

Drafting the Request for Tender

Provisions of Request for Tenders (RFT) could include...

Intro that provides an overview of the program

Executive Summary

Who is the Buyer and points of contact

- Government Agency

- Consortium

- Joint Venture among...

- Buyer participation in development

 - Industrial Participation

 - Component production

Availability of Funding

- Private Financing Initiative

- Public/Private Partnership

Desired Form of Response from Bidders

- Bidders Proposed Program Plan and Understanding of the Program

- Documents to be returned with Bids...

- Bid validity dates

Tender weighting and evaluation criteria

- Tender process and calendarization/milestones

- Opening of Bids

- Protests

Purpose of the RFT as an Instruction for Bidders

- Pre-qualification of Bidders

- Informational meetings

- Requirements/Past Performance of Bidders

- Organizational structure of Bidders—points of contact

 - Joint Venture among...

 - Performance Guarantees

- Demonstration of deliverables

Program Objectives and framework of agreement(s) and options

- Plan of Performance
- Deliverables/Quantities/Options and performance schedule
- Specifications
- Quality Management Program involving...
- Schedule/SOW Compliance
- Testing
- Training
- In-country personnel

Price Schedule

- Payment Provisions
 - Invoicing
 - Deposits
 - Discounts
 - Advance Payments
 - Economic Price Adjustment (EPA)
 - Letters of Credit—Irrevocable/Unconditional and Confirmed Arbitration

Form of Contract and Selective Terms & Conditions/Articles

- Inspection
- Acceptance Criteria
- Intellectual Property Rights
- Software
- Quality Terms/Processes
- Payment Provisions
- Security
- Warranties—Expressed/Implied
 - Evergreen
- Changes/Modifications
- Delivery Terms
 - INCOTERMS
 - Bill of Ladings
- Indemnification
- Insurance
- Limitation of Liability
- Terminations—Default/Convenience
 - Delays/Force Majeure
 - Liquidated Damages
- Dispute Resolution
 - Arbitration
 - New York Convention on Enforcement of Awards
- Recordkeeping and Reports

- Notifications
- Countertrade and Offset agreements
- In-Country sources of supply
- Key Personnel
- Language
- Taxes
- Subcontractors
 - Required Flow-downs
- Import/Export law—
 - Licenses
 - ITAR
- Applicable Law
 - Foreign Corrupt Practices Act
 - Ethics/Bribery
 - UN Convention on Contracts for the International Sale of Goods (CISG)/
Treaties
 - Uniform Commercial Code (UCC)
- Additional Terms
 - Assignment
 - Environmental
 - Nondisclosure/Publicity
 - Severability
 - Integration clause
 - Other...

Access to Relevant documents cited in the RFT...

- Description of Tenderer, form of performance guarantees, etc.
- Additional administrative info on Buyer
- Glossary/Definitions
- SOW
- Contract Schedule
- Bid Bond Certificate
- Certifications and Representations of Bidders
- Buyer furnished equipment/materiel
- Quality Assurance Plan
- Contract Articles
- Government to Government MOUs