

What is Competitive Range?

*The competitive range process is used to further evaluate the most highly rated proposals. Competitive Range is typically defined as “respondents whose proposals have a reasonable chance of being selected for award.”*

## **HOW TO PROCEED WITH THE COMPETITIVE RANGE EVALUATION**

### **BEST VALUE ASSESSMENT**

In all procurements, the evaluation must take into account the specific criteria enumerated in the procurement documents. In certain procurements, the “lowest price” or a *specific criterion* will drive the result to the proposer who submits the lowest price or best meets the criterion. In most other circumstances, the “best value” model is used to evaluate the merits of a proposal.

A “best value” procurement is a procurement system that looks at factors other than only price, such as quality and expertise, when selecting vendors or contractors. The value of procured goods or services may be simply described as a comparison of costs and benefits. Compare all the benefits from what you get and how you use it, against your costs to purchase, use, and perhaps dispose of it. Additional costs include the resources necessary to conduct the procurement, purchase price, fiscal tracking and processing costs, storage/maintenance and other operational costs, costs for needed training, disposal costs, etc. Other terms to characterize best value comparisons are strengths and weaknesses, pros and cons, risks and rewards. While recognizing these variables may seem mostly common sense, that recognition reflects an evolution in the role and responsibility of procurement in the public setting and how these variables are applied in detail. Essentially, assessing best value requires a consideration of “what” is important and “how much” it is important.

If the RFP indicates that the award will be made on the basis of "Best Value" to UO, then a number of scenarios are possible.

For example, one proposal may have a very competitive price but be so far removed technically from the competition that the company has no reasonable chance of award, assuming that technical factors are of high importance in the selection decision. Such a proposal might contain such major weaknesses or performance risks that UO would not consider the firm for award given the quality of the various competitors’ technical proposals.

Likewise, a proposal that is high in price may offer such a compelling technical/performance advantage that it stands a very high chance of being selected for award because it represents the “best value” to UO. This might be the case, for example, if the product being offered had a life cycle cost projection far below the competition, thus making it a better value despite its higher acquisition cost.

### **DETERMINATION OF COMPETITIVE RANGE PROPOSALS**

Competitive Range is typically defined as “those proposers whose proposals have a reasonable chance of being selected for award.” Generally, the competitive range is comprised of all of the most highly rated proposals, unless the range is further reduced for purposes of efficiency.

The competitive range process may limit the number of proposals to the greatest number that will permit an efficient competition among the most highly rated proposals, provided that the solicitation notifies proposers that the competitive range can be limited for purposes of efficiency.

The assessment of the evaluation criteria will drive the evaluation committee in identifying the greatest number of proposals that will permit an efficient competition.

The competitive range determination is a qualitative judgment based on the factual content of the proposals and the degree to which the content matches the RFP requirements. This is why different weight (points) is ascribed to different criteria that may also require a minimum threshold to be met.

At the same time, the line of demarcation between what is considered to be the “most highly rated” proposals or those having a reasonable chance or likelihood of an award, and the proposals excluded from the competitive range must be explained. One should be able to read this determination and clearly understand what factors separated the proposals included in the competitive range from those excluded.

In most situations, the initial evaluation will yield only a few competitors within the competitive range. It is also important to note that the evaluation panel **is not** required to use the competitive range process if one proposal is clearly superior to all others.

### **NOTICE TO PROPOSERS**

1. In accordance with the RFP, you **must notify each** Proposer (via the email address provided in their Proposal) that the Proposer is within the Competitive Range. (If there were Proposers not within the Competitive Range, you would be required to notify them as well.)
2. The notice asks the Proposer to respond to the department’s email within 24 hours to acknowledge receipt of the notification. If you do not receive a response from a competitive Proposer within 24 hours after the notification is sent, you **must make** a follow-up phone call to the competitive Proposer (via the phone number provided in their Proposal).
3. If you do not receive a response from a competitive Proposer within 48 hours after the initial notification is sent, the Proposal **may** be removed from the Competitive Range. If you wish to remove a competitive Proposer from the Competitive Range, please contact PCS immediately for assistance with the required notice of removal.

### **PROTEST PERIOD**

1. Once you have sent the initial notices please provide PCS a copy of the notices for our files, so PCS will know when to document the applicable protest period start/end dates. The protest period is three (3) calendar days from the date the notice is provided to all vendors. Once the protest period has closed, you **must** confirm in writing to PCS (at [competitionsupport@uoregon.edu](mailto:competitionsupport@uoregon.edu)) whether any protests were received. Assuming no protests are received, the Department may proceed with the next steps in the evaluation process.

## **DEMONSTRATIONS, PRESENTATIONS AND PRELIMINARY NEGOTIATIONS**

1. After the protest period, the Department **must** proceed as follows:
  - a. *Proposals and Demonstrations*: University may ask each Proposer to prepare and present a live presentation of their Proposal. Such a request must be done in writing and specify an estimated presentation date as scheduled by the University. The following is sample language of a request for presentation or demonstration:

***“University requests Proposers to prepare and present a live presentation of their Proposal to be delivered to the Evaluation Committee. The Proposers’ presentations will take place on or about [Insert Estimated Presentation Date], as scheduled by University. Any special accommodations required for the live presentations (technical or otherwise) must be communicated to University at least [#] days prior to the scheduled presentation. University will make all reasonable efforts to accommodate such requests. The purpose of the live presentations will be to allow the Proposers to provide supplemental information in order to provide clarification of the Proposal contents, as well as to inform the Committee as they recommend a Proposer for ultimate award of the contract under this RFP.”***

***“The Committee may also consider and assess other factors, including but not limited to, any information submitted in response to this RFP; best value; experience working with other organizations, including higher education institutions; references; financial condition of the Proposer; resources of the Proposer; clarifications provided in response to inquiries by University; proposed additional terms for providing the service; and experience of persons assigned to this project.”***

***“University reserves the right to require a “Best and Final Offer” pursuant to UO Policy 580.061, Sec EE from Proposers within the Competitive Range.”***

- b. *Preliminary Negotiations*. If the department elects to enter into discussions with Proposers in the competitive range, it must initiate oral or written discussions **with all Proposers** regarding their Proposals with respect to the provisions of the RFP that the University identified in the RFP as the subject of discussions (scoring criteria). The rationale and best practice for initiating discussions with all Proposers is based on the assumption that those selected to be in the competitive range have a reasonable chance of being selected for

award. These discussions can include inquiries as to deficiencies, ambiguities, omissions and weaknesses that would adversely affect the proposal's rating. University must ensure that all issues are resolved or are understood by each Proposer prior to requesting a best and final proposal.

- c. In addition, the University may conduct discussions with each eligible Proposer necessary to further the evaluative process, but need not conduct the same amount of discussions with each eligible Proposer. The University may terminate discussions with any eligible Proposer at any time. However, the University **must offer all eligible Proposers** the same opportunity to discuss their Proposals with the University **before the University notifies eligible Proposers of the date and time pursuant to which best and final Proposals will be due.**
- d. The University may adjust the evaluation of a Proposal as a result of a discussion under this process. The conditions, terms, or price of the Proposal may not be altered or otherwise changed during the course of the discussions **provided the changes are within the scope of the Solicitation Document.**
- e. *The University may not:*
  - Provide the Proposer with suggested ways to correct its proposal or "right answers."
  - Disclose information concerning other Proposer's proposals or the evaluation process.
  - Advise a Proposer of its cost standing relative to other Proposers or furnish information about another Proposer's cost.
  - Reveal technical information from another Proposer during the course of discussions.
  - May not coach, through successive rounds of discussion, a Proposer with an inferior Proposal to prepare a superior proposal i.e., technical leveling.
  - Fail to make pertinent information available to all Proposers.
  - **Record presentations (audio, video or other media) as they may reveal confidential information relevant to the evaluation process.**
- f. Thereafter, if best and final Proposals are required, the University will establish **a common date and time by which Proposers must submit best and final Proposals.** Best and final Proposals will be submitted only once, provided, however, the University may make a written determination that it is in the University's best interest to conduct additional discussions, negotiations, or change the University's requirements and require another submission of best and final Proposals. The University will evaluate Proposals as modified. **University is not required to solicit best and final proposals if, after the preliminary negotiation process, it has concluded that one vendor will provide the best value to the University.**

## **CONFIDENTIALITY**

Confidentiality issues arise in connection with public procurements can arise in connection with issues such as access to confidential information, agreed nondisclosures, trade secrets, data security *etc.*

Federal and state laws and regulations mandate disclosure of such records under specific circumstances.

***Disclosure requirements do not apply to the bid/proposal evaluation process, which is always kept confidential until the evaluation panel reaches a final conclusion, and the evaluation report is cleared by the approving authority.*** This is not to say that such information is not ultimately subject to disclosure, post-award/contract. Rather, the interests in ensuring public procurements are fair and competitive dictate confidentiality in the selection process.

## **FURTHER NEGOTIATIONS**

1. If further negotiations are necessary:
  - a. The University may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers.
  - b. The University may negotiate:
    - (1) The statement of Work;
    - (2) The Contract Price as it is affected by negotiating the statement of Work; and
    - (3) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the Solicitation Document. Accordingly, Proposers will not submit and the University will not accept for negotiation, any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the Solicitation Document.

## **FINAL EVALUATION**

1. University must reevaluate the criteria identified in the RFP in light of its findings during the competitive range process.
2. Document Findings: Documentation explaining the final results of the evaluation must be prepared. No additional or new criteria may be added to the scoring process. However, the information learned during the competitive range evaluation may be used to will inform the department in its rescoring of the

proposals.e.g., technical and non-cost evaluation results, the cost evaluation and the comparative value<sup>1</sup> analysis, if applicable. The document should identify the strengths and weaknesses of each proposal. All factors and sub factors should be identified individually and then comparatively. Risk factors, including the degree of confidence in the ability of a Proposer to perform the contract, should be considered. ***To satisfy UO's public procurement policies, the evaluation panel's goal should be to ensure that each proposal is evaluated on its own merits, using the procurement document as the metric by which a rating/score is assessed.*** In this regard, comments and/or notes that reference the degree to which scoring criteria meet or fail to meet the procurement requirements must be included as part of the scoring matrix.

3. Once a Proposer has been selected, all relevant documents must be submitted to PCS for a final review. Upon approval by PCS, a notice of conditional award will be issued, which will be subject to the successful negotiation of a contract.

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<sup>1</sup> A "comparative value" analysis refers to the assignment of values or "weights" to the selection criteria in the procurement and then examining and comparing them to the particular proposal (rather than comparing one proposal against another).