

The Supplier is in the Room!

Using Commercially Confidential/Collaborative Meetings to Inform Your Procurement Process:

A Practitioner's Perspective



Procurement that fits.



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About RFP SOLUTIONS

- **Established in 1992**
- **We work exclusively with Public Sector Organizations**
- **100+** Clients: *Federal, Provincial, Municipal, Territorial, BPS and Not for Profit*
- **1100+** procurement-related projects
- **Extensive Experience & Expertise in:**
 - Procurement Operations
 - Organization & Policy
 - Procurement Tool Development
 - Procurement Training
 - Compliance & Assurance



Types of Industry Engagement

- Industry Days
- Bidders' Conferences
- Site Tours
- RFIs
- Working Groups
- CCMs



Scenarios

- Design
- Legal terms
- Commercial terms
- Project scope
- “Big Issues”

What is a CCM?

An opportunity to engage in discussion with Proponents to inform the procurement and resulting Contract.

- *Potential Proponents are engaged individually, but equally.*

What it is NOT

A CCM is **not** a negotiation and it is **not** an evaluation.

Why a CCM?

When is a CCM effective?

- Major Projects
- New/Specialized Purchases
- Innovative Approaches
- High risk Projects



When may a CCM be “too much”?

- Well known purchases
- Low dollar value projects

When to Conduct a CCM

Prior to developing or issuing the RFP

- This is to assist the Buyer in understanding market capabilities and business models to inform the procurement and requirements structure often preceded by RFI to allow for more forward discussion with potential proponents.

During the Solicitation Period

- With the goal of obtaining input from potential Proponents into the Buyer's desired solution (outcome) or;
- To gather industry input into the resulting form of agreement/commercial terms to make sure that any contract that results from the procurement will be acceptable to both the Buyer and the successful Proponent.

Goals of a CCM

The CCM should accomplish the following goals:

- Maximize the opportunity for Proponents to develop comprehensive & robust submissions
- Engage in discussion with Proponents to inform the procurement and resulting contract
- Have an exploratory and explanatory discussion on the agenda topics



Key Considerations of a CCM

Key Considerations During a CCM:

- Structure
- Agenda
- Participants
- Topics
- Duration
- Information Exchanged
- Notes/Record Keeping

Fairness:

- This results in the same quality and type of information from all involved parties.
- It also better informs your procurement and requirements.

Attendance at a CCM

Buyer

Contracting Authority

Project Authority Representative

Legal

- If legal topics are on the agenda, both parties should be aware and have the opportunity to bring counsel.
- Be sensitive to the context – Are lawyers needed?

Fairness Monitor, if involved in process, must attend

Proponents

If Buyer sets a maximum number of participants it must remain the same for ALL groups of proponents

Buyers can specify the individuals they want present from Proponent team

- Examples of members of proponents groups:
 - Key Individuals identified in RFP (eg: Team Lead, Engineer, Financial Authority, etc.)

Attendance at a CCM

- The number of attendees depends on the scope of the project.
- It is important to:
 - Confirm attendance;
 - Confirm the number of people;
 - Seat each group together, but separate, to allow for discussion within each team and mitigate side bar discussions between parties.

Location of a CCM

Buyers choose the location.

- Ease of access for vendors and minimizing travel costs are considerations

Virtual?

- Can enhance accessibility, but there can be risks (e.g. confidentiality) involved when choosing to conduct a CCM virtually. Consider this carefully.

Consider your Vendors/Proponents' locations.

- Consider requirements for “Local Involvement”

Length of a CCM

The length of a CCM is dependent on the scope of the project/procurement and reason for the session.

There could be a number of sessions

- Be mindful of cost as well as process fatigue

The length of meetings should be the same for all Proponents



Sample Lengths of a CCM

Prior to developing or issuing the RFP:

Industry Consultation or as Follow-Up to an RFI:

- 2-3 hour Optional One-on-One Sessions

During the Solicitation Period

To Address Specific Issues of a Procurement:

- 1/2 - 1 Day Session

P3/Design-Build Projects:

- 3 Full-Day Sessions for each Proponent (typically 3 Proponents)
 - Two Technical and One Commercial/Legal



Preparation for a CCM

Set your CCM agenda before the meeting and provide the Suppliers with the details and requirements in advance, such as time limits, question details and format of the meeting.

Agenda can be:

- Buyer led
- Proponent led
- Led by a combination of both

Question protocol for the CCM

Be open ended when asking questions, to allow for discussion.



Procurement Authority leads kick-off / introductions

- In order to set out the structure of the meeting

Caucusing for private discussions

Record Keeping

- Buyer must keep a record
 - Some issue formal minutes
 - Some issue a summary
 - Some do not issue minutes

Have consolidated and consistent responses, speak with “one voice”

Confidential and Proprietary Information

- Consider whether to allow Proponents to identify specific topics or questions as confidential.
- The Buyer has the right to re-classify, allowing everything to be transparent to Proponents.
- This protocol must be set out in advance of the meeting.



CCM Content is non-binding on the Buyer:

- Any and all information that may be provided by the Buyer during the session is non-binding and cannot be relied upon in preparation of Proposals. Proponents should be informed of this in writing in the RFP, and reminded at the start of each session

• Provide a consolidated and consistent Response:

- Appoint a lead moderator for the CCM who will lead the discussion from the Buyer's perspective.
- Information provided by the Buyer must be consistent to all Proponents
- Clarifying questions asked by Proponents may be responded to during the CCM or may be tabled as a follow-up item by the Buyer.
- New information should be provided by Addenda rather than during a CCM



Refrain from Negotiation / Pre-Evaluation of Proponents

- Buyer should not provide a response that ‘pre-evaluates’ a Proponent’s proposed solution or offering or provides an indication of favouring a particular approach or model for any elements that are a part of the formal RFX criteria assessment
- Buyer should refrain from agreement with or endorsement of Proponent ideas / proposal elements (“leading the witness”)
- Buyer should direct the Proponent to submit a written question for clarification on matters raised during a CCM



Follow Up After a CCM

A CCM can be followed up with:

- Submission of written questions from Proponents;
- Asking Proponents for clarifications; and/or
- RFP publication or formal addenda to RFx (e.g. issues may come up in one CCM that are equally applicable to all Proponents)



The Buyer's participants are reminded that the entire procurement process is confidential.

This includes:

- Discussions within CCMs including follow-up communications (where indicated as such)
- Contents of CCMs presentations and names of Proponents
- Discussions with other attendees regarding the CCMs
- Written decisions—both final and interim—about CCMs

Notwithstanding what you hear at the CCM, remember that the Buyer will be required to evaluate the Proposals based solely on the contents of the Proponents' written submissions and cannot consider information from the CCMs at that time.

It is important to engage during your CCM.

- This will result in a better RFP and ultimately a more successful procurement outcome

All information shared and disclosed in a CCM is non-binding.

- The only reliable information is that which is written down in the form of the published RFP, an addenda or formal question and answer responses.

The Buyer must remain consistent with all Proponents.

Questions?

Thank You!
Merci!

Questions?

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We  Procurement... It's All We Do!