Acquiring Goods and Services at SFU: The Legal Obligations of Competitive Bidding

SFU Contracting Objectives

Simon Fraser University’s procurement contracting strives to obtain goods and services in an open, competitive, and fair way that provides the best value to SFU and ensures the optimal balance of overall benefits to the University and British Columbia’s taxpayers.

SFU Policy requires competitive bidding for goods and services valued at $50,000 CAD or greater. British Columbia’s trade agreements require SFU to conduct a public competitive bidding process for all goods or services valued at $75,000 CAD, or greater. This is the law.

The competitive bidding process must facilitate access, encourage competition, and be fair. Procurement Services works closely with you to create the solicitation document that best captures your project’s requirements and guides the vendor community in responding to the opportunity. Procurement Services posts the document and monitors activity from the market. When bidding closes, Procurement Services oversees the evaluation of submissions. The objective of the entire process, which can take 4-12 weeks, is to assist you in purchasing the goods and services that meet your department’s unique needs. This process offers you best value, while satisfying SFU’s Purchasing Policy AD 11.01, as well as meeting SFU’s obligations under British Columbia’s trade agreements and Canada’s public procurement law.

Types of Solicitation Documents

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFI</td>
<td>Request for Information</td>
</tr>
<tr>
<td>RFEI</td>
<td>Request for Expressions of Interest</td>
</tr>
<tr>
<td>RFSQ</td>
<td>Request for Supplier (Pre) Qualification</td>
</tr>
<tr>
<td>RFQ</td>
<td>Request for Quotations</td>
</tr>
<tr>
<td>RFP</td>
<td>Request for Proposals</td>
</tr>
<tr>
<td></td>
<td>▪ RFP Contract A Binding</td>
</tr>
<tr>
<td></td>
<td>▪ RFP Negotiable</td>
</tr>
<tr>
<td></td>
<td>▪ RFP Best Value Business Model</td>
</tr>
</tbody>
</table>

Each of the solicitation documents establishes the nature of the solicitation and the rules to be followed by both SFU and the responding commercial firms. Procurement Services drafts and manages these documents, which vary in complexity and have different legal obligations. Some are used to obtain market information and can set the stage for secondary competitions. The RFQ and RFP are used to obtain formal bids; they bind SFU to certain courses of action.
The Competitive Procurement Process: 8 Steps

Stage I – Gathering Information and Creating the Document

1. **Initiating**
   Contact your Procurement Officer as early in the project as possible to ensure sufficient time for planning and conducting the competitive bidding processes.

2. **Preliminary Meeting**
   The Procurement Officer and Project Team meet to discuss your project, the competitive bidding process, and your role in creating Appendix D, a detailed outline of your requirements.

3. **Outlining Requirements**
   With assistance from your Procurement Officer, the Project Team will complete the outline of your project’s requirements using the Appendix D guidelines.

4. **Finalizing the Solicitation Document**
   Upon receiving your completed Appendix D, your Procurement Officer will consolidate the full Solicitation Document.

Stage II – Selecting a Vendor

5. **Posting and Closing**
   Your Procurement Officer will post your project publicly to offer all vendors a fair and transparent opportunity to submit a proposal. Procurement posts notices on BC Bid and MERX and runs the competition using the MERX eBidding system.

6. **Evaluating**
   Your Procurement Officer will record the opening of all bid submissions and the Evaluation Committee will rate all compliant submissions according to criteria established by the Project Team in Appendix E.

7. **Negotiating**
   In consultation with the Project Team, your Procurement Officer may negotiate with the selected vendor to further meet your project needs.

8. **Contract Award**
   In consultation with the Project Team, your Procurement Officer will draft the contract documents and obtain the necessary internal approvals to award the contract to the selected vendor. The Procurement Officer will notify unsuccessful bidders and provide debriefings as requested.
Roles & Responsibilities

Project Team: The Project Team includes members from your department and your Procurement Officer working together to detail the requirements of the project. These details become the foundation on the RFP’s Appendix D.

Client Project Lead: The Client Project Lead represents the Project Team and is the designated liaison with your Procurement Officer. In research projects, the Client Lead is usually the PI.

Procurement Officer: Your Procurement Officer will manage the entire competitive bidding process to best meet the needs of your project. Your Procurement Officer is trained in public procurement law, including the laws governing competitive bidding in Canada.

Legal Expert: Legal expertise, if required, will be solicited by your Procurement Officer.

Evaluation Committee: The Evaluation Committee is comprised of members from both your Project Team and your department. Other participants may include specialists from other departments, such as IT, and external subject matter experts who may be engaged to advise the Project Team.

Prior to competitive bidding process, all members of the Project Team and the Evaluation Committee will sign a non-disclosure agreement and a conflict of interest declaration.

Communicating with Vendors

1. All vendors must be treated fairly and impartially. Conduct business communications with integrity, fairness, and openness in compliance with our Procurement and Ethics policies.

2. Declare any conflict of interest that could give a vendor an unfair advantage during the competitive bidding process to your Procurement Officer.

3. Avoid situations that may present conflicts of interest while dealing with persons or organizations doing, or seeking to do, business with SFU.

4. Do not accept favours or gratuities from current or potential suppliers to SFU.

5. When doing market research, please make it clear to any potential supplier that SFU must conduct an open competitive bidding process, and that information acquired in the market research phase may be used to assist in the development of the RFP.

6. Do not express preferences or opinions about a particular product or service to avoid a misunderstanding that a particular product or service might be the winner.
7. Confidentiality is a strict requirement of the entire competitive bidding process, beginning with the formation of a Project Team through to the award of a contract.

8. Once a competitive opportunity is posted, all queries must be directed to the Procurement Officer.

9. Do not discuss the bidding project with others outside of the Project Team or Evaluation Team. Leaks could lead to cancellation of the bidding process, or worse, litigation by an aggrieved bidder.

10. Do not share copies of any SFU documents or any submissions received in response to an RFP or RFQ.
The Solicitation Documents

SFU’s standard RFP documents have eight sections. Procurement Services drafts seven of the eight sections. The Project Team drafts the eighth section (Appendix D), which describes in detail the RFP particulars for your project. Solicitation documents differ depending on the nature of the RFP, if it is a binding Contract A format, or the negotiable format.

SFU’S REQUEST FOR PROPOSALS (RFP)

PART 1 – INTRODUCTION
1.1 Invitation to Proponents
1.2 Type of Contract for Deliverables
1.3 No Guarantee of Volume of Work or Exclusivity of Contract
1.4 Trade Agreements
1.5 Research Environment

PART 2 – THE DELIVERABLES
2.1 Descriptions of Deliverables
2.2 Material Disclosures

PART 3 – EVALUATION OF PROPOSALS
3.1 Timetable and Submission Instructions
3.2 Stages of Proposal Evaluation
3.3 Stage I – Mandatory Requirements and Submission (and Rectification)
3.4 Stage II – Evaluation of Rated Criteria
3.5 Stage III – Evaluation of Pricing
3.6 Cumulative Score and Selection of Highest Scoring Proponent
3.7 Tie Score

PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS
4.1 General Information and Instructions
4.2 Communication after Issuance of RFP
4.3 Selection and Execution of Agreement (or Negotiations, Notification and Debriefing)
4.4 Prohibited Communications and Confidential Information
4.5 Procurement Process Non-binding
4.6 Governing Law and Interpretation

APPENDIX A – TERM SHEET (or Form of Agreement)
APPENDIX B – SUBMISSION FORM
APPENDIX C – RATE BID FORM
APPENDIX D – RFP PARTICULARS
A. THE DELIVERABLES
B. MATERIAL DISCLOSURES
C. RATED CRITERIA
D. PRESENTATION
E. EVALUATION OF PRICING
Preparing APPENDIX D – RFP PARTICULARS

Appendix D is the heart of the RFP Solicitation Document, as it contains detailed information about your project. The level of information you include is critical to the success of your project. By providing clear and thorough information, you are equipping proponents with a deeper understanding of what you are seeking. This results in higher quality proposals and improves your ability to evaluate or select the right vendor for your project.

The Project Team will carefully consider and provide all information of your project by drafting each of the four sections of APPENDIX D.

A. The Deliverables
A clear, complete and properly organized description of your project deliverables should include:
- intended use of product/service
- defined generic specifications
- expected lead time
- required units
- special conditions
- warranty
- service level needs
- site visit requirements
- vendor presentations
- etc.

B. Material Disclosures
- All information pertaining to the award of the contract that could impact or result in unexpected supplier costs during contract performance.

C. Rated Criteria
- You must develop and disclose the weightings, formulae and sub-criteria you intend to rely upon to arrive at the final score and ranking for each proponent.
- Rated criteria normally include experience, qualifications, performance, service/warranty, and pricing. All are allocated points.
- Include detailed sub-criteria to show breakdown of points where appropriate.

D. Pricing Structure
The pricing structure needs to be properly aligned with the description of contract requirements in order to:
- Achieve a clear scoring of the pricing structure;
- Inform how billing and payment will be managed under the awarded contract.