

Fact Sheet: Responsiveness v. Responsibility



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Responsiveness and responsibility are often qualities that parents seek to instill in their teenage children, but in the procurement world, they depart from their more conventional interpretations. As legal terms of art, some may find these two terms confusing due to their similarities and their potential codependence. It's true that both are foundational concepts of competitive solicitations, and both are required determinations to evaluate and award a contract successfully. Both are thoroughly addressed in the [Federal Acquisition Regulations](#) (§14.301 & §9.104) and the [ABA Model Procurement Code](#) (§3-101). This fact sheet addresses such confusion and explains these terms in a relatable manner.



Bids are Responsive, Bidders are Responsible

Responsiveness is assigned to the content of a bid or proposal based on the criteria set out in the solicitation (NASPO 2024, 70).¹ Procurement officials determine whether the submission meets the substantive standards - the offer is for goods or services that meet the specifications listed - and the formal standards - the offer is compliant with the rules established for the competitive solicitation.

Responsibility is a judgment assigned to an offeror or potential supplier who responds to a solicitation. A responsible offeror is a business or individual who is financially and technically able to perform what is required as outlined in the solicitation (NASPO 2024, 69).²

A useful distinction between the two concepts is found in the District of Columbia's definition of bid responsiveness:³

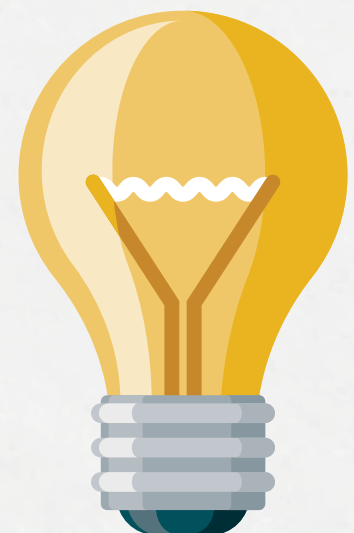
"To be considered responsive, a bid must comply in all material respects with the IFB. Responsiveness involves matters that relate to the bid itself as opposed to the responsibility or other qualifications of the bidder."

At a Glance:

Responsiveness	Responsibility
<ul style="list-style-type: none">• A determination focused on the response materials• Determined after the opening of responses, frequently before any technical evaluation.• Identifies whether responses are eligible to proceed to evaluation.• Meets all prescribed requirements included in the solicitation.• 44 of 54 U.S. states and territories have defined Responsiveness in statute, regulation, or policy.⁴ <p>Example of typical definition: Colorado ST § 24-101-301(39) <i>“Responsive” means a bid or proposal that meets the specifications, acceptability requirements, and terms and conditions of the solicitation and that uses the form prescribed by the purchasing agency.</i></p>	<ul style="list-style-type: none">• A determination focused primarily on the respondents.• Determination of responsibility is an ongoing process throughout the evaluation.• Determines if the respondent is qualified and capable of delivering needed goods/ services.• Includes research and reference checks with other clients.• 49 of 54 U.S. states and territories have defined Responsibility in statute, regulation, or policy.⁵ <p>Example of typical definition: Montana ST § 18-4-301(9) <i>“Responsible” means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance.</i></p>

Many jurisdictions have intertwined the two concepts, making one a prerequisite for the other. Delaware’s statute mandating responsiveness also lists the criteria to meet responsibility:⁶

“An agency shall determine that a bidder is responsive before awarding a contract to that bidder. Factors to be considered in determining if a bidder is responsible include: (1) The bidder’s financial, physical, personnel or other resources, including subcontracts; (2) The bidder’s record of performance and integrity; (3) Whether the bidder is qualified legally to contract with the State; and (4) Whether the bidder supplied all necessary information concerning its responsiveness.”



Similarly, Florida’s definition of responsiveness requires the bid/proposal to be “submitted by a responsive and responsible vendor.”⁷ While Arizona’s definition of responsible includes the criteria also needed to meet responsiveness.⁸ All require determinations to be made by procurement officials, which are documented and maintained in records for that procurement.



Determining Responsiveness

Responsiveness is typically determined during an initial or administrative review following the opening of the responses. To be deemed responsive, submissions must meet the prescribed requirements as listed in the solicitation, which may include:

- Performance or product specifications and deliverables
- Terms and conditions
- Submission format
- Timeliness
- Place/Manner
- Business requirements – registered and/or certified
- Required forms or files
- Authorized signatures
- Notarization
- Bid bond or surety

Meeting the solicitation’s stated criteria qualifies a submission as a valid and responsive offer. Non-responsive offers do not advance for further evaluation. The requirement for all submissions to be responsive provides a baseline for all qualifying submissions to be considered equally and fairly.

Bid Defects and Minor Irregularities

Bid defects and minor irregularities represent errors or issues of varying degrees of noncompliance with the solicitation. This noncompliance may render a submission non-responsive.

Bid defects (sometimes called material defects or material deviations) are issues that significantly impact the conditions of the response. A common description is a discrepancy “that affects term, price, quality, quantity, or delivery terms.”⁹ This also includes instances where the products/services offered do not meet the prescribed specifications or instances where the supplier is seeking to modify or supersede the government’s required terms and conditions. These typically disqualify the submission as nonresponsive. Such determinations should be recorded and retained for public record.

Minor irregularities (sometimes called informalities or immaterial variations) on the other hand, are issues that are insignificant to the value or conditions of the response. Examples could include formatting errors, typos, or discrepancies that are clarified elsewhere in the submission. They may be waived or corrected, so that they do not affect the responsiveness of a submission. The authority to waive these errors or return the response for corrections should be outlined in law, rule, or policy.

Some entities allow for the correction of minor irregularities to be resubmitted before the solicitation’s stated deadline. Others only allow corrections during a negotiation phase and/or before best-and-final offers (BAFO) are submitted. However an entity chooses to deal with such errors, it must do so in a reasoned, documented, and consistent manner to maintain equal competition and preserve all determinations for public records.



Determining Responsibility

Responsibility requires more diligence and discretion on the part of evaluators. For the procurement office, a determination of responsibility is an important safeguard against unnecessary risk. Evaluators must conclude, based on available evidence, that the offeror is capable and likely to fulfill the requirements of the potential contract completely.

Think of responsibility in terms of a candidate applying for a job: an office would want to know who they are hiring, so reference checks may be performed. In this case, the “hiring entity,” the procurement official, surveys other organizations and clients who have contracted with the offeror to ask about its performance, reliability, and capacity. Similarly, a background check may be conducted to inspect financial stability and any history of contract disputes, labor violations, or fraudulent behavior. The inclusion of references or business records may be listed in the solicitation’s response criteria, or it may be requested by evaluators during the evaluation process.

The determination of the responsibility of an offeror is typically based on multiple factors, which may include:

- Financial stability
- Capacity to provide goods/services at scale
- Ability and eligibility to provide goods/services in the designated locations
- Organization size, structure, and expertise
- Evidence of reliable performance
- Absence of fraudulent or illegal behavior

Responsibility requirements can be tailored for each procurement and should be consistent with the scope of the project (NASPO 2024, 109).¹⁰



When performing reference checks, evaluators should use a standard set of questions for each reference, and responses should be documented and retained. Sending and receiving reference requests electronically can assist with the process and make it easier to ensure the responses are documented properly. Procurement offices commonly use market research tools and databases (e.g. D&B Hoovers, IBISWorld) to research a potential supplier's capacity and/or stability. Offices may also perform a search of the supplier's legal business entity name and entity ID number on the US General Services Administration's (GSA) System for Award Management website, sam.gov, to check if the business is currently or has previously been debarred from doing business with the federal government.

For those offerors who have been awarded contracts in the past, the usefulness of supplier performance metrics from previous or current government contracts is invaluable. Suppliers do not want to be publicly deemed not responsible. The sensitive nature of such a determination means that procurement officials must be diligent but fair in their judgment and rely on SMEs and advisors when necessary.



Additional Resources

To see how each state and territory defines these terms and their rules for determination, visit [NASPO's Repository of State Practices](#).

The [Procurement U Evaluation and Award Strategies](#) course covers more about responsiveness and responsibility and the related considerations and processes.

Chapters 5 and 7 of the Fourth Edition of [NASPO's State & Local Government Procurement: A Practical Guide](#) address these concepts as part of the solicitation and evaluation processes.

For real-world examples of documents that are used to determine responsiveness and responsibility in solicitations, Arizona's Department of Administration has a [determinations library](#) where their templates are available for download.

Endnotes

¹NASPO, "Chapter 5: Solicitation Methods" in *State & Local Government Procurement: A Practical Guide*, 4th ed. (Plantation J. Ross Publishing, 2024), 70.

²NASPO, "Chapter 5: Solicitation Methods" in *State & Local Government Procurement: A Practical Guide*, 4th ed. (Plantation J. Ross Publishing, 2024), 69.

³D.C. Code Ann. § 27-5034.10 (2024)

⁴"Bid Responsiveness - RoSP Category," NASPO, last updated 2023, www.naspo.org/research-and-innovation/rosp-category/bid-responsiveness-/.

⁵"Bidder Responsibility - RoSP Category," NASPO, last updated 2023, www.naspo.org/research-and-innovation/rosp-category/bidder-responsibility-/.

⁶DEL. CODE ANN. Tit. 29, § 6923 (2023)

⁷FLA. STAT. § 287.012(26)(2023)

⁸ARIZ. ADMIN. CODE § R2-7-312 (2024)

⁹Nebraska Department of Administrative Services, *State of Nebraska Procurement Manual*, 2018, 40, https://das.nebraska.gov/materiel/purchase_bureau/docs/manuals/2018%20Procurement%20Manual%20-%20Updated%2009132018.pdf.

¹⁰NASPO, "Chapter 7: Proposal Evaluation and Award" in *State & Local Government Procurement: A Practical Guide*, 4th ed. (Plantation: J. Ross Publishing, 2024), 109.