



American Correctional Association

# Monograph:

## Developing a Request for Proposals and a Proposal Review Process

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Office of Juvenile Justice and Delinquency Prevention  
Office of Justice Programs  
U.S. Department of Justice

**OJJDP**

## MONOGRAPH

### DEVELOPING A REQUEST FOR PROPOSALS AND A PROPOSAL REVIEW PROCESS

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U.S. Department of Justice  
National Institute of Justice

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## **Introduction**

What factors have the greatest influence on the success or failure of contracting with the private sector? Some experienced agency personnel would highlight the qualifications and experience of the independent contractor. Some would point to the degree to which the government monitored the activities of the independent contractor and required compliance with the terms of the contract. However, most would agree that no single aspect of the contracting process plays a more consequential role than does the **Request for Proposals (RFP)**.

Each request for proposals is unique. Each one focuses on the particular needs an issuing agency is confronting and is shaped by applicable statutes and regulations. Despite the differences in RFPs, there are many common denominators in their logic, structure and content. The purpose of this monograph is to identify and explain the key components of a sound RFP.

This monograph examines the role of an RFP in a typical procurement effort. It looks at the specific circumstances under which an RFP is an appropriate method of soliciting proposals from potential providers. An effective RFP guides potential providers' proposals toward the agency's goals for the contracting process. If an RFP is used incorrectly, or for the wrong purpose, the resulting proposals may not be responsive to the agency's needs.

Developing an effective RFP requires extensive research and planning before even beginning the first draft. Those involved must be familiar with the requirements and regulations of many different state and local agencies, and the issuing agency's needs, goals and financial restrictions. Authors of RFPs must also establish a sound and logical structure for the RFP. They should know the basic elements of an RFP such as: the Executive Summary, Terms and Conditions, Statement of Work, etc. This monograph provides explanations and examples of these areas and what each should contain.

Once the RFP is written, the issuing agency must release the information with the approval of all responsible agencies. RFPs must be approved by other state and local government agencies that have some legislative, financial, legal, or other responsibility. In addition, all potential providers must have access to the RFP at the same time to prevent any unfair advantage for any one contractor. The specific date and time for releasing the RFP should be determined and announced in advance.

The RFP must include information on the criteria by which the proposals will be judged. This monograph lists the essential information for every RFP to insure that providers understand how their proposals will be evaluated. The monograph also suggests some basic guidelines for the selection process in the interest of maintaining fairness and integrity in the award process.

This monograph also provides a sample RFP for a hypothetical procurement effort. The sample RFP is not intended to serve as a template that agencies can turn to in hopes of limiting their work to little more than a "fill in the blanks" effort. The sample RFP should provide an illustration of the major issues an RFP must address and how those issues might be articulated in an average jurisdiction.

<b>The Basic Logic And Philosophy Of Contracting</b>
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When preparing a request for proposals for the first time, there are two temptations that one must avoid. The first is to imagine that the task is too complex and technical. Authors of requests for proposals who understand the needs of their agencies and have taken the time to gather the necessary background information will find that they can handle the task easily. The second is to move immediately to drafting the request for proposals without the necessary background information.

### **WHAT IS A REQUEST FOR PROPOSALS?**

A request for proposals is the document that a contracting agency uses to launch the process of private sector contracting. Procurement by RFP is one of several methods for selecting an independent contractor.

An RFP is ordinarily used when the state agency:

- is legally obliged to use a competitive procurement process; or
- has concluded that a competitive process will best serve its interests; and
- is unable to specifically define the scope of work for which the contractual service is required.

Unfortunately, even those who have a good deal of experience with contracting for services sometimes confuse a request for proposals with an invitation to bid.

The "unable to specifically define the scope of work" portion of this typical definition of a request for proposals distinguishes an RFP from an invitation to bid (ITB). An ITB is used when the state has a narrow, specific need that is clearly defined. RFPs are used when the state has a general need and the agency wants to encourage innovative suggestions for service delivery.

The absolute cost and also the cost savings associated with contracting for correctional services are and should be important considerations in contracting decisions. However, cost is less important in the overall evaluation when using an RFP than with an ITB. An ITB specifically describes what is needed and how the service should be delivered. Cost is important because everyone is bidding on exactly the same thing. With an RFP, potential providers are bidding on different ways of delivering the same basic service.

## **THE GENERAL STRUCTURE OF A REQUEST FOR PROPOSALS**

The structure and content of a sound request for proposals varies from jurisdiction to jurisdiction. Staff responsible for preparing an RFP should:

- familiarize themselves with applicable provisions of law as well as with any relevant state regulations; and
- work closely with their legal and procurement staff at each step of the procurement process.

**An RFP is a formal legal document of vital interest to the agency. Since the financial interests of potential providers are at stake, what might appear to be minor, technical issues can easily undermine contracting efforts. Contracts have been invalidated because of technical or procedural defects in a request for proposals or the proposal review process.**

In an RFP the state department of juvenile services:

- identifies the statutory authority that permits it to contract;
- describes the need it wishes to meet;
- solicits competitive responses from qualified for-profit and/or non-profit private organizations;
- specifies the documentation that potential providers must furnish in response;
- sets a deadline for responses; and
- describes the manner in which responses will be reviewed.

### **Preparing A Sound Request For Proposals**

The core components of the RFP are preparation, release, and review.

## **PREPARING TO DRAFT THE RFP**

A good deal of work including the relevant analysis, planning, and preparation must be completed before the first draft of an RFP is written. The preparatory work must include, but not necessarily be limited to, developing the following:

- a familiarity with applicable provisions of state law and regulations regarding both the authority of the agency to contract for services and the manner in which procurement processes must be structured;
- a clear understanding of the agency's needs from a contract for services including: information regarding the location at which services will be provided, the characteristics of the juvenile population, the basics of the desired services, and a reasonable assessment of the time period during which the contract service will be required;
- a cost estimate of the desired services that the state agency can compare to the cost components of submitted proposals;
- an understanding of possible opposition to the contracting initiative either from sources within government or in the community where the contract services will be provided; and
- a specification of the outcomes the contracting agency hopes to achieve through contracting.

## **GENERAL DRAFTING CONSIDERATIONS**

What should an ideal RFP look like? Without statutes, administrative regulations, or agency policies that mandate a specific model for preparing an RFP, there really is no formula that guarantees a sound final product.

Juvenile justice agencies across the country have dealt with requests for proposals in the past. Experience often creates a routine that suggests a preferred format for an RFP. Many agencies that regularly contract for services develop specific guidelines for proposal preparation. Given the preference for standardizing legal documents, this is especially common regarding the "boiler plate" of an RFP and a contract. It is good procedure to critically examine past practices and existing habits.

Using a "model" for each RFP will not serve the legitimate interests of an agency charged with preparing an RFP. There are some general and technical features of an RFP that can be repeated each time. One need not keep reinventing the wheel, but in many ways each procurement effort calls for a unique document. Even when an agency plans to issue a series of proposals targeted at procuring a similar service or set of services, the experience and expertise gained from

each proposal in the series should yield opportunities for improving and refining each subsequent proposal.

Authors of requests for proposals should understand that their primary responsibility is to communicate the agency's needs, requirements, and expectations to an external audience as effectively and as clearly as they possibly can. Authors of RFPs should never rely on ambiguous or general language when precision is called for. It is equally inappropriate to provide specific language when general guidance is more appropriate.

For example, an RFP aimed at the private management of a juvenile residential facility that requires providers to "manage the facility in a fashion consistent with reasonable standards" is too vague. The term "reasonable" does not provide potential providers with enough information about the needs and expectations of the issuing agency. A better option might be that "the operation of the facility shall at all times be in full compliance with applicable state statutes, agency regulations, the standards established by the American Correctional Association, and any additional requirements that may be mutually agreed to in the contract." On the other hand, it might be counterproductive if an RFP aimed at procuring educational services included a multi-page specification of the precise nature of the desired services. It is likely that a general statement of need would do much more to encourage and to permit innovative proposals.

### **TYPICAL ELEMENTS OF A WELL-PREPARED REQUEST FOR PROPOSALS**

The author of an RFP generally has broad latitude in organizing the RFP. There is no legal or technical reason why any particular element must appear at any point in the document. Instead, the RFP must clearly inform potential providers about the needs of an agency and the specific actions potential providers must take. It should also state the manner in which proposals will be reviewed and how the contracts will be monitored and evaluated.

It is a good idea to prepare a checklist of the areas that should be covered in an RFP. Following is a checklist of the elements one might include in the final RFP:

- executive summary;
- background information;
- terms and conditions;
- statement of work;
- proposal requirements;
- review criteria; and
- proposal attachments.

This list offers some basic guidance for the organization and format of a sound proposal.

### The Executive Summary

Although not essential, an RFP often begins with a brief and non-technical overview of the reasons that prompted the solicitation. The goals the state agency hopes to achieve through contracting and the features of the proposal with substantial importance in the review process should be stated. Important features of the future contract (e.g., the type of contract, the duration of the contract, and the renewability of the contract) should be included. Critical dates that will be of special relevance to providers (e.g., dates on which proposals must be submitted, review results will be announced, contract negotiations will commence, and service delivery will begin) should all be part of the executive summary.

### Background Information

There are numerous details in an RFP that can and should be handled in this section. These features generally include the following:

- ***The Proposal Title:*** The RFP will ordinarily have both a descriptive title and an identifying number.
- ***The Identity of the Issuing Agency:*** The name, complete address and telephone number of the issuing agency should be included with the identity of the person(s) to whom potential providers should direct their questions or comments. If more than a single contact person is identified, the role of each should be as clear as possible. The agency may prefer or require that questions regarding technical features of the RFP be addressed by one person and that questions regarding non-technical issues be addressed by a different person.
- ***Legal Authority for Contracting:*** This section should contain a precise statement of the legal basis for the contracting authority of the agency. This often will require identifying both the general procurement statute(s) and the specific authority of the agency to contract for the particular service(s) described later in the RFP. The applicable statutes(s) may be augmented by agency regulations or formal policies. As a general rule, these and other relevant statutes, regulations, and formal policies should become a part of an appendix or attachment to the request for proposals.
- ***Agency Commitment to Potential Providers:*** At a minimum, the RFP should expressly indicate that the issuance of a request for proposals does not (a) make the agency responsible for any costs potential providers may incur in the preparation or submission of their proposals or (b) oblige the agency to award a contract to any potential provider. Additional information may also be appropriate in this section. For example, applicable procurement requirements might disallow the award of a contract if only a single qualified provider submits a proposal.

- ***Limitations on Potential Providers:*** It is often necessary to impose reasonable constraints on potential providers. An example of this would be a requirement that any procedural or substantive questions be submitted in writing to the appropriate contact person(s). This will enable the staff to have a formal record of any questions and responses. All questions and responses should be available to all potential providers in fairness to all bidders.
- ***Amendments to or Withdrawal of the Request for Proposals:*** Despite the best efforts of the author of an RFP, it is possible to anticipate the need for amendments or possible withdrawal of the RFP. The issuing agency should always be fair and reasonable even if it requires an extension in the submission deadline. This can be accomplished by language that obliges the issuing agency to provide all potential providers with any amendments to its RFP with sufficient time to respond. Although it is important that an agency expressly reserve the right to terminate a contracting initiative, this step should be taken only if required by unavoidable circumstances.
- ***Financial Parameters for Proposals:*** Price considerations are of core concern to both contracting agencies and potential providers. Some agencies are inclined not to announce the amount of money allocated for a procurement initiative. Some agencies believe that doing so will result in all proposals calling for an amount equal to or nearly equal to the maximum available number of dollars. There usually is a cost above which an agency could not or would not contract. The best solution for "real world" contracting is to be candid and tell potential providers the maximum amount of funding that is available for a given project. If possible, provide them with an estimate of the cost your agency is paying or believes it would pay were it to provide the service with state staff. Also indicate that proposals will not be defined as qualified unless their price proposals are equal to or below agency existing or projected agency costs. Market forces will usually produce a proposal that assures the best possible services at the most competitive price.
- ***Proposal Disclosure Policies:*** Jurisdictions vary regarding whether responses to an RFP are treated as public documents and are thus subject to disclosure at the close of the contracting process. The documents a potential provider is obliged to submit in response to an RFP may include information the provider is willing to put before agency personnel, but is unwilling to share with the competition. Whatever the applicable disclosure standard may be, it should be made clear in the RFP.
- ***Pre-Submission Conference:*** No amount of care will be sufficient to answer each and every legitimate question potential providers will have once they review an RFP. Thus, everyone's interests are generally best served when a formal conference date is established. The presence of potential providers at the conference should be encouraged but not required. Questions should

be submitted in advance and in writing. Formal responses to those questions should be made available to all potential providers. Questions that materialize during the conference must be handled carefully. Formal responses to any such questions should be made available to all potential providers whether they were or were not present at the conference.

- ***Deadline(s) for Proposal Submissions:*** The RFP must clearly indicate the deadline for proposal submissions and by what person or agency they must be received, e.g., All proposals must be received by J. Jones, Contracting Officer, Department of Youth Services, 100 First Street, Columbus, Ohio, U.S., by 5:00 p.m., Eastern Standard Time on July 1, 1994.
- ***Oral Presentations:*** The state department of juvenile services may or may not see a need to schedule formal presentations by potential providers following the submission and review of proposals. Very often, however, review committees will encounter one or more aspects of the proposals they review that need additional information or clarification. This is especially true when the scope of services is broad or complex. Presentations should only be required when necessary. When presentations are required the agency should (a) inform potential providers of the nature of any specific questions and assure that they have a full and fair opportunity for presentations and (b) state the role oral presentations will have in the overall proposal review.
- ***Selection Deadline:*** The issuing agency should provide an approximate date on which it anticipates announcing the providers with which it will negotiate a contract. The agency should complete the proposal review process by the announced date. Many factors can cause unavoidable delays despite the good faith efforts of all involved parties. For example, the RFP might stimulate a larger number of proposals or a more complex set of proposals than anyone anticipated. The language in the RFP should make it clear that the selection deadline is one the agency will make every reasonable effort to meet. However, a failure to do so will not constitute basis for an objection to the procurement process by any potential providers. Potential providers should be notified of any date changes as soon as possible.
- ***Potential Providers Commitment:*** It is in the interest of all concerned parties that proposals be submitted in good faith and that they reflect a firm commitment to provide the proposed services at the proposed cost. On the other hand, should unforeseeable circumstances delay contract awards, it would be unfair to expect that potential providers continue to be able to honor each and every commitment in their proposals. The RFP should expressly state the period of time during which potential providers must honor commitments in their proposals.

- ***Date for Commencement of Services:*** It is useful to include a brief statement regarding the date on or before which the delivery of services will commence. If a precise date cannot be specified, then a range of dates would be more appropriate (e.g., "the date for the commencement of all services described in this request for proposals shall be not earlier than July 1, 1994 or later than September 1, 1994"). If the need is especially pressing, the RFP should inform potential providers that the speed with which the delivery of services can begin will be a significant consideration during the proposal review process and will be awarded a specific number of "evaluation points."
- ***Affirmative Action Policy:*** All potential providers should be placed on notice regarding the need for the preparation and submission of a suitable affirmative action plan that addresses all relevant features of their personnel selection, promotion, retention, and compensation policies.
- ***Notice of Intent to Respond:*** It is advisable to require that all persons or firms that intend to respond to an RFP notify the contracting agency no later than a specific date and time. The method of notification should be fairly formal in nature (e.g., by certified mail). The notification deadline should be far enough from the date of the issuance of the RFP that potential providers have an opportunity to review the document. If a pre-submission conference has been scheduled, the deadline should not be set until a reasonable, but brief amount of time has passed following the conference.

The submission of a notice of intent does not impose an obligation on the provider. However, it does serve many purposes of the issuing agency. It identifies those who should receive any amendments and any transcript that might be made of the pre-submission conference.
- ***Definition of Terms:*** A useful section of a request for proposals is one that clarifies and defines the terms that will be used later in the RFP. Such a section can serve several purposes. One purpose is to eliminate the need to use the same title or phrase repeatedly (e.g., "Department" shall mean the Alabama Department of Youth Services or "Eligible program participants" shall mean male delinquents between the ages of 16 and 18 committed to a secure residential facility subsequent to being adjudicated as delinquents, and whose offenses are believed to be related to their substance use or addiction, including but not limited to the use of or addiction to alcohol.) Another purpose is to clarify the meaning of any unusual terms, or terms that have a special meaning in the context of the proposal.

### Terms and Conditions

To protect the legitimate interests of the issuing agency as well as to inform potential providers, a request for proposals should be as explicit as possible regarding the key terms and conditions of the procurement. A typical request for proposals would contain but not necessarily be limited to the following:

- **Identification of Contract Type:** There are many types of contracts (e.g. a cost plus contract, a fixed price contract, and so on). The type of contract appropriate for the task at hand should be specified in the RFP.
- **Contract Term and Renewability Provisions:** The term of the contract must be stated. If one or more renewals of the contract are possible, the number of renewals and the term of each should be made explicit. If funding for any portion of the contract or any possible renewal is contingent on something that is not related to the quality and/or cost of services provided by the selected independent contractor, this also should be made clear (e.g., when funding is contingent on annual legislative appropriations).
- **Method and Basis of Payment:** Potential providers have concerns regarding how they will receive payment and how they must document that payments are due. The specific language will vary between RFPs and types of contract. For example, unequal portions of the fee for services might be payable upon satisfactory completion of particular tasks. An equal portion of the fee might be payable on the first day of each month contingent on satisfactory performance during the month for which payment is requested. The independent contractor might receive a fixed fee per day for each juvenile to whom services are provided. A contract for a 150-bed secure juvenile detention facility, for example, might commit a state agency to pay a minimum number of dollars so long as the facility's population was at or below 100, a per diem payment of \$150 per day for each juvenile between 101 through 125, and a per diem payment of \$100 per day for each juvenile between 126 through 150. Whatever the payment method is, it should anticipate and clearly resolve any possible ambiguities. The rules for payment should clearly establish circumstances under which a juvenile is a resident for payment purposes (e.g., whether a juvenile who leaves or who arrives at the facility at a particular time during the day is or is not a resident for payment purposes) and certainly the payment basis in the event that the population of the facility moves above the residential capacity.
- **Method and Basis of Payment Adjustments:** The longer the period of the anticipated contract, the more important it will be to provide periodic adjustments in the payment schedule. If, for instance, the basis for payment is an agreed upon number of dollars per juvenile per day and the term of the contract is three years contingent on annual appropriations and satisfactory performance by the independent contractor, the per diem for the first year

may not be appropriate for the second and third years. This can be resolved in various ways (e.g., annual price negotiations or the inclusion of an agreed upon price inflator--as with the Consumer Price Index [CPI]). Whatever the mechanism is, it should be made clear in the RFP.

- ***Contract Amendments:*** The interests of both contracting agencies and independent contractors are best served when the RFPs as well as resulting contracts provide for amendments when they are mutually acceptable.
- ***Contract Termination:*** This term often implies contract termination for reasons related to unsatisfactory performance by the contractor. This is a proper reason for termination, but there are various other reasons that should be anticipated as well. A well-drafted contract contains alternatives that a contracting agency can or must rely on before a contract termination. Termination should be seen as the remedy of last resort. Because of the technical nature of contract termination clauses, drafting them requires close cooperation between agency personnel and their legal advisors. The state agency should divide the contract into sections so a provider can be in partial non-compliance without canceling the entire contract.
- ***Subcontracts:*** The state agency may or may not wish to permit providers to enter into subcontracts with other providers as a means of delivering one or more of the services in the contract. If the procurement effort is targeted at obtaining a single specialized service, the state agency is unlikely to welcome subcontractors. On the other hand, subcontracts might be appropriate when, for example, the state agency intended to obtain full-scale management services for a large juvenile facility and the selected independent provider wishes to subcontract for the delivery of food services. The RFP should clearly indicate that potential providers must indicate any intent they have to subcontract, the services for which subcontracts are intended, and the identity of any subcontractors with whom they intent to contract. It is appropriate to require that copies of any agreements that have been entered into between potential providers and proposed subcontractors be included with proposals. It should be made clear that no agreement entered into between potential providers and proposed subcontractors will be valid until each proposed subcontract has been approved by the state agency.
- ***Insurance and Indemnification:*** Potential providers must be told that it is their responsibility to provide satisfactory proof of their ability to shield government and its officials from legal liability associated with their performance pursuant to the terms of any contract. The method of meeting this obligation (e.g., insurance) must remain in force for the term of the contract unless any adjustment (e.g., the scope of insurance coverage or the insurance carrier) is approved in writing by the state agency. The insurance and indemnification language should be drafted with care since it imposes a cost on potential providers that will be passed along to the contracting agency.

- **Performance Bond:** The purpose of performance or completion bonds is to guarantee that independent providers will meet their contractual obligations. They are regularly used in construction contracts. They are sometimes used in service contracts. Most of the advantages of performance or completion bonds in service contracts can be achieved far less expensively by provisions of service contracts that describe with remedies for a breach of contract.

### Statement of Work

The statement of work section is the core of the procurement effort. Its objective is to communicate the goals and requirements of the state agency to all potential providers. The statement of work should include, but not necessarily be limited to, the following elements:

- **Background Information:** It is generally useful to provide a brief description of the factors that gave rise to the need for contracting. The legislature may have enacted a new statute that mandates the delivery of a particular service at one or more locations in a jurisdiction. The agency may have conducted or contracted for a needs assessment that persuaded it to move in a particular direction. Whatever the reason or reasons may be, this background information explains why the agency has decided to contract for a particular service or set of services.
- **Contracting Objectives:** This section should concisely describe what the agency seeks to achieve via the efforts of an independent contractor.
- **Client Characteristics and Eligibility Criteria:** It is critical that potential providers understand the client population. The agency should share everything they know about those who are likely to enter the facility or program. What is the probable distribution along racial or ethnic lines? Are the clients likely to come from urban, suburban, or rural backgrounds? Are they likely to have lengthy prior records and, if so, what kinds of records are they most likely to have? Are they likely to have histories of substance abuse, neglect, physical abuse, sexual abuse, and/or psychiatric problems? Are there eligibility requirements for referrals beyond those of age and legal status? How are those requirements defined? For example, it is not sufficient to say all referrals will be classified as serious and violent delinquents. "Serious" and "violent" are not precise enough. Valid and unambiguous client information is absolutely essential.
- **Service Requirements:** The service requirements section of an RFP is the most important and the most difficult writing task. On one hand, it is vital that the nature of the services be clearly communicated to all potential providers. On the other hand, it is important that those who prepare responses to RFPs be given the opportunity to be creative in their descriptions of how an agency's needs can be met most effectively and efficiently.

The better strategy is to be specific only when specificity is clearly necessary and then to encourage creativity on the part of potential providers. Often, it is possible to simplify the drafting task by including a requirement that, at a minimum, all proposals must guarantee a level or quality of the desired service or services that meets or exceeds the relevant ACA standards for accreditation. It could be required, for example, that a facility be accredited a year from the date of the contract award.

The drafting problems associated with this section of the RFP will vary with both the nature and the scope of the services that are desired. An RFP for the procurement of food services at a juvenile facility which houses 100 juveniles could be approached in a fairly matter-of-fact fashion. An effort to contract for medical services for the facility would present a greater challenge. The complete privatization of a juvenile facility would be even more complex. Thus, as the complexity or diversity of the desired services increases, so too would the need to subdivide this portion of the RFP into two or more subsections.

- **Special Requirements:** Depending on the nature and scope of the RFP, the contracting agency is likely to have some requirements regarding which assurances must be made in potential providers' proposals. The special requirements are concerned with, for example, where the services will be provided, the context in which the services will be provided, and by whom the services will be provided. The service requirements section of the RFP alerts potential providers to the needs of the contracting agency. The special requirements section imposes obligations on potential providers regarding the means by which the desired services will be delivered.

Considerable care should be taken in preparing this portion of the RFP. Illustrations of possible special requirements might include proof of the availability of an appropriate site or facility, and proof of suitable insurance coverage. It might require acceptance of the responsibility to provide for the maintenance of a facility within clear and reasonable limits also to provide for the repair of some or all equipment in a facility.

- **Project Schedule:** The service requirements section of an RFP often has multiple discrete elements. For example, a state agency might require that providers obtain a suitable facility site, prepare the site for construction, construct a facility, move toward full occupancy in two or more phases, deliver various services, and monitor the effect of overall program efforts on the post-release behavior of participants for some period of time. When this is the case, it is reasonable to require that potential providers include a description and a detailed implementation schedule.

- **Reporting and Records:** One portion of the work responsibility an independent contractor must accept involves preparing and submitting reports, and preserving records. Contractors must understand these requirements to accurately anticipate their resource needs. It is important that these responsibilities be as clear as possible in the RFP. Special attention should be given to any reporting requirement that has obvious financial implications.

### Proposal Requirements

Potential providers need reasonable guidelines for preparing proposals. The task of those called upon to review proposals is easier when all proposals follow the same basic format.

**A sound proposal requirements section needs to guarantee that:**

- **the substantive required information is complete enough that the quality of proposals can be fairly reviewed;**
- **the required cost information is complete; and**
- **the format required for cost information is such that the reasonableness of projected cost for each major service component can be objectively reviewed.**

The proposal requirements section should call for a budget that breaks down the overall budget so that cost projections in various areas can be compared with the corresponding components of the proposal. The issuing agency should require a line item budget for each important program area (e.g., administration, security, education/vocational programs, food services, and medical services, etc.)

Beyond these basic notions, there are no hard and fast rules regarding this element of an RFP--although applicable legal requirements or agency regulations may mandate the submission of one or more types of information. A few general guidelines, however, certainly deserve consideration.

- It is essential that the potential providers' commitments are clear. For example, proposal requirements should not permit a potential provider to make a vague commitment that "a suitable number of staff members shall be retained to provide for the maintenance of security." Instead, the precise staffing pattern for this and other features of the management plan must be provided and justified.

- RFPs often call for information that potential providers would prefer not shared with persons outside the issuing agency. Jurisdictions vary in their legal ability to provide for the confidentiality of proposals. When confidentiality is possible and appropriate, assuring confidentiality may dictate that proposals be submitted in such a way as to segregate protected from unprotected information.
- The review process may dictate some format elements. For example, some feel that it is prudent to have one subcommittee review the technical aspects of proposals and an entirely separate subcommittee review the cost proposals. Such a two-part review process can lessen the likelihood that improper weight will be assigned to the quality of the proposed services and the cost of the proposed services. This review strategy calls for the submission of two documents from each potential provider and that no information from one be duplicated in whole or in part by the other.
- Those who submit proposals should be encouraged to be thorough but concise.
- Potential providers should be informed that information not directly relevant to the specific requirements of the RFP should not be submitted.
- The purpose of an RFP is to encourage competition and creativity between qualified providers of services. It is important that the competition be as fair and as impartial as possible. This objective can be accomplished with proposal submission standards.
- The issuing agency should specify the number of copies that must be submitted.

#### Technical Information

For present purposes, the assumption is that the proposal requirements call for the technical information to be separate from the business or cost information by appearing in different volumes or in distinctively different sections of the same volume. The primary elements of the technical proposal include the following:

- *Statement of the Scope of Work Required:* The initial section of the technical proposal requires potential providers to demonstrate their understanding of the needs and objectives of the agency.
- *The Proposed Approach:* This section of the technical proposal is where potential providers explain in detail how they would handle the responsibilities set forth in statement of work section of the RFP, especially in the service requirements portion of the section.

- *The Management Plan:* The management plan provides a detailed explanation of how the proposed approach would be translated into actual efforts by the potential provider. This portion of the proposal should include but not necessarily be limited to the number, type, and minimum qualifications of project personnel and a statement of the project time schedule. It is also appropriate to require the inclusion of the manner in which potential providers propose to handle problems such as construction delays, escapes, disturbances, or various types of emergencies (e.g., employee strikes, natural disasters, and so on.)
- *Potential Provider Qualifications:* State agencies clearly want to have a sound means of judging the qualifications of potential providers. A common means of assisting them to make this judgment is a requirement that potential providers provide information about their corporate experience and staff qualifications.

The technical requirement should be exhaustive rather than selective. If the desire is to require information about the potential providers' experience with similar or related projects during the recent past, the language should not permit a provider to identify only positive experiences during a certain time period. Instead, the requirement might oblige potential providers to identify all contracts or subcontracts it has entered into during the past five years that involved the delivery of one or more of the services called for by the present procurement. Potential providers should be obliged to identify the name, title, agency, address, and current telephone number of the official to whom they were most directly responsible. The potential providers should not be allowed to choose particular persons who are familiar with their prior contracts or to include what amounts to "canned" endorsement letters in their proposals.

Regarding evaluations of potential provider qualification experience, care must be taken to avoid what amounts to non-competitive language. An RFP should not preclude potential providers from submitting proposals purely because they have no proven record of experience. A requirement of proof of successful performance on a similar or an identical contract is inappropriate. Although it is entirely fair and reasonable that experience plays a role in proposal review, it must never be a litmus test that eliminates competition by a new firm. Reported experience should be taken as nothing more or less than a claim until one or more members of the review team have directly verified it via personal contacts with one or more of the agencies who can comment about contract performance.

Business Information

The purpose of the business proposal is to establish the cost for the requested services given the approach, the management plan, and various costs that may be associated with other RFP requirements (e.g., insurance costs, travel and per diem costs, and so on). Equally important, however, the RFP must require the presentation of the business proposal in a format that allows the other elements in the proposal to be reviewed fairly and fully. For example, if the objective of a contracting agency was to procure facility management services, then it would be important to mandate that business proposals include subsections with detailed information regarding costs associated with administration, educational programs, facility security, treatment programs, and so on. Additionally, similar detail should be called for regarding any contract services that potential providers might intend to obtain via subcontracts (e.g., medical services or food services).

The possible categories for each section of the business proposal should include but not necessarily be limited to the following:

- costs associated with facility construction or renovation (including details regarding site acquisition costs, land preparation costs, design costs, and construction costs);
- allowable costs for activities of the independent contractor prior to the beginning of services delivery (including items such as employee training);
- labor costs (including number of full- and part-time positions, salary or hourly rate of pay, fringe benefits and, if appropriate, consulting services);
- equipment acquisition costs (including an identification of types of equipment and unit costs);
- insurance costs (including appropriate detail when multiple types of coverage are necessary);
- supplies and materials costs;
- data processing costs;
- telecommunications costs;
- travel costs;

- general and administrative costs (including information on how the costs were computed); and
- total cost of the proposed services.

When this aspect of an RFP is reviewed for completeness, and when proposals are being reviewed, a few additional guidelines are worth considering.

- Potential providers should be reminded that only allowable costs may be included in their business proposals. Thus, for example, it would be inappropriate to include any item in a business proposal that addresses costs associated with proposal preparation, travel and per diem costs associated with attending a pre-submission conference, or the efforts of any person or firm who may have assisted the provider (e.g., a firm retained to lobby a legislature for necessary enabling legislation or appropriations for the services being procured).
- A separate category in business proposals should deal with the profit a potential provider can realize.
- As a general rule, it is not advisable to impose any minimum or maximum allowable cost for any item in a business proposal unless required by law (e.g., minimum wage requirements) or is essential for some reason independent of law (e.g., a legislative "cap" on the appropriation for facility construction or renovation costs). The true issue is not whether private sector salary schedules are similar to those of a contracting agency. It is instead whether proposals provide persuasive evidence of the ability to meet the obligations of the anticipated contract.
- Absent a clear legislative mandate that precludes contract awards unless a specific cost saving target is met or exceeded, it may not be reasonable to impose a cost savings requirement in an RFP. It is not uncommon to see requirements that qualified potential providers submit cost proposals that assure an agency of a cost saving equal to or greater than some announced percentage. There are circumstances under which the quality of services will dominate the contracting decision. However, there are also many circumstances under which the quality of services will dominate the contracting decision once a known benchmark price has been met.

- Finally, it is customary to require that potential providers include a statement that guarantees the contracting agency that all information presented was determined by the provider and did not involve any agreement, collusion, communication, consultation with any competitor. The penalty for any breach of this guarantee should be clear.

#### Proposal Review and Selection Criteria

It is critically important to carefully consider the method of reviewing proposals and that the RFP alert potential providers to the weight issuing agencies will assign to the various elements of the proposals. Further, provisions of law, regulations, and agency policy may shape the review process to a substantial degree. Finally, it is imperative that the fairness and integrity of the review be carefully protected.

At a minimum, issuing agencies should assure that:

- each provider is eligible to submit a proposal (i.e., that the potential provider has not been placed on a possible list of ineligible vendors or determined to be ineligible for some other reason);
- the minimum standards the potential provider's proposal must meet are clear;
- they reserve the right to consider proposals that are incomplete in one or more non-essential elements;
- the "mix" of subject matter and technical expertise of the committee is properly sophisticated;
- all members of the review committee will be available during the proposal review process;
- no member of the review committee has, or in the recent past has had, any personal or business relationship with any potential provider;
- no member of the review committee is opposed to contracting for the service or services detailed in the RFP;
- no member of the review committee is predisposed to favor any particular strategy or method of service delivery; and

- no member of the review committee has a significant financial interest in the success of any potential provider (e.g., ownership of a significant number of shares of stock in a publicly traded private firm).

Beyond general guidelines for the review process, there should be a clearly defined set of selection criteria. There are many ways a contracting agency might state and establish appropriate weights for the selection criteria. The crucial aspect of this part of the process is that the criteria and weights be appropriate to the specific objectives of the procurement effort, that they be as objective as possible, and that they be used in a similar fashion by all members of the proposal review committee.

Naturally, the experience of a given jurisdiction or agency may have resulted in the adoption of a standardized set of selection criteria with standardized weights for each criterion. Without a contrary statute, regulation, or agency policy, the following model would be reasonable.

- potential provider's understanding of the background of, need for, and scope of the services being solicited (5 points);
- evidence of potential provider's past experience with and performance of duties of a type reasonable related to the present request for proposals (10 points);
- adequacy of the proposed approach for service delivery (25 points);
- adequacy of the proposed management approach (25 points);
- qualifications and experience of key project personnel (20 points); and
- general cost considerations unrelated to the quality of proposals (e.g., cost savings provided relative to actual or estimated agency costs for providing substantially the same services) (15 points).

The particulars of this model are not as important as the overall strategy it reflects. Specifically, the model places heavy emphasis on assessments of a provider's ability to handle the obligations of a contract in an effective and efficient manner. Further, the model places only modest emphasis on the potential provider's past history and thus fosters competition from providers who have little past experience but who submit sophisticated proposals and whose key personnel have a proven ability to "get the job done." Finally, the low weight assigned to costs per se is intended to protect contracting agencies against the possibility of a "low-ball bid" allowing a potential provider whose proposal is weak on other critically important dimensions to prevail.

Without regard to whether this or an alternative model is used, the specifics of the process must be clearly understood by the members of the proposal review committee before proposals are screened. There are many things which deserve to be taken into account as the process is finalized. For example, it makes sense for:

- the committee to meet and discuss the selection criteria before committee members receive proposals so that they can reach a consensus before the review process begins that will provide greater consistency in the assessments of individual proposals;
- the scoring system to be agreed on before the process begins (e.g., will the overall ratings be pooled and averaged as opposed to category-by-category ratings being pooled and averaged, will the committee be subdivided into a technical proposal subcommittee and a business proposal subcommittee with each subcommittee reviewing only particular components of proposals, and so on);
- each committee member to have a written statement of how the selection criteria have been defined;
- each committee member to have a standardized proposal review form;
- opportunities to exist for the committee to convene during the review process to reach a consensus on unanticipated items that may need clarification;
- ratings to be arrived at independently rather than during a committee meeting where one or more influential or persuasive committee members might exert improper control over the outcome of the review process; and
- a formal means to be developed for preserving review results and their accompanying rationales.

Contracting agencies have either a formal or an ethical obligation to move through the process in a fair and objective fashion as possible. The process should conclude in such a way to provide objective feedback to potential providers. Responding to RFPs is more difficult than drafting them. Major RFPs can impose an immense time burden on providers.

Contracting agencies should accept the responsibility for meeting with unsuccessful providers and providing constructive criticisms of their proposals. Every responsible agency desires to create and to maintain a positive reputation among providers. Most providers have submitted successful and unsuccessful proposals. Losing at the end of a demanding contracting process can be frustrating, but dealing with loss is an essential aspect of working in the private sector.

### Proposal Attachments

There may be various types of information a contracting agency feels would assist potential providers in understanding the nature of the RFP and its requirements. Applicable statutes, regulations, or agency policies may mandate the attachment of one or more types of information to RFPs.

The information one might attach to an RFP could include: applicable procurement statutes, enabling legislation, needs assessment reports, plans for a prototype structure and statistical profiles of client characteristics. These and other documents may not be easily accessible to potential providers, but might enhance their understanding of the procurement process, the problems a contracting agency is confronting and how it hopes to attack those problems. Those drafting an RFP should be able to imagine what they would need if they were in the provider's position. The greater the imagined need, the greater the wisdom either of providing the information in an appendix to the RFP or, at a minimum, directing potential providers toward sources from which the information can easily be obtained.

Whether expressed in state statutes or agency regulations, procurement requirements generally impose obligations on agencies issuing RFPs to assure (a) that information on the release of RFPs is available to a broad range of potential providers and (b) that potential providers have a reasonable amount of time to draft their proposals. This means that a notice of the release of an RFP must appear in one or more publications and that the time between the RFPs release and the deadline for submissions of proposals is no less than a specific number of days. It is essential that these requirements be satisfied. To violate them can easily result in the invalidation of the entire procurement process and significant delays in the delivery of the necessary services.

The policy dimension of the proposal release process is no less important. Vital interests of state agencies are at stake when they issue RFPs. Those vital interests are best served when all aspects of a procurement process invite and encourage competition. The minimum requirements of state statutes or regulations may not be enough to serve those interests. For example, releasing a notice regarding an RFP in an official state publication may satisfy minimum legal requirements but not reach a wide enough range of potential providers. Agencies may need to go beyond minimum requirements by forwarding the RFP to all firms they believe have the necessary expertise. An important part of the background work for an RFP should be identifying all firms that have the ability to deliver the type or range of services in the RFP. Similarly, procurement requirements may mandate that the deadline for proposals be no less than 30 days after the official release of an RFP. Policy interests often require a longer period of time for potential providers to respond.

**CONCLUSION**

Requests for Proposals are crucial to any procurement effort. As this monograph clearly demonstrates, careful planning and research are central to any successful RFP. State agencies must be aware of the information that RFPs must provide and the important part they play in developing an effective contract.

The information and suggestions in this monograph can guide a state agency in developing and releasing RFPs and reviewing the responses. The sample RFP at the end of this material should be used as a general guide, but one must remember that each situation is unique. Each RFP will look different and include different information and stipulations for each procurement effort, even within the same agency.

**APPENDIX A**

**A SAMPLE REQUEST FOR PROPOSALS**

A request for proposals flows from a particular agency need. The structure and content of an RFP often is shaped by applicable provisions of law, regulations, and agency policies. No sample could provide detailed step-by-step guidance for those called upon to draft an RFP. At the same time, it is probable that seeing a reasonably prepared RFP aimed at a fairly ordinary agency need will be of value.

The sample RFP in this appendix follows the recommendations advanced in the body of this monograph. It assumes that a fictitious agency--the Department of Youth Services---in a fictitious jurisdiction--Columbia--has determined that it may be in the interests of the agency to contract for the complete privatization of a 50-bed juvenile residential facility presently operated by the agency.

**STATE OF COLUMBIA**  
**DEPARTMENT OF YOUTH SERVICES**

**REQUEST FOR PROPOSALS TO MANAGE AND OPERATE  
THE SOUTH WASHINGTON JUVENILE  
RESIDENTIAL FACILITY  
IN SOUTH WASHINGTON, COLUMBIA**

**DYS RFP #93-101**

**Date of Issuance**

**February 1, 1993**

**Date of Response Required**

**July 1, 1993**

**Executive Summary**

Funds appropriated for Fiscal Year 1990-91 by the Legislature of the State of Columbia to the Department of Youth Services ("Department") provided for the cost of design and construction the South Washington Juvenile Residential Facility ("Facility"). This 50-bed facility received its first residents on January 2, 1992 and is presently being managed and operated by the Department. All aspects of the design and construction of the Facility were in full compliance with applicable standards of the American Correctional Association (ACA), but no effort has been made to date to obtain ACA accreditation.

Pursuant to the Cost Containment Act Legislation enacted by the Legislature of Columbia on February 15, 1992, CL Statute 39.1 that went into effect on July 1, 1992, the Department of Youth Services is obliged to solicit proposals for the private management and operation of the Facility and all other juvenile residential facilities now managed and operated by the Department from interested corporations, partnerships, or other legal entities ("Contractors") and to contract with the most highly evaluated potential provider if (a) the overall quality of the services proposed is equal to or better than those presently being provided by the Department and (b) the cost of the proposed services is less than the cost of the presently provided services. (In accordance with CL Statute 39.1(2)(e), the full cost of the contract monitoring as provided for in this request for proposals shall be defined as a cost of contractor services.)

The Facility provides a broad range of programs, including counseling, drug awareness, educational, recreational, and vocational training programs, that are provided for a maximum of 50 adjudicated male delinquents between the ages of 16 and 18. Support services required at the Facility include food, laundry, and maintenance services as well as limited dental and medical services. A profile of the present residents reveals them to have been drawn disproportionately from major metropolitan areas of Columbia, minority groups, and dysfunctional families. Related data reveals that residents often have histories of substance abuse, prior commitments to juvenile residential facilities, educational achievement scores on accepted standardized tests that, on average, place them three to five years below those of typical males of similar age, and minimal work experience or vocational skills. The average length of stay for residents is approximately six months.

All proposals must provide for the delivery of a range of services equal to or more expansive than those presently being provided by the Department. All proposals must commit to the achievement of accreditation by the American Correctional Association within one year following the assumption of management and operational responsibilities.

Although the cost components of qualified proposals must be below the projected cost of services, \$92.55 per resident per day when the facility is operating at this maximum capacity of 50 residents, the dominant focus of the proposal review process will be on the quality of services potential providers commit to provide and indicators of their ability to deliver those services.

The Department anticipates the award of a three-year contract for management and operation of the Facility. Subject only to annual appropriations and satisfactory contract performance, the contract may be renewed one time for two years subject to the same qualifications. For the first year of operation the contract will be a fixed price contract the maximum value of which shall be the base per diem rate of \$92.55 times 50 residents times 365 days or \$1,689,037.50. Each year thereafter the maximum value of the fixed price contract shall increase or decrease in accordance with fluctuations, if any, in the Columbia Consumer Price Index (CR-CPI) as published by the Columbia Department of Economic Affairs on June 30 of each year.

Potential providers should note that there will be a pre-submission conference in Conference Room "A" of the Department of Youth Services Building, 1401 Capitol Street, River City, Columbia at 9:00 a.m. Eastern Standard Time on March 1, 1993. Although those attending will have an opportunity to raise questions that were not submitted in advance, staff will respond to all questions submitted in writing and received by Mr. George Washington, Department Contracting Officer, by or before 5:00 p.m. Eastern Standard Time on February 20, 1993. A formal transcript of the meeting, which will include an edited version of all written questions received on or before February 20, 1993, will be available to all interested parties as soon as is practical following the meeting.

Potential providers also should note the following important deadlines and requirements:

- Official date of RFP issuance: February 1, 1993;
- Pre-submission conference: 9:00 a.m. Eastern Standard Time on March 1, 1993;
- Receipt by Contracting Officer of official written notice of intent to submit a proposal: 5:00 p.m. Eastern Standard Time on March 15, 1993;
- Receipt by potential providers who comply with notice of intent requirement of transcript of bidders' conference and other relevant information: by or before 5:00 p.m. Eastern Standard Time on March 25, 1993;
- Deadline for receipt by potential providers who comply with notice of intent requirement of any amendments to the request for proposals: June 1, 1993;
- Deadline for receipt by Contracting Officer of one original and six copies of a full and complete proposal: 5:00 p.m. Eastern Standard Time on July 1, 1993;
- Anticipated announcement by Contracting Officer of results of proposal evaluation process with contract negotiations to commence as soon as practical thereafter: 9:00 a.m Eastern Standard Time on August 1, 1993; and
- Anticipated date for commencement of all management and operational services: October 1, 1993.

**Section I: General Information and Requirements**

1. The title and identifying number for this procurement shall be Request for Proposals to Manage and Operate the South Washington Juvenile Residential Facility, DYS RFP #93-101.
2. The Contracting Officer for this RFP shall be Mr. George Washington, Room 711, Department of Youth Services Building, 1401 Capitol Street, River City, Columbia 87711-0711 (704-392-1025; FAX 704-392-1026).
3. The legal authority for this procurement is CL Statutes 39.1 and the general statutory requirements as they pertain to procurement of contracts for professional services by request for proposals and as expressed in CL Statutes 401(1)-404(32).
4. Nothing in this request for proposals establishes an obligation on the Department to enter into a contract for services with any contractor. In the event no qualified proposals are received, the Department may terminate the procurement effort, amend the request for proposals in whole or in part, or extend the deadline for submission of proposals by a period of not more than 30 days. In the event that only a single qualified proposal is received, the Department, at its sole discretion, shall either (a) proceed with contract negotiations or (b) terminate the procurement effort, amend the request for proposals in whole or in part, or extend the deadline for submission of proposals by a period of not more than 30 days.
5. All questions regarding this request for proposals shall be submitted to the designated Contracting Officer in writing. All responses to such questions shall be in writing. All questions shall be in writing. All questions submitted and all responses provided shall be made available to all potential providers who have complied with the notice of intent provision of this request for proposals. No responses to questions about this request for proposals shall be binding on the Department unless they are provided in written form and are signed by the Contracting Officer.
6. The Department reserves the right to amend any portion(s) of this request for proposals so long as written notification of any such amendment(s) reaches potential providers who comply with the notice of intent provision of the request for proposals on or before 5:00 p.m. Eastern Standard Time on June 1, 1993.
7. The maximum funding for the first year of Contractor activities has been set at \$1,689,037.50. No proposal shall be construed to be qualified unless its total cost component is less than \$1,689,037.50.
8. Pursuant to the Public Records Act of 1975 CL Statute 948, all materials submitted by the successful provider in response to a request for proposals become public documents that are available for inspection immediately following the announcement of the identity of the most highly reviewed proposal. The Public Records Act of

1975 requires the public availability of all materials submitted by the successful provider in response to a request for proposals.

9. A pre-submission conference will be held in Conference Room "A" of the Department of Youth Services Building, 1401 Capitol Street, River City, Columbia at 9:00 a.m. Eastern Standard Time on March 1, 1993.
10. The deadline for receipt of proposals shall be no later than 5:00 p.m. Eastern Standard Time on July 1, 1993. One original and six copies of each proposal must be submitted to Mr. George Washington, Room 711, Department of Youth Service Building, 1401 Capitol Street, River City, Columbia 87711-0711.
11. Following the submission of proposals, the Department reserves the right to require oral presentations by some or by all potential providers whose proposals are deemed to be responsive to the requirements established by this request for proposals.
12. It is the intent of the Department to announce the results of the proposal review process at 9:00 a.m. Eastern Standard Time on August 1, 1993.
13. Potential providers shall be bound by each commitment made by them in their proposal for a period that shall be no less than 90 days following such submission. This commitment shall be guaranteed by a proposal bond equal to 5 percent of the proposed fixed price contractor cost for the first year of facility operations. The proposal bond, in the form of either a bond from an acceptable surety authorized to conduct business in the State of Columbia or a certified check payable to the State of Columbia, shall accompany each proposal.
14. The date for the commencement of all services described in this request for proposals shall be no earlier than September 1, 1993 and no later than November 1, 1993.
15. All proposals must contain a suitable affirmative action policy to be adopted by potential providers. The policy must comply with all applicable Columbia and federal legal requirements.
16. Potential providers must submit a written notice of their intent to submit responses to this request for proposals. The written notice, which must clearly identify the request for proposals by name and by number, must be received by the Contracting Officer no later than 5:00 p.m. Eastern Standard Time on March 15, 1993. Failure to comply with this notice requirement shall disallow the consideration of any proposals subsequently submitted by potential providers.
17. The proposal preparation and submission costs are solely the responsibility of potential providers and the State of Columbia shall not provide reimbursement for any such costs.

18. Any contract resulting from this procurement shall be construed in accordance with the laws of the State of Columbia. Any legal proceedings against the state of Columbia or the Department regarding this request for proposals or any resulting contract shall be brought in the appropriate administrative or legal forum in the State of Columbia. Venue shall be in Potomac County, Columbia.
19. For the purposes of this request for proposals the following definitions shall apply.
- (a) ACA: the American Correctional Association
  - (b) ACA Accreditation: the successful completion of all requirements imposed by the American Correctional Association for the accreditation of juvenile residential facilities.
  - (c) ACA Standards: the standards for juvenile residential facilities in existence at the time of a contract being entered into between the Department and the Contractor or as they may be amended subsequent to the execution of such a contract.
  - (d) Affirmative Action Policy: a policy adopted by a contractor that is in full compliance with applicable provisions of federal law and the law of the State of Columbia and that ensures equal opportunity in the areas of employee selection, retention, rate of pay, demotion, transfer, layoff, termination, and promotion regardless of race, religion, age, sex, or ethnic origin.
  - (e) Facility: the South Washington Secure Residential Facility located in South Washington, Columbia.
  - (f) Juvenile Delinquent: a person below the age of 18 who has been adjudicated delinquent by a court of competent jurisdiction on the basis of commission of an act or omission to act that would have constituted a crime had the person been 18 years of age or older at the time of the act or omission to act.
  - (g) Non-routine Maintenance and Repairs: any act of maintenance of the Facility or repair to equipment within the Facility costing more than \$500 and which shall be the responsibility of the Department.
  - (h) Resident: a juvenile delinquent who has been committed to a facility for which the Department is responsible.
  - (i) Routine Maintenance and Repairs: any act of maintenance of the Facility or repair to equipment within the Facility costing less than \$500 and shall be the responsibility of the Contractor.
  - (j) Juvenile Residential Facility: a rehabilitative facility for juvenile delinquents that is designed and operated to ensure that all entrances and exits are under the exclusive control of the facility staff and that disallows unsupervised or unauthorized departures from the facility.
  - (k) Unforeseen Circumstances: those acts or occurrences beyond the reasonable contemplation of the Department and the Contractor at the time of the execution of a contract between them that materially alter the financial conditions upon which the contract is based.

**Section II: Terms and Conditions**

1. The type of contract to be awarded shall be a fixed price contract.
2. The contract period shall be for three years with the possibility of one renewal for two years. Contract renewal shall be contingent on satisfactory contract performance and annual legislative appropriations.
3. Payment to the Contractor shall be made by the Department on the first day of each month and the amount of the payment due shall be equal to 1/12 of the fixed price that is provided for in the contract between the Department and the Contractor.
4. The fixed price component of the contract shall be adjusted on an annual basis with the fixed price being increased or decreased, if appropriate, by a percentage equal to the percentage change in the Columbia Consumer Price Index as published by the Columbia Department of Economic Affairs on June 30 of each year. Other adjustments to the fixed price shall be possible should unforeseen circumstances so require.
5. During the term or any renewal of the contract, any provision of the contract shall be subject to adjustment should such an adjustment be proposed in writing by either the Department or the Contractor and should the adjustment be mutually agreed on by both the Department and the Contractor.
6. Any contract entered into between the Department and the Contractor shall be subject to termination if (a) funding for the contract is not appropriated by the Legislature of the State of Columbia, (b) there is a filing of a petition of bankruptcy by or against the Contractor under any provision of federal or state law, (c) the Contractor is deemed by the Department, on the basis that reasonable cause has been demonstrated, that the contractor has failed substantially to fulfill any of its obligations (i.e., a material breach), or (d) circumstances should arise such that the health, welfare, or safety of the facility residents, facility staff, or public at large are placed in jeopardy. However, no material breach exists when the conduct of the Contractor is excused by the Department, when the failure to fulfill one or more obligations is caused by unforeseen circumstances, or when the failure to fulfill one or more obligations is caused by the conduct of the Department. Further, no breach of any contract entered into between the Department and the Contractor shall constitute grounds for the termination of the contract unless a written notice of breach is provided to the Contractor and it fails to cure the breach within 30 days following written notice of breach.
7. Any proposal that anticipates reliance on a subcontractor for one or more of the services required in this request for proposals must contain a clear notice of intent to subcontract, a description of the service for which a subcontract is deemed to be appropriate, a written commitment from the proposed subcontractor that the service described will be provided at a cost equal to the cost established in the proposal, and

proof of the qualifications and credentials of the subcontractor.

8. All proposals shall provide for suitable liability, property damage, and workmen's compensation insurance. Further, all proposals shall agree to indemnify, defend, and hold harmless the State of Columbia, the Department of Youth Services and the officers, agents, and employees of the Department of Youth Services from any suit, action, claim, or demand of any description whatsoever for losses or damages arising directly or indirectly from, or in connection with, the operation and maintenance of the Facility. This agreement to indemnify, defend, and hold harmless shall not apply to any suit, action, claim, or demand of any description whatsoever for losses or damages arising from any independent action or omission of any person or entity other than the Contractor.

### **Section III. Statement of Work**

1. Pursuant to the Cost Containment Act enacted by the Legislature of Columbia on February 15, 1992, CL Statute 39.1, and which went into effect on July 1, 1992, the Department is obliged to solicit proposals for the private management and operation of the Facility and all other secure and non-secure detention or residential facilities now managed and operated by the Department from interested corporations, partnerships, or other legal entities and to contract with the most highly evaluated provider if (a) the overall quality of the services proposed is equal to or better than those presently being provided by the Department and (b) the cost of the proposed services is less than the cost of the presently provided services. (In accordance with CL Statute 39.1(2)(e), the full cost of the contract monitoring as provided for in this request for proposals shall be defined as a cost of contractor services.)
2. The Department anticipates contracting for the same services presently provided at the Facility or for a range of services capable of achieving the objectives that prompted the delivery of the present services.
3. A profile of the present residents reveals them to have been drawn disproportionately from major metropolitan areas of Columbia, minority groups, and dysfunctional families. Related data reveals that residents often have histories of substance abuse, prior commitments to juvenile residential facilities, educational achievement scores on accepted standardized tests which on average place them three to five years below those of typical males of similar age, and minimal work experience or vocational skills. Commitment offenses commonly involve both offenses against property and offenses against persons that could have resulted in the filing of serious felony charges had the cases been prosecuted in a criminal, rather than a juvenile court. The average length of stay for residents is approximately five months.

4. The necessary services shall include but not necessarily be limited to the maintenance of a secure and sanitary environment on a 24-hour-a-day basis within which:
  - (a) individualized needs assessments and treatment plans are prepared for each resident within no more than 15 days after the arrival of a new resident;
  - (b) appropriate individual and/or group therapy is provided on a regular basis by properly qualified professional staff;
  - (c) all residents are actively involved in intensive educational and vocational training programs, including basic life skills training, drug education and sex education, appropriate for their measured levels of attainment and skill;
  - (d) appropriate programs providing for a combination of incentives and disincentives are consistently relied on to improve the attitudes, values, self esteem, and behavior of residents;
  - (e) appropriate recreational programs for the residents are provided;
  - (f) the basic needs of all residents for a balanced diet, routine medical and dental services, and other essentials (e.g., clothing, personal hygiene items, and laundry services) are met;
  - (g) full and complete records are maintained as a means of documenting the progress of residents in all areas of program involvement; and
  - (h) full and complete records are maintained regarding all features of facility administration, expenditures, management, maintenance, and staff training.
  
5. The special requirements for all proposals shall include the following:
  - (a) that all features of facility management and operation shall meet or exceed the minimum requirements for ACA Accreditation;
  - (b) that all proposals shall contain a commitment that ACA accreditation will be achieved within one year following the commencement of the delivery of services;
  - (c) that the experience and training requirements established by The Juvenile Corrections Training and Certification Act of 1990, CL Statutes 39.20, shall be met by all employees to whom the requirements apply were those employees to be employees of the Department;
  - (d) that all proposals shall contain an employee selection plan that affords existing employees of the Facility, excepting only those employees presently in the positions of Facility Administrator, Assistant Facility Administrator, and Facility Program Administrator, a right of first employment and shall describe in suitable detail any special conditions of employment those employees would enjoy regarding but not necessarily limited to their accumulated annual leave, accumulated sick leave, and seniority; and
  - (e) that all proposals anticipate the selection, prior to the commencement of services, of an independent evaluator acceptable to both the Department and the Contractor whose fee, which shall not exceed 5 percent of the funding available pursuant to the terms of the fixed price contract, shall be the responsibility of the Contractor whose obligation will be to evaluate all aspects of service delivery and whose evaluation report shall be submitted to

the Department and to the Contractor within 30 days prior to the completion of each year of service delivery.

6. All proposals shall provide a time schedule that will be followed regarding movement toward ACA accreditation.
7. The Contractor shall meet with the Contracting Officer at the Facility on a quarterly basis to review contract performance and shall provide written reports to the Contracting Officer on a monthly basis that include documentation on all admissions, releases, and employment decisions (including decision to hire, promote, or terminate). Additionally, the Contractor shall provide immediate notification to the Contracting Officer of any unusual incidents that include but are not necessarily limited to physical assaults, escapes, accidents causing injury to staff or residents, or any significant damage to the Facility caused by accidents, intentional acts, or any other cause.

#### **Section IV. Proposal Requirements**

##### **General Requirements**

- Proposals should be prepared in a complete and concise manner as possible.
- Proposals must include a title page which identifies the request for proposals by title and by number and which provides the name, business address, and telephone number of the potential provider.
- Proposals shall be printed on ordinary 20 pound 8 1/2 by 11 inch white paper.
- Proposals shall contain only materials that are directly relevant to the request for proposals.
- Proposals shall be divided into two basic parts that are clearly designated as "The Technical Proposal" and "The Business Proposal."

##### **Requirements for The Technical Proposal (85 Points of 100 Possible Points)**

1. Statement of Work Required (5 Points of 100 Possible Points)

The statement of work portion of the technical proposal should demonstrate a clear understanding and grasp of the objectives the Department must pursue in its efforts to provide for the delivery of services to the residents of the Facility and the role the potential provider would play in the achievement of those objectives. The statement of work portion of the technical proposal also should demonstrate the potential provider's specific awareness of the needs of the juveniles who are most likely to be

facility residents.

2. The Proposed Approach (25 Points of 100 Possible Points)

The proposed approach position of the technical proposal is of vital importance and provides potential providers with an opportunity to propose creative means of addressing the problem at hand. Separate attention must be given to each major area of facility operation and management. Attention also must be given to the approach proposed to assure the Contractor efforts will be subject to reliable and valid evaluation.

3. The Proposed Management Plan (25 Points of 100 Possible Points)

The proposed management plan portion of the technical proposal is also of vital importance. Potential providers must explain how the proposed approach will be translated into an actual service delivery model. The management plan must include a (a) complete organization chart, (b) an identification of each employee category, (c) the minimum qualifications for and job descriptions of each employee category, (d) the number of employees who fall within each employee category, and (e) a contingency plan which describes how foreseeable emergencies would be handled (including, but not necessarily limited to natural disasters, fires, employee strikes, and escapes).

4. Provider Experience and Qualification (30 Points of Possible 100 Points)

The provider experience and qualifications portion of the technical proposal has two fairly separate component parts: (a) the potential provider's relevant past experience (10 of the 30 points allowable for this portion of the technical proposal) and (b) the qualifications and experience of key project personnel (20 of the 30 points allowable for this portion of the technical proposal).

Regarding the "a" component, potential providers shall include a complete list of all contracts and subcontracts the potential provider has received during the past five calendar years that imposed an obligation on the potential provider to provide services of any kind to juvenile delinquents in either a secure or a non-secure facility. The information provided shall include the effective dates of performance, the contracting entity, the name, address, and telephone number of the responsible contracting officer or contract monitor, and a brief description of the service(s) provided.

Regarding the "b" component, potential providers shall provide a complete list of key project personnel, a resume for each person identified, and a narrative description of the role each person would have were the potential provider to be selected.

Requirements for the Business Proposal (15 Points of 100 Possible Points)

The purpose served by the business proposal is two-fold: (a) to establish that total proposed costs fall below the benchmark amount of \$1,689,037.50 and (b) to establish that all features of the technical proposal and other requirements of this request for proposals can be handled effectively given the proposed use of financial resources provided in the business proposal. Thus, potential providers should be careful to establish the linkage between the business proposal and other features of both the basic requirements of this request for proposals and the material they provide in their technical proposals. Further, the basis for any computations that might be unclear to those who review proposals should be established in a suitable manner.

1. Employee Labor and Fringe Benefit Cost

Labor and fringe benefits costs must be presented in a sufficiently complete manner that the basis for this cost component can be evaluated in terms relevant to the proposed approach and proposed management plan (e.g., labor and fringe benefits costs associated with facility administration and support personnel, with security personnel, with educational/vocational personnel, etc.).

2. Consultant Costs

Proposals calling for consultants, including the required independent evaluators, must provide a description of the anticipated consulting services and the anticipated cost of those services, and the means of establishing the cost of those services (e.g., "X" number of dollars per consulting day for "Y" days plus "Z" dollars in related travel and per diem costs).

3. Subcontracting Costs

Proposals may anticipate subcontracting for one or more necessary services (e.g., dental, food, janitorial, or medical services). In addition to requirements regarding subcontracting established elsewhere in this request for proposals, the cost component of any such subcontract shall be clearly identified and explained in the business proposal.

4. Food Service Costs Other Than Labor and Fringe Costs

5. Utilities Costs Other than Telecommunications Costs (itemize)

6. Telecommunications (itemize)

7. Equipment Costs (itemize)

8. Insurance Costs (itemize)

9. Supplies and Materials (itemize)
10. Travel and Per Diem Costs (itemize and provide explanation)
11. Staff Training, Including In-service Training (itemize)
12. Other Direct Costs (itemize)
13. Overhead and Administrative (itemize and provide explanation)
14. Total Proposed Cost

#### **Section V. Proposal Review Criteria**

All proposals received by the Contracting Officer by or before 5:00 p.m. Eastern Standard Time on July 1, 1993 shall be considered. No proposal submitted after that deadline will be accepted for review. All timely submissions will be screened to verify that all essential information required in this request for proposals has been provided and that the total cost component of proposals falls below the mandated total cost ceiling.

All qualified proposals will be submitted to the Proposal Review Committee for evaluation. Each member of the Committee shall independently rely on the following proposal review method.

- potential provider's understanding of the background of, need for, and scope of the services being solicited: 5 points;
- evidence of potential provider's past experience with and performance of duties of a type reasonably related to the request for proposals: 10 points;
- qualifications and experience of key personnel: 20 points;
- adequacy of the proposed approach: 25 points;
- adequacy of the proposed management approach: 25 points; and
- reasonableness and competitiveness of cost proposal: 15 points.

An average of evaluator ratings for each of these six review criteria will be computed. The six averages will then be added together to obtain a total proposal "score." Subject to the qualifications established elsewhere in this request for proposals, negotiations will begin with the provider that receives the highest total proposal score as soon as is possible after the announcement of the review results, which is anticipated to be 9:00 a.m. Eastern Standard Time on August 1, 1993. Should successful contract negotiations not be completed, the Department reserves the right to begin negotiations with other qualified providers in an order established by the total proposal score attributed to their proposals.