



IMPROVING THE BID:

UNDERSTANDING QUALIFICATIONS, RESPONSIVENESS, AND RESPONSIBILITY

Stacy Gregg, CPPO, CPPB

Hypothetical 1

A K-12 Buyer has a bid opening for school uniforms. Once the Bid Tabulation is released, a vendor called to inquire about why their low bid was not considered. After some conversation, she finds that the bid was mailed to the school, not to the Procurement Office as stated on the bid.

What is this a matter of?

1. Qualifications
2. Responsiveness
3. Responsibility

Responsiveness

Responsive Definition:

An Offer that fully conforms in all material respects to the Solicitation and all of its requirements, including all form and substance.

In your words...

Source: NIGP Online Dictionary of Terms

Responsiveness

Responsive Definition:

An offer that fully conforms in all material respects to the Solicitation and all of its requirements, including all form and substance.

What do we mean by “material respects”?

Source: NIGP Online Dictionary of Terms

Responsiveness

Material Defects Definition

Defects that are a **matter of substance** that affect price or quality and do not conform to the solicitation requirements.

What do we mean by “matter of substance”?

Source: NIGP Online Dictionary of Terms

Responsiveness

Matter of Substance Definition

used when the matter goes to the essence of the issue as opposed to the form which deals with the technical aspects only.

Source: Blacks Free Online Legal Dictionary (2nd Edition)

Responsiveness

Matter of Substance

used when the matter goes to the *essence of the issue* as opposed to the form which deals with the technical aspects only.

Blacks Law Dictionary

Material Defects Definition

Defects that are a *matter of substance* that affect price or quality and do not conform to the solicitation requirements.

NIGP Dictionary of Terms

Responsiveness

Federal Acquisition Regulation (FAR) Subpart 14.3 – Submission of Bids

14.301 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.

What do we use (resources, methods, etc.) to determine Responsiveness?

Responsiveness

What do we use to determine if an offer is responsive?

- Solicitation
- Code
- Regulations
- Case Law

Responsiveness

What do we use to determine if an offer is responsive?

➤ **Solicitation**

- ✓ Bid Schedule/Price Proposal
- ✓ Submission Deadline
- ✓ Bonds/Surety
- ✓ Method/Place of Delivery
(hypothetical 1)

Responsiveness

What do we use to determine if an offer is responsive?

➤ **Code/Regulations**

Excerpt from FAR

Subpart 14.3—Submission of Bids

14.301 Responsiveness of bids.

(b) Facsimile bids shall not be considered unless permitted by the solicitation (see [14.202-7](#)).

(c) Bids should be filled out, executed, and submitted in accordance with the instructions in the invitation.

Responsiveness

What do we use to determine if an offer is Responsive?

➤ **Case Law**

46 Pa. Commonwealth Ct. 283 (1979)

Ronald A. Nielson and Donald I. Cairns, trading as Aardvark Associates, Appellants

v.

Joseph Womer, Michael Antkowiak, Paul Fox, Jack Baker and Ted Williams, as members of the City Council of Oil City, Pennsylvania, and Terrance W. Farren, as City Manager of the City of Oil City, Pennsylvania, Appellees.

No. 1723 C.D. 1978.

Commonwealth Court of Pennsylvania.

Argued May 10, 1979.
September 28, 1979.

Source

https://scholar.google.com/scholar_case?case=3392533797955369622&hl=en&as_sdt=2&as_vis=1&oi=scholar

Responsiveness

Application

- Offer (Bid/Proposal)
- Material Defect
- Equitable & Fair

Discussion: Examples from the audience about interesting Responsiveness “challenges”.

Responsiveness

Questions

Hypothetical 2

A buyer just completing evaluating bids for Campus Food Services. As he is completing the file, he finds that the Highest Ranking Offeror has a history of opening and quickly closing restaurants. The organization's history "appears" to be unstable.

What is this a matter of?

1. Qualifications
2. Responsiveness
3. Responsibility

Responsibility

Responsibility Determination.

Before the contracting officer can award a contract, he/she must ensure the contractor is “responsible.” A **responsibility determination** signifies that the Government has judged the contractor to have the means and ability to complete the contract in question.

Source: *Acquimedia Defense Acquisition University (DAU)*

Responsibility

Responsible Definition

A business entity or individual who has the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.

What is “capacity”?

Source: NIGP Online Dictionary of Terms

Responsibility

Capacity

The amount of goods and services that an organization can produce or provide in a given time interval. (Schiller, 2000)

What are examples of factors, which may affect capacity?

Source: NIGP Online Dictionary of Terms

Responsibility

Capacity – Factors Impacting

- Credit History
- Financials
- History of Firm
- Inventory
- Other Obligations

Responsibility

Capacity – Factors Impacting

- Past Experience
- References
- Staffing
- Subcontractors

When & where do we look for this information?

Responsibility

What do we use to determine if an Offeror is responsible?

We ask the Offeror to provide:

- Client List
- Financial Reports
- Inventory
- References
- Staff

As a part of the solicitation process

Responsibility

What do we use to determine if an Offeror is responsible?

Boilerplate Language For Disclosure

- Conflicts of Interest
- Debarments
- Failed Projects/Procurements
- Contract Controversies
- Subcontractors

Responsibility

What do we use to determine if an Offeror is responsible?

Disclosure Boilerplate Language

➤ Info Security Measures

SERVICE PROVIDER SECURITY ASSESSMENT QUESTIONNAIRE

Instructions: (1) Attach additional pages or documents as appropriate and make sure answers cross reference to the questions below. (2) As used in this Questionnaire, the phrase "government information" shall have the meaning defined in the clause titled "Information Security." (3) This Questionnaire must be read in conjunction with both of the following two clauses (a) Service Provider Security Assessment Questionnaire – Required, and (b) Service Provider Security Representation.

1. Describe your policies and procedures that ensure access to government information is limited to only those of your employees and contractors who require access to perform your proposed services.
2. Describe your disaster recovery and business continuity plans.
3. What safeguards and practices do you have in place to vet your employees and contractors who will have access to government information?
4. Describe and explain your security policies and procedures as they relate to your use of your contractors and next-tier sub-contractors.
5. List any reports or certifications that you have from properly accredited third-parties that demonstrate that adequate security controls and assurance requirements are in place to adequately provide for the confidentiality, integrity, and availability of the information system used to process, store, transmit, and access all government information. (For example, at

Responsibility

What do we use to determine if an Offeror is responsible?

Databases:

- Dun & Bradstreet
- Law Enforcement
- Secretary of State
- State/Local Licensing Entities
- Federal System for Award Management (SAM)

Responsibility

Resources

- N-Site
- NASPO Network
- Peer Groups
- Chapter message boards
- Colleagues
- Search Engines
- Customer Reviews

Discussion: Examples from the audience about interesting Responsibility “challenges”.

Responsibility

Questions

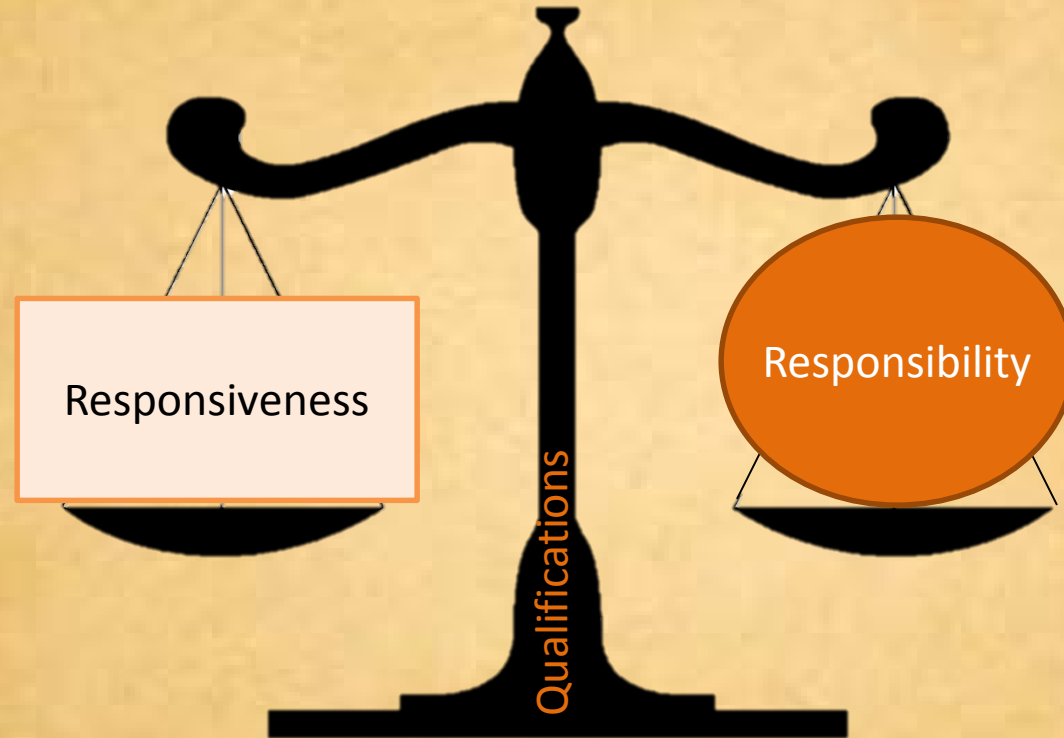
Hypothetical 4

A buyer awards a contract for Courthouse Renovations. The day after the award is made, the second lowest bidder files a protest alleging that the intended contractor does not have adequate licensure.

What is this a matter of?

1. Qualifications
2. Responsiveness
3. Responsibility

Qualifications



Qualifications

SEARCH A TERM

GO

A B C D E F G H I J K L M N O P Q R S
T U V W X Y Z All

Request for Qualifications (RFQ)

A document, which is issued by a procurement entity to obtain statements of the qualifications of potential responders (development teams or consultants) to gauge potential competition in the marketplace, prior to issuing the solicitation.

Qualifications

Special Standards of Responsibility

- Licensure
- Experience
- Certifications
- Staff
- Inventory/Equipment

Qualifications

Special Standards of Responsibility

- Can be excessively restrictive
 - ✓ Must be meaningful
 - ✓ Must be reasonable
 - ✓ Must be quantifiable
 - ✓ Must be justifiable

Qualifications

Questions

Summary

- **Responsiveness** – Speaks to Bid/RFP/Offer
- **Responsibility** – Speaks to the Offeror
- **Qualifications** – Speaks to either/both, depending on how you write the Invitation.

Questions?

Stacy Gregg, CPPO, CPPB

State of South Carolina SFAA, Division of Procurement

sgregg@mmo.sc.gov

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