PFG
Public Facilities Group

The Outcome-Focused RFP

Zero in on six key elements

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Structuring a request for proposal (RFP) is a critical step for public agencies developing new facilities. Like many tools that occupy the interface between the public and private sectors, the standard public RFP has evolved to where its focus is more on process than on outcome.

If it is to be an effective decision-making tool for a local government, however, an RFP needs to be more outcome-focused and present a clear framework to judge responses. This article focuses on questions that have proven useful in RFPs for developing public facilities, whether they are delivered through the traditional public works process or a public-private partnership (P3).

Including these six elements in an RFP will help managers zero in on the most important aspects each responding development team has to offer:

1. **Team qualifications.** The most important thing a development team brings to a public project is a group of qualified individuals. Your RFP should ask for the names and resumes of the specific individuals who will be assigned to the project. Confirm that they have experience with similar projects of a comparative scale and scope as your planned project.

Ask how much time each individual will commit to the project, in both the pre-development and development stages. Will they be concurrently working on other projects, or are they able to fully commit their efforts to the subject project? Are they local? If not, how will communication work, both with the public agency and other team members?

What experience does the team have working under similar circumstances? Are there multiple stakeholders, difficult site constrains, or other public concerns that might affect project delivery? Does the team have experience in these situations?

2. **Creation of value.** A team creates value by ensuring that the facility it proposes meets all of the objectives outlined by the public agency in an efficient and cost-effective manner. Value can be added through innovative building design or site planning; by leveraging relationships to achieve advantageous contracting; through special construction techniques and efficiencies; in scheduling and critical path planning; and with techniques that mitigate risk to the public agency.

Development teams should demonstrate and be evaluated on how they propose to maximize measurable public value.

3. **Contracting.** Include in the RFP your proposed pre-development and development contracts that incentivize efficiency and penalize delay. Ask each respondent to comment on the proposed contracts and to propose alternative terms.

The RFP process is the only time where teams are competing for the work and the only time that public agencies have the ability to secure fair contract terms. After a team is selected, the public agency will have little leverage in negotiation of contract terms.

4. **Bidding.** Assume a construction "hard cost per square foot" based on recent market comparables, then ask the teams to bid their fees, project contingencies, and related soft costs.

Their actual fees can be adjusted up or down if the final accepted price falls outside of a reasonable range. Bidding fees is a much more objective measure than bidding the project at this stage.

5. **General-concept site plan.** Selection committees are swayed all too often by concept drawings and architectural renderings that have little bearing on the final design solution. A qualified development team should present its general concepts for the best site plan and building layout, then work in partnership with the public agency to make the project aesthetically pleasing while meeting the agency's programmatic and cost constraints.

6. Construction risk and financial guarantees. In a well-designed RFP process, the selected development team designs and prices the project in pre-development, producing a desirable design at an acceptable price. Only if pre-development is successful will it move to development.

In the development phase, the team is expected to guarantee the price agreed upon in pre-development and deliver the project on schedule. The team must be able to provide a guaranteed maximum price, a guaranteed completion date, and be willing to assume development risk and completion risk.

The development agreement should reward the team for success if it completes the project as designed but at a lower cost. Conversely, if the project is out of balance at any point, the team must be willing to pay money into the project in order to achieve substantial completion and meet its contractual responsibilities.

Members of the local government's selection committee should review the financial statements of each development team to ensure that they have the financial capacity to meet those obligations.