

Petition for Relief

Instructions for Submission to OPSCR

Public Procurement Review Board Approval Required

“Competitive sealed bidding is the preferred method of procurement; however, if it is not practicable and advantageous, a request for proposals or request for qualifications may be used.” Miss. Code Ann. § 31-7-403(1). If an agency “determines, in writing, that the use of competitive sealed bidding is either not practicable or not advantageous to the state,” the Agency must submit that determination to the Public Procurement Review Board (PPRB). Where the PPRB determines competitive sealed bidding is either not practicable or not advantageous to the state, then a contract may be entered into for the procurement of ... personal and professional services ... by a request for proposals or request for qualifications.” Miss. Code Ann. § 31-7-403(4). This submission to the PPRB “shall include ... the evaluation factors that will be used in reviewing the submitted proposals or qualifications. The evaluation factors shall be approved by the [PPRB] ...” Miss. Code Ann. § 31-7-413(1).

Description of Services or Scope of Work to be Solicited

Provide enough information to describe the umbrella of services the Agency intends to procure, the reason the Agency needs an Independent Contractor to provide those services, and any unique information about the scope of services that is relevant to the need to use the requested procurement method. Include all services the Agency intends to solicit using the requested procurement method. The Agency will not be able to include services in the solicitation which are not included in the Petition for Relief. Services which may be solicited using an Invitation for Bids may not be combined with services requiring use of a Request for Proposals or Request for Qualifications.

Competitive Sealed Bidding is not Practicable or Advantageous

Describe why it is not practicable and/or advantageous for the Agency to use an Invitation for Bids. The term “practicable” denotes what may be accomplished or put into practical application. “Advantageous” denotes a judgmental assessment of what is in the state’s best interest. The Agency shall consider the factors listed below, as required by Miss. Code Ann. § 31-7-403. *After consideration of these factors and any other relevant factors, OPSCR recommends that the Agency describe its reasoning in its own words and in plain language.*

The following factors shall be considered when determining advantageousness:

- the need for flexibility;
- the type of evaluations that will be needed after offers are received;
- whether the evaluation factors involve the relative abilities of Offerors to perform, including degrees of technical or professional experience or expertise;
- whether the type of need to be satisfied involves weighing artistic and aesthetic values to the extent that price is a secondary consideration;
- whether the types of supplies, services or construction may require the use of comparative judgmental evaluations to evaluate them adequately; and
- whether prior procurements indicate that a request for proposals may result in more beneficial contracts for the state.

The following factors shall be considered when determining practicability:

- whether the contract needs to be a contract other than a fixed-price type contract;
- whether oral or written discussions may need to be conducted with Offerors concerning technical and price aspects of their proposals;
- whether offerors may need to be afforded the opportunity to revise their proposals, including price;
- whether the award may need to be based upon a comparative evaluation of differing price and contractual factors as well as quality factors that include technical and performance capability and the content of the technical proposal; and
- whether the primary consideration in determining award may not be price.

The Agency shall also consider:

- whether quality, availability or capability is overriding in relation to price in procurements for research and development, technical supplies or services;
- whether the initial installation needs to be evaluated together with later maintenance and service capabilities and what priority should be given to these requirements in the best interests of the state; and
- whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals but evaluation and discussion of them before making the award.

Evaluation Factors

List the Evaluation Factors the Agency wishes to use, and their corresponding percentage of points. The PPRB must approve the Evaluation Factors used in the solicitation. Only the Evaluation Factors are required – individual subfactors under each category of Evaluation Factors are not required except as discussed herein.

Price, as an individual subfactor under Cost, is required and must be weighted 35% or more and must be the highest weighted individual subfactor. No other individual subfactors are required unless necessary to demonstrate that Price is the highest weighted individual subfactor. Please see the examples below:

Example 1

| | |
|---------------------------|-----------|
| Technical: | 25 |
| Management: | 30 |
| Cost (Price only): | 35 |
| Interview: | 10 |

Example 2

| | |
|-----------------------------------|------------------|
| Technical: | <u>40</u> |
| • Describe Individual Subfactor 1 | 10 |
| • Describe Individual Subfactor 2 | 10 |
| • Describe Individual Subfactor 3 | 10 |
| • Describe Individual Subfactor 4 | 10 |
| Management: | 20 |
| Cost: | <u>40</u> |
| • Price | 35 |
| • Describe Individual Subfactor 1 | 5 |

The Agency may use any Evaluation Factors it deems appropriate for its procurement. The factors below are required to be used by Miss. Code Ann. § 31-7-413 “as appropriate to individual circumstances.” Agencies are not limited to these factors and they are not all-inclusive. Agencies may also adapt or supplement these factors to meet the Agency’s individual needs.

OPSCR recommends that the Agency consider whether these factors, under the Agency’s particular circumstances, will assist the Agency in determining which Offeror will provide the highest quality services at the best price. The Agency should choose, adapt, or supplement any evaluation factors needed to meet the Agency’s needs and obtain the best value for the State.

Technical Factors evaluate the Offeror’s Proposed Methodology and must be scored blind.

- Does the Offeror’s proposal or qualification demonstrate a clear understanding of the scope of work and related objectives?
- Is the Offeror’s proposal or qualification complete and responsive to the specific request for proposals or request for qualifications requirements?
- Has the past performance of the Offeror’s proposed methodology been documented?
- Does the Offeror’s proposal or qualification use innovative technology and techniques?

Cost Factors must be scored blind, unless the PPRB approves that they be scored openly.

- Relative Cost: How does the cost compare to other proposals or qualifications?
 - *This is what is evaluated as Price. Price is an individual subfactor under Cost and must be given at least 35% of the available points and the highest weighted individual subfactor. The lowest priced proposal must be given the full Price points available. Price points for the other offerors must be distributed objectively.*
- Is the price and its component charges, fees, etc. adequately explained or documented?
- Assurances of performance such as suitable bonds, warranties or guarantees, as required by the solicitation.
- Does the proposal or qualification include quality control and assurance programs?
- Offeror’s financial stability and strength: Does the Offeror have sufficient financial resources to meet its obligations?

Management Factors may be scored openly.

- How well does the proposed scheduling timeline meet the needs of the agency?
- Is there a project management plan?
- Does the Offeror document a record of reliability of timely delivery and on-time and on-budget implementation?
- Does the Offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
- Does the Offeror document industry or program experience?
- Does the Offeror have a record of poor business ethics?
- To what extent does the Offeror rely on in-house resources vs. contracted resources?
- Are the availability of in-house and contract resources documented?
- Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
- Does the Offeror demonstrate cultural sensitivity in hiring and training staff?

The Agency should explain any other evaluation factors to be used, why those factors will benefit the Agency in selection of a Contractor to provide the services, and whether those factors will be scored blind or openly.

The Agency is Bound by the Scope of PPRB's Approval

The Agency will be bound by what it states on the Petition for Relief regarding:

- the Procurement Method requested;
- the umbrella of services described;
- the Evaluation Factors and their assigned weights; and
- whether the Board approves to score Cost openly.

The Following Requested Information is Informational Purposes Only

Agencies should provide the best information available to them at the time they submit the petition for relief, but will not be bound by what is stated on the Petition for Relief regarding:

- The intended initial contract term and renewal terms; the Agency should put the amount of time anticipated for the initial contract term and renewal terms, rather than specific dates. For example, "four years" for initial term and "one optional one-year renewal" for renewal terms.
- The anticipated contract amount; provide the Agency's best estimate of all funds that will be expended on all contracts the Agency intends to award, assuming all contract renewal periods are exercised.
- The number of contracts intended to be Awarded; if the Agency is unsure, a firm number is not required (i.e., "at least two" or "no more than five").



Petition for Relief from Competitive Sealed Bidding Requirements

Miss. Code Ann. § 31-7-403 and § 31-7-413

PPRB OPSCR Rules and Regulations Sections 3-201, 3-203.01(g)(2), and 7-103

Agency: _____

Requested Date for PPRB Approval: _____

Procurement Method Requested: _____

Intended Initial Contract Term: _____

Intended Renewal Terms Available: _____

Number of Contracts Intended to be Awarded: _____

The Agency intends to solicit the following service(s) and/or scope of work:

As explained below, use of an Invitation for Bids is: **not practicable**
 not advantageous
 both

The Agency intends to use the following Evaluation Factors:

Is the Agency requesting to score Cost openly? Yes No
If yes, please provide an explanation:

Are these services currently being provided to the Agency? Yes No
If yes, who is currently providing the services?

Agency Representative for PPRB Meeting: _____

The Agency Representative will attend: In Person Remote

*The option to attend remotely is not available to Agencies located in Hinds, Rankin, or Madison counties.

By signing below, I certify that all information provided herein is true, correct, and complete to the best of my knowledge.

Chief Procurement Officer

Date

Chief Procurement Officer Name: _____

Telephone Number: _____ **Email Address:** _____

The PPRB may modify or revoke its approval of the Petition for Relief at any time. The Board's approval must be "reviewed for current applicability from time to time." Miss. Code Ann. §31-7-403(4). Therefore, a solicitation cannot be issued from this Petition for Relief if the Board's approval occurred more than one year prior to the date the solicitation will be issued.