

## College Operating Procedures (COP)



**Procedure Title:** Invitation to Negotiate  
**Procedure Number:** 04-1013  
**Originating Department:** Office of Financial Services

**Specific Authority:**

Board Policy 6Hx6:1.01, 6Hx6:1.02  
Florida Statute 287.017, 287.057  
Florida Administrative Code 6A-14.0734

**Procedure Actions:** Adopted: 02/25/16

**Purpose Statement:** This procedure describes the competitive solicitation process to select and award a negotiated agreement to a Vendor via the procurement method known as an Invitation to Negotiate (ITN). The goal of this comprehensive process is for the identification of an optimal outcome or solution that best meets the needs of the College thus achieving 'the best value'.

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**Guidelines:**

An Invitation to Negotiate (ITN) is a flexible procurement process that is used for highly specialized, variable services and/or commodities. Examples include, but not limited to, the following:

- a) Non-standard commodities/services;
- b) Customized commodities/services;
- c) Highly technical, complex commodities/services;
- d) Business process reengineering;
- e) Innovative solutions;
- f) Performance based contracts;
- g) Outsourcing of College functions;
- h) Limited availability of competition;
- i) Highly professional services required;
- j) Multiple options may exist for achieving desired results.

**Procedures:**

1. Advertising
  - a) Procurement Services will issue an Invitation to Negotiate (ITN) to be publicly advertised in a uniform and consistent manner, except in cases of valid public emergencies.
  - b) The advertisement, at a minimum, will describe in general terms the project name, name of board, location of project, brief statement describing the work, date, time and place of ITN opening and from whom and when the ITN is available.
  - c) In the solicitation and selection of Vendors for the procurement of goods and services, there shall not be taken into consideration any past, present or future monetary or non-

monetary support or contributions and volunteer or partnership activity with the College or the College's direct support organizations. This prohibition of such consideration applies to the solicitation, evaluation process and recommendation to award a contract, and any other portion of the solicitation, selection, and contracting process.

## 2. Evaluation Process

- a) **Evaluation Team Membership:** The Office of Procurement Services along with the Requesting Department shall establish an Evaluation Team of at least four members. The Evaluation Team may consist of representatives from the Requesting Department, Information Technology Services, Finance, Representatives from the campus and/or program affected by the project and other areas of the College as determined. Potentially, the College may need to hire a Management Consultant(s) to assist with program review/development of a scope of work; therefore, the hired Consultant(s) may serve as an Evaluation Team member and/or Advisor to the Evaluation Team. Consultant(s) expenses will be the responsibility of the Requesting Department.
- b) **Negotiation Team Membership:** The Negotiation Team may consist of a subset of the Evaluation Team membership, the Consultant(s), the College's General Counsel and other College Staff as may be required.
- c) **Attendance:** The Procurement Services representative or designee is required to attend every ITN opening, all Evaluation Team meeting(s) and negotiation session(s) serving as the facilitator to the selection process, not a voting member. Evaluation Team members shall attend all public evaluation team meeting(s) and scheduled oral presentation(s)/interview(s), if applicable. The Negotiation Team shall attend scheduled negotiation session(s).
- d) **Evaluation Criteria:** Evaluation criteria used to score/rank responding firms written submittals and to score/rank scheduled oral presentation(s)/interview(s), if applicable, are pre-determined and provided to potential proposers in the ITN document or prior to the scheduled oral presentation(s)/interview(s), if applicable. Additional evaluation criteria may be required and provided to invited firm(s) before their scheduled oral presentation(s)/interview(s), if applicable. Evaluation criteria may include, but not be limited to, staffing, experience, quality control, past record, references, and willingness to meet time and/or budget requirements and other factors as determined. An outline of negotiation points for discussion may be provided to Firm(s) prior to the scheduled negotiation session(s).
- e) **Phases of the Evaluation Process:**
  - I. Phase 1 consists of the evaluation/scoring/ranking proposing firms written submissions resulting in a short list of one or more firms;
  - II. Phase 2 may consist of one or more scheduled presentations/interviews and/or demonstrations and may include one or more firms as a result of Phase 1. Phase 2 is not required;
  - III. Phase 3 consists of one or more scheduled negotiation sessions with one or more firms as a result of either Phase 1 only or Phase 1 and Phase 2.

## 3. Negotiations

There are two negotiation methods:

- a) Single Negotiations; or
- b) Concurrent Negotiations

For both methods, a 'best and final offer' indicates negotiations have ended.

For Single Negotiations, the College negotiates with the top ranked proposer after Phase 1 or Phase 2. If negotiations and 'best and final offer' do not result in a satisfactory contract being negotiated with the top ranked proposer, negotiations will formally terminate and continue with the next ranked proposer and so on until a satisfactory contract can be negotiated.

For Concurrent Negotiations, the College negotiates simultaneously with two or more top ranked proposers after Phase 1 or after Phase 2. Negotiations continue simultaneously until a 'best and final offer' is reached resulting in a satisfactory contract.

#### 4. Posting Intent to Award

After negotiations and 'best and final offer', the final official intent to award is then posted on the scheduled date to the Florida SouthWestern State College website for 72 hours (or 3 business days). After the 72-hour period, the posting is removed. The posting shall include specific protest language as defined in Florida Statute 120.

#### 5. Board Approval

If applicable, the intent to award and contract will be submitted as a District Board of Trustees agenda item recommending that the Florida SouthWestern State College District Board of Trustees approve the College Administration to execute the negotiated agreement.

#### 6. Contract

The final negotiated agreement must be fair, competitive and reasonable.