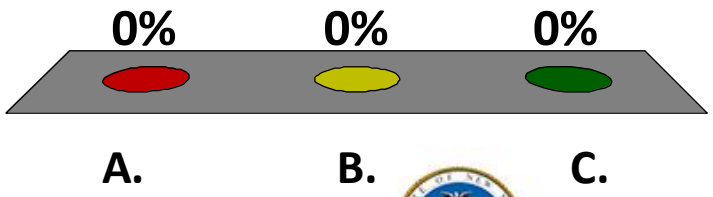
- State Agency needed to procure janitorial services for one of its district offices.
- A review of the Preferred Source listings indicated the service was a Preferred Source offering.
- Agency contacted the Preferred Source provider who declined the opportunity to perform the services due to a lack of resources to perform the scope of services.
- As a result, the agency issued an RFP for janitorial services.
- A total of five proposals were received by the proposal due date. One of the proposals included a proposal from the Preferred Source provider who previously declined the opportunity.

RFP Case Study 1
Q. How should the State Agency proceed?

A. Disqualify the Preferred Source from consideration.

B. Automatically award the services to the Preferred Source.

C. Treat the Preferred Source as any other vendor.



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RFP Case Study 1 – Answer

C. Treat the Preferred Source as any other vendor.

- **NYS Procurement Bulletin Preferred Source Guidelines VIII. B. Step 5(b)**

  "Again, if a preferred source/facilitating agency elects to "bid" on such procurement, the purchasing agency shall make the award on the basis of best value, or in instances involving a political subdivision, to the lowest responsible bidder, treating preferred sources as any other vendor."

  http://www.ogs.ny.gov/procurecounc/pdfdoc/psguide.pdf

RFP Case Study 1 – Statutory Preference

- NYS Procurement Guidelines -
  Choosing a Procurement Vehicle and the Order of Purchasing Priority (II.B.):

  1st Preferred Sources

  2nd OGS Centralized Contracts

  3rd Agency or Multi-Agency Contracts

  4th Procurement Methods Prescribed by State Finance Law

- State Finance Law §163.4. General Provisions for Purchasing Services.

- State Finance Law §162 Preferred Sources.

RFP
CASE STUDY 2

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RFP Case Study 2

- State Agency posted an advertisement for consulting services in the NYS Contract Reporter on 2/10/16.
- Agency posted the RFP on its website on 1/29/16.
- An advertisement was posted in the Albany Times Union on 2/2/16.
- Proposals were due on 3/01/16.
- A tentative award was made by the agency on 4/11/16.
- OSC approved the contract on 5/1/16.

RFP Case Study 2

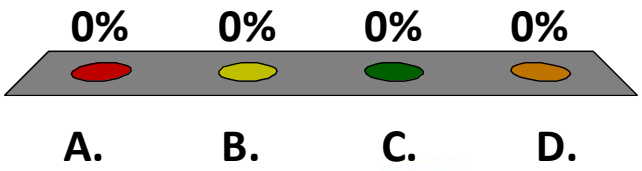
Q. When did the "Restricted Period" begin and end?

A. Began with NYS Contract Reporter advertisement; Ended when proposals are due.

B. Began with RFP posting on agency website; Ended upon OSC approval.

C. Began with NYS Contract Reporter advertisement; Ended upon OSC approval.

D. Began with advertisement in Albany Times Union; Ended when award was made.



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RFP Case Study 2 – Answer

B. Began with RFP posting on agency website; Ended upon OSC approval.

- **State Finance Law §139.j(f)**

  "Restricted period" shall mean the period of time commencing with the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter of general circulation or in the procurement opportunities newsletter in accordance with article four-C of the economic development law……and ending with the final contract award and approval by the governmental entity and, where applicable, the state comptroller."

RFP
CASE STUDY 3

RFP Case Study 3

- State Agency issued an RFP for mediation services.
- The RFP specified the following:
  - The agency would make an award to one or more proposers.
  - 60% Technical and 40% Cost
  - Vendors must include all three types of "per case" mediation cost.

Type 1:	Basic Review	$_____ / case
Type 2:	Settlement Review	$_____ / case
Type 3:	Full Review	$_____ / case

- Questions and Answers identified work will be randomly distributed.
- Three proposals were received by the proposal due date.

RFP Case Study 3

- Evaluation Result

	Technical Score	Cost Score	Composite Score
Vendor A	42	40	82
Vendor B	56	35	91
Vendor C	39	20	59

- Agency made an award to all three vendors.

RFP Case Study 3

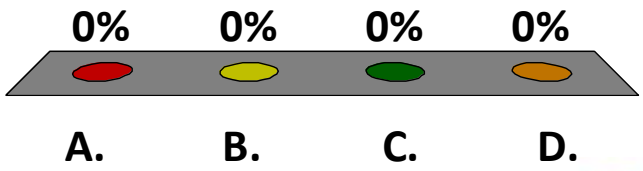
Q. How many procurement pitfalls can you identify?

A. Zero

B. One

C. Two

D. Three



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RFP Case Study 3 – Answer

D. Three

- **<u>PITFALL #1</u>: Method of Award (MOA) did not indicate the characteristics to identify how awards would be made.**

  - The agency would make an award to one or more proposers.

- **NYS Procurement Guidelines V.11. Method of Award**

  "The RFP should indicate whether the agency anticipates making a single or multiple award pursuant to the solicitation. If there will be multiple awards, it should also state whether awards will be made by lot, region, type of service, or some other characteristic."

RFP Case Study 3 – Answer

- **<u>PITFALL #2</u>: Method of Award (MOA) did not indicate expected amount of work.**

  RFP did not provide an estimated amount of work to be expected. The cost sheet only identified three different levels of service.

- **State Finance Law §163.2(c)**

  "To be based on clearly articulated procedures which require a clear statement of product specifications, requirements or work to be performed; a documentable process for soliciting bids, proposals or other offers……and promote fairness in contracting with the business community; and a regular monitoring of vendor performance."

RFP Case Study 3 – Answer

- **<u>PITFALL #3</u>: Random assignment is not the most practical and economical procurement method.**

  - Q&A identified work will be randomly distributed.

- **State Finance Law §163.10(c)**

"The commissioner or state agency may elect to award to one or more responsive and responsible offerers provided, however, that the basis for the selection among multiple contracts at the time of purchase shall be the most practical and economical alternative and shall be in the best interests of the state……"

RFP
CASE STUDY 4

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RFP Case Study 4

- State Agency is releasing an RFP to implement a data management system.
- The RFP specified the relative weighting as 70% Technical and 30% Cost.
- As part of the RFP, the agency will develop a short-list to be used during the evaluation process.
- The three highest scoring proposals will be short-listed before the final interview stage of the evaluation.
- Interviews will be an opportunity for proposers to clarify their proposals. After the interviews, preliminary Technical scores may be adjusted.

RFP Case Study 4

- **Preliminary Technical Scores for Six Proposals Received**

Vendor	Technical Score
A	50
B	55
C	61
D	56
E	48
F	60

- **Short List Result**

Vendor	Technical Score	Cost Score	Composite Score
C	61	21	82
D	56	30	86
F	60	23	83

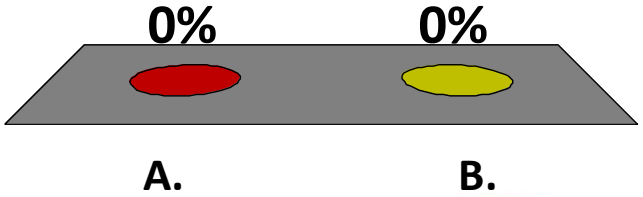
- **Final Evaluation (Post Interview)**

Vendor	Technical Score	Cost Score	Composite Score
C	63	21	84
D	52	30	82
F	60	23	83

RFP Case Study 4
Q. Should the contract be awarded to Vendor C?

A. Yes, Vendor C received the highest score.

B. No, the evaluation was flawed.



RFP Case Study 4 - Answer

- **Preliminary Scores**

Vendor	Technical Score	Cost Score	Composite Score
A	50	16	66
B	55	29	84
C	61	21	82
D	56	30	86
E	48	20	68
F	60	23	83

- **Short List**

Vendor	Technical Score	Cost Score	Composite Score
B	55	29	84
D	56	30	86
F	60	23	83

- ***Was it really a "Best Value?"***

RFP
CASE STUDY 5

RFP Case Study 5 – Part I

- An RFP was issued for financial advisory services. Proposals are being evaluated based on a 70% Technical and 30% Cost weighting. A total of four proposals were received and each proposal met all of the mandatory requirements.

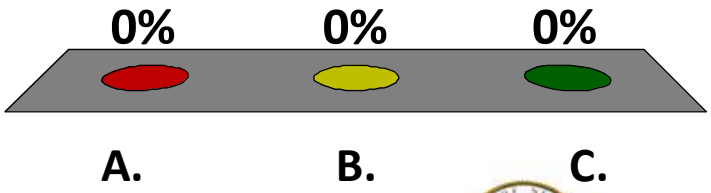
Vendor	Technical Score	Cost Score	Composite Score
A	46	30	76
B	60	26	86
C	54	18	72
D	62	24	86

RFP Case Study 5 – Part I
Q. Which vendor should be awarded?

A. Vendor B

B. Vendor D

C. Additional information needed



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RFP Case Study 5 – Part I Answer

A. Vendor B

Vendor	Technical Score	Cost Score	Composite Score
A	46	30	76
B	60	26	86
C	54	18	72
D	62	24	86

- **State Finance Law §163.10(a)**

  "In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient."

RFP Case Study 5 – Part II

- RFP was issued for consulting services. Proposals are being evaluated based on a 70% Technical and 30% Cost weighting. A total of four proposals were received and each proposal met all of the mandatory requirements.

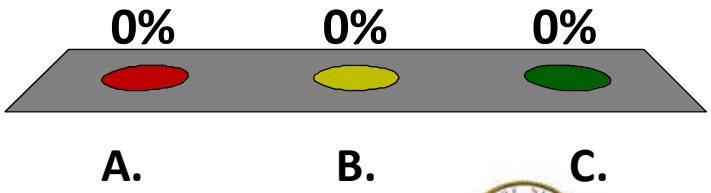
Vendor	Technical Score	Cost Score	Composite Score
A	46	30	76
B	60	26	86
C	54	18	72
D	60	26	86

RFP Case Study 5 – Part II
Q. Which vendor should be awarded?

A. Vendor B

B. Vendor D

C. Additional information needed



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RFP Case Study 5 – Part II Answer

- **State Finance Law §163.10(a)**

  "When price and other factors are found to be substantially equivalent, the determination of the commissioner or agency head to award a contract to one or more of such bidders shall be final. The basis for determining the award shall be documented in the procurement record."

- **State Finance Law §163.7**

  "Where the basis for award is the best value offer, the state agency shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted."

- ***Do the RFP and Evaluation Instrument account for this scenario?***

RFP
CASE STUDY 6

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RFP Case Study 6

- State Agency issued an RFP for program monitoring services.
- The RFP specified the relative weighting of 60% Technical and 40% Cost.
- The RFP specified “Webinar Training” is an optional item.
- The Agency reserved the right to exercise the “Webinar Training” option depending on the findings of facility visits and the agency budget.

RFP Case Study 6

- The RFP specified the following cost evaluation criteria:

  - One-Time Cost of Monitoring Plan Development
  - Cost of Annual Visits of 5 Facilities - 3 Visits per Facility
  - Cost of Annual Report of 5 Facilities - 1 Report per Facility
  - Optional Cost of Annual Webinar Training of 5 Facilities – 1 Training per Facility

- Two proposals were received by the proposal due date.

RFP Case Study 6

- **Cost Proposals**

Cost Item	Vendor A	Vendor B
Monitoring Plan Development (one-time flat fee)	$1,700,000	$1,600,000
Annual Visits (5 facilities - 3 Visits per Facility)	$175,000	$150,500
Annual Facility Report (5 Reports)	$450,000	$452,000
Optional Annual Webinar Training (5 Trainings)	$250,000	$950,000
TOTAL COST	$2,575,000	$3,152,500

- **Cost Score**

Vendor	Evaluated Cost	Cost Score
A	$2,325,000	37.89
B	$2,202,500	40.00

RFP Case Study 6

- Technical proposals were also evaluated based on the RFP specification.
- Agency made a tentative award to the Vendor B based on the composite score.

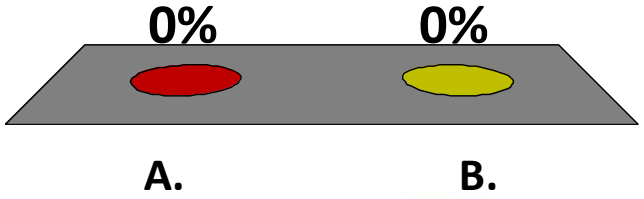
Vendor	Technical Score	Cost Score	Composite Score
A	56.87	37.89	94.76
B	57.35	40.00	97.35

RFP Case Study 6

Q. Can the agency exercise the option of "Webinar Training"?

A. Yes, the RFP specified the "Webinar Training" as an optional item.

B. No, the optional webinar training was not evaluated.



RFP Case Study 6 – Answer

B. No, the optional webinar training was not evaluated.

- **State Finance Law §163.7**

  "Where the basis for award is the best value offer, the state agency shall document…the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted."

- **NYS Procurement Guideline V.I. Conducting the Cost Evaluation**

  "Methods for calculating costs vary depending on a mix of factors concerning the nature and extent of the services, the costs associated with utilizing the services, and the impact of the services on agency programs and operations (State Finance Law §§160(5) and (6))."

RFP Case Study 6

- **Cost Score Scenario**

Vendor	Total Cost	Cost Score
A	$2,575,000	40.00
B	$3,152,500	32.67

- **Evaluation Result Scenario**

Vendor	Technical Score	Cost Score	Composite Score
A	56.87	40.00	96.87
B	57.35	32.67	90.02

RFP
CASE STUDY 7

RFP Case Study 7

- State Agency issued an RFP for system implementation services.
- The RFP specified the relative weighting of 75% Technical and 25% Cost.
- Five vendors submitted a proposal by the proposal due date.

RFP Case Study 7

Technical Evaluation

- Understanding Scope of Services — 40 Points
- Proposed Process — 20 Points
- Experience — 20 Points
  - Company Experience — 10 Points
  - Personnel Experience — 10 Points
- References (3) — 15 Points
- Certifications — 5 Points
- **Maximum Raw Technical Points — 100 Points**

Technical Score

Technical Score	
Vendor A	87
Vendor B	81
Vendor C	81
Vendor D	75
Vendor E	72

RFP Case Study 7

- Evaluation Summary

Vendor	Technical Score	Cost Score	Composite Score
A	87	19	106
B	81	24	105
C	81	17	98
D	75	22	97
E	72	25	97

- Based on the evaluation above, the Agency made an award to Vendor A with the highest composite score.

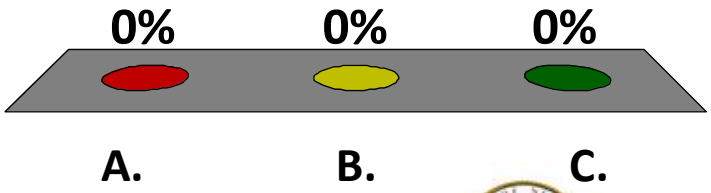
RFP Case Study 7

Q. Did the evaluation result in award to the best value vendor?

A. Yes

B. No

C. Unknown



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RFP Case Study 7 – Answer

B. No

- The composite scores are no longer weighted at 75% Technical and 25% cost as indicated in the RFP.
- Agency award was based on the total of 125 points (100 Raw Technical points + 25 Cost points) which changed the Technical weight to 80%.
- The evaluation process omitted the step of normalizing the Technical score to agree with the weights specified in the RFP.
- Evaluation results in accordance with the RFP:

Evaluation	Vendor A	Vendor B	Vendor C	Vendor D	Vendor E
Technical (75%)	[illegible]	60.75	60.75	56.25	54.00
Cost (25%)	[illegible]	24.00	17.00	22.00	25.00
Composite	**84.25**	**84.75**	**77.75**	**78.25**	**79.00**

RFP Case Study 7 – Answer

- Here is an example of how the Technical Score could be normalized:

75% Technical Weight 100 Maximum Raw Technical Points	Vendor A	Vendor B
Proposer's Raw Technical Points	87.00	81.00
Proposer's Normalized Technical Points	65.25	60.75

  - (Proposer's Raw Points ÷ Maximum Raw points) x Maximum weighted points = weighted technical score
  - Examples: Vendor A: (87 ÷ 100) x 75 = 65.25
    Vendor B: (81 ÷ 100) x 75 = 60.75

- Normalization process must be included in the evaluation instrument.

RFP Case Study 7 – Answer

- **State Finance Law §163(7)**

  "Where the basis for award is the best value offer, the state agency shall document…the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted."

RFP
CASE STUDY 8

RFP Case Study 8

- State Agency was ready to submit a contract to the Attorney General's and the Comptroller's offices for approval.
- Agency noticed some information was missing from the signature pages. How many missing items were identified?

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RFP Case Study 8

I. **REQUIRED APPROVALS**

This Agreement and any amendment hereof shall not be deemed executed, valid, or binding unless and until approved in writing by the New York State Attorney General and thereafter, approved in writing by the OSC Bureau of Contracts pursuant to Section 112 of the State Finance Law, and filed in the Office of the State Comptroller.

II. **ENTIRE AGREEMENT**

This Agreement and the appendices, exhibits and attachments hereto constitute the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. The Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

AGENCY CODE: 01234
CONTRACT NUMBER: C0000000

CONTRACTOR	OFFICE OF THE XXXXX
Contractor Signature	State Office Signature
XXXXXXX XXXXX PURCHASING MANAGER, XXXXX, LLC	
05/21/2016	05/25/2016
DATE	DATE

RFP Case Study 8

APPROVED: NYS ATTORNEY GENERAL	APPROVED: NYS COMPTROLLER
_____	_____
BY:	BY:
_____	_____
DATE	DATE

RFP Case Study 8

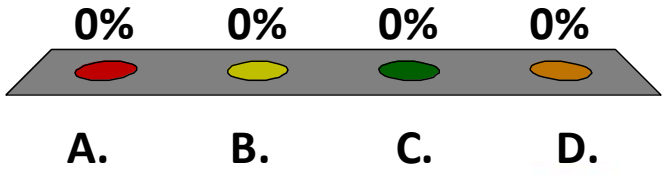
Q. How many missing/incorrect items can you identify?

A. Two

B. Three

C. Four

D. Five



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RFP Case Study 8 - Answer

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

1. Agency Certification Language

In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

2. DEPARTMENT ID: 0123456

CONTRACT NUMBER: C0000000

CONTRACTOR	OFFICE OF THE XXXXX
Contractor Signature	State Office Signature
XXXXXXX XXXXX **PURCHASING MANAGER, XXXXX, LLC**	
05/21/2016	05/25/2016
DATE	**DATE**

3. Printed Name and Title of the State Agency's Authorized Signatory

4. Acknowledgement of Contractor's Signature

STATE OF NEW YORK)
) SS.:
COUNTY OF)

On this_____day of_____, 20__, before me personally came _____, to me known and known to me to be the person who excecuted the above instrument, who, being duly sworn by me, did for himself despose and say that he is a member of the firm of _____, and that he executed the foregoing instrument in the firm name of _____, and that he had authority to sign same, and he did duly acknowledge to me that he executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

_____
Notary Public

42

5. DEPARTMENT ID: 0123456
CONTRACT NUMBER: C0000000

APPROVED:	APPROVED:
NYS ATTORNEY GENERAL	**NYS COMPTROLLER**
BY:	**BY:**
DATE	**DATE**

RFP Case Study 8 – Answer

- OSC Guide to Financial Operations Chapter XI.2.L. Contract Signature Page
- OSC Guide to Financial Operations Chapter XI.2.K. Authorized Signatures
- OSC Guide to Financial Operations Chapter XI.2.M. Acknowledgment of Contractor's Signature

RFP
CASE STUDY 9

RFP Case Study 9

- State Agency contract for consulting services was approved on 5/24/12 for an initial contract period of four years with one year renewal option.
- Total contract amount for the initial contract period was for $324,000 ($81,000 per year).
- The contract spent to date after four years totaled $285,000.
- Agency wants to exercise the one year renewal option while a new RFP procurement is being developed.
- The value of services for the renewal period is estimated at $81,000.

RFP Case Study 9

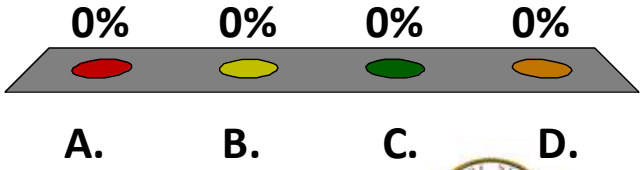
Q. What should the Single Transaction Summary (STS) / AC340-S value be for the renewal period?

A. $81,000

B. $71,250

C. $39,000

D. $42,000



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RFP Case Study 9 – Answer

D. $42,000

Maximum Contract Amount	$324,000 ($81,000 x 4 Years)
Contract Spent to Date	$285,000
Remaining Contract Amount	$39,000
Expected Spending or Renewal Period	$81,000
STS / AC340-S Value for Renewal Period	$42,000 ($81,000 - $39,000)

- **OSC Guide to Financial Operations Chapter XI.2.H.**

  B. Contract Reconciliation Process

  "In the final year of the contract, the agency must perform a reconciliation or true-up of the contract maximum value to reflect actual expenditures.....The agency must submit adequate documentation to support this adjustment."

RFP
CASE STUDY 10

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RFP Case Study 10

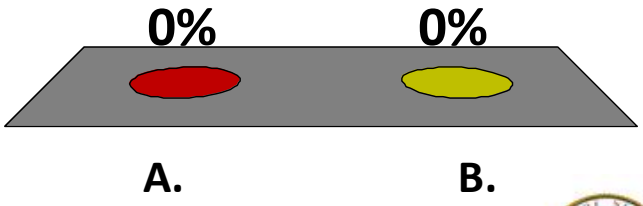
- State Agency procured a replacement contract for auditing services.
- Agency placed an advertisement in the NYS Contract Reporter.
- The only proposal received by the proposal due date, was from the incumbent vendor.
- Proposal was evaluated and a tentative award was made to the incumbent vendor.
- In order to justify the limited competition and cost, the agency included the following documents in the procurement package for submission to OSC.
  - A copy of NYS Contract Reporter advertisement;
  - Cost justification memo – Rates are the same as previous contract

RFP Case Study 10

Q. Based on the information given, was the cost and limited competition sufficiently justified?

A. Yes

B. No



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RFP Case Study 10 - Answer

B. No

- **Economic Development Law §146**

  "The foregoing provisions of this section shall not be construed to limit, in any manner, the right of the comptroller to demand evidence of adequate competition or such other proofs as he or she may require in the discharge of his or her responsibilities pursuant to section one hundred twelve of the state finance law or any other provision of law."

RFP Case Study 10 - Answer

- Limited Competition Justification:
  - Canvass non-responding vendors
  - Vendor solicitation list
  - Additional advertising / Vendor community outreach
- Cost Reasonableness Verification:

  Utilization of price reasonableness comparison tools:
  - Historical cost
  - Market rates
  - Discounts from published price lists
  - Cost of similar projects
  - Purchase made by other state agencies (SFS & Open Book)
  - Purchase made by other states
  - GSA pricing

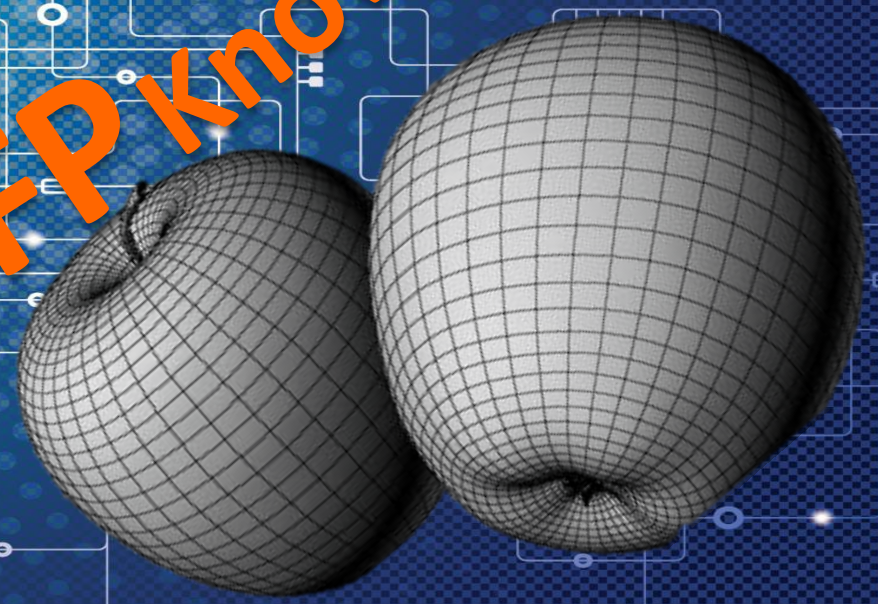
RFP Case Study 10 - Answer

- Less than three proposals received :
  - Evaluate the proposal
  - Canvass non-responding vendors and provide responses in the procurement records
  - Justify limited response
  - Verify cost reasonableness
- *Was the RFP too restrictive?*

References

- OSC Internet Site –
  Procurement and Contracting in New York
  http://www.osc.state.ny.us/contracts/index.htm
- OSC Guide to Financial Operations
  http://www.osc.state.ny.us/agencies/guide/MyWebHelp/
- Procurement Council Guidelines
  http://ogs.ny.gov/Bu/PC/Docs/Guidelines.pdf

Harvest Your RFP Knowledge



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