

NIGP

The Institute for
Public Procurement

That Was Then, This is Now

Why Suppliers Are Still Choosing to 'No Bid'

WHITE PAPER

Presented by
The NIGP Business Council

 nigp.org

Your NIGP Business Council

Originally established as the Institute’s Enterprise Sponsors Program, the NIGP Business Council (“Council”) has evolved over the years to become a team of industry thought leaders collaborating with the NIGP procurement community. Comprised of two representatives from each company, the Business Council has demonstrated a shared commitment to NIGP’s values of accountability, ethics, impartiality, professionalism, service, and transparency. The Council is an active partner with NIGP, contributing to the dialogue that increases the value of procurement and creates a space for mutual learning within the supplier-procurement community.

The mission of the Council is to...

Serve the NIGP membership and procurement profession through the sharing of resources and expertise in support of NIGP's educational, research, and advocacy mission.

In essence, the Council connects the supplier's perspective with the public procurement community and is dedicated to improving the practitioner-supplier relationship. This white paper, along with the original white paper on this topic, and the corresponding presentation, represents one of the many ways in which the Council supports the educational mission of NIGP. This paper continues the dialogue begun in the original paper, "We No Bid, and We'll Tell You Why," adding timely, meaningful content relative to the current environment. References to "solicitation" in this paper refer to all of the various sourcing methods used by procurement professionals, including Invitation for Bids (IFB)/Invitation to Tender (ITT) and Request for Proposals (RFPs). While the examples presented in both papers appear basic, the concepts easily apply to more complex solicitations and projects.

A Common Scenario

In 2013, the Business Council created its first white paper, “We ‘No Bid,’ and I’ll Tell You Why.” It was developed based on a Council conversation with the NIGP Governing Board, and it has been a recurring topic among members over the years. The Council has presented on this topic numerous times at events throughout the country, including NIGP chapter events, webinars, and the NIGP Forum. Based on its popularity and impact—and the fact that many entities continue to receive insufficient supplier responses to their solicitations—the Council decided to update the paper to keep it timely and relevant for NIGP’s membership. The Council hopes it inspires a continued dialogue in the community. The original “[We No Bid](#)” white paper continues to be available on the NIGP website.

In the original “We No Bid,” a fictitious entity within a city issues a solicitation for widgets for their facilities department. To maintain the status quo, the city procurement and distribution manager, although perhaps not overtly, creates a restriction in the solicitation requirements that favors the current supplier. Due to the city’s policy prohibiting communication with suppliers, other suppliers are unable to provide information that could have identified the restriction, which would have led to a better solution for the city.

Although several widget manufacturers respond to the solicitation, given the advantage created by the restrictive specifications and requirements, the incumbent supplier is once again awarded the contract. While the city’s action to award the contract to the incumbent may have been technically compliant with policy, it missed an opportunity in the sourcing process to consider additional available information in the industry. This failed to create an open, transparent competitive environment for the supplier community. Furthermore, by failing to consider other potential supplier solutions, the city procurement’s action likely had a negative impact on the entity.

Had the city’s policy and procedures allowed for a more open and competitive sourcing process, the city would have recognized the restriction, imposed competitive limitations, and discovered alternative solutions that likely would have increased value and decreased risk to the entity. A new product could not only have saved the city and taxpayers money, but it also could have led to a better-quality product and a more qualified supplier. In turn, the overall cost to administer the contract could have resulted in significant savings to the city.

Why Should Sourcing Be Competitive?

A competitive sourcing process is essential to ensure the goods and services purchased by public procurement professionals provide the best value and quality for the entity and the community. To achieve this, procurement professionals leverage various sourcing methods, such as IFBs and RFPs. The objective of the competitive sourcing process is to create an open, transparent, and competitive environment that maximizes supplier engagement.

Not all solicitations are created equal. They reflect the inherent differences in the environment, policy, and needs of individual entities. Solicitations are written by procurement professionals and entity subject matter experts (SMEs) with varying backgrounds, training, experiences, and competencies. They may also be influenced by internal and external stakeholders, including end users, legal counsel, and political leaders.

While a competitive sourcing process should elicit numerous responses, entities often find themselves receiving only a few. And, in certain circumstances, such as during a pandemic or in industries with fewer suppliers, it can be difficult to elicit even one response. The absence or limitation of competitive options for an entity potentially introduces lower-quality responses from potentially lesser-qualified suppliers, placing the entity at increased risk.

Don't Make Assumptions

So, why do entities sometimes receive little interest in their solicitations? The procurement professional may initially assume any of the following:

- The supplier was not aware of the solicitation or didn't receive notice.
- The solicitation didn't get to the right person in the company.
- The supplier was too busy to respond to the solicitation.
- The supplier already has sufficient business.
- The supplier lacks the resources to take on additional work.

Any one of these reasons could be true. Although most government entities follow a protocol providing notification to "registered suppliers" when a solicitation is published, suppliers can fail to update their vendor records to reflect a new address or new contact information. And it may be a challenge for some suppliers to ensure the right individuals receive notice of opportunities.

However, in general, suppliers are actively looking for business opportunities and desire to increase their client portfolio and company revenues. While a small business owner may lack sufficient resources to respond to new opportunities, this is not the case for most other businesses.

From a supplier perspective, opportunity comes in many forms, including informal quotes, formal solicitations, and direct selects—such as an entity's ability to forgo a competitive process or use a cooperative contract. So, while any one of the above assumptions may be true, they are rarely the primary reason a supplier fails to respond to a solicitation. The actual reasons are likely to be more complex.

TOP 10 REASONS SUPPLIERS DON'T BID

- The entity does not host pre-solicitation meetings to enable suppliers to review current terms, conditions, and specifications.
- The solicitation timeframe is too short to adequately prepare a response.
- The solicitation's requirement for long-term fixed pricing is unrealistic for the market/industry.
- The specifications are written to achieve a particular solution and/or supplier (favoritism).
- A solicitation's terms and conditions are outdated and/or not in alignment with current conditions, and the entity is not open to making adjustments to the solicitation's requirements.
- The solicitation includes excessive requirements that do not provide value or present a competitive barrier.
- There is no consideration for buying under an existing cooperative contract.
- The evaluation method or type is not clearly stated.
- As a practice, the entity does not offer debriefs to unsuccessful competitors.
- The suppliers' cost to propose exceeds the contract's value.

A solicitation's result says as much about the entity issuing the solicitation as it does about the supplier submitting the proposal. If an entity publishes a poor-quality solicitation that does not comprehensively address its needs, suppliers are likely to submit suboptimal proposals that do not fully take into account what the entity requires.

Revisit Your Processes

It is not uncommon for government and education entities to fall into routines of past habits. Entities may also be limited in their approach to sourcing due to outdated policies or restrictive legislative requirements. These routines and limitations can lead to several negative impacts on the entity. Below are some areas of risk entities should analyze relative to their current environments:

Favoring, or being limited to, an IFB process (versus a nimbler RFP process)

- Entities that use an IFB process typically grant awards to the most responsive and responsible bidder. While certainly not contrary to any standard of procurement practice, an IFB process can introduce its own limitations and shortcomings if not properly administered and facilitated. On face value, a low responsive, responsible bidder is the one who offers the lowest price and meets the specifications and terms of the IFB. However, absent proper vetting, that low-priced bidder who appears to meet all requirements may look better on paper than in reality.

Habitually brushing off old specifications and re-issuing without further vetting

- By failing to thoroughly vet specifications and requirements provided by end users, an entity may lose out on other value-added solutions that could provide new technology, lower costs, improved quality, and reduced risk. Outdated, ineffective specifications and requirements create inefficiencies, introduce competitive barriers, and can further burden the contract administration function. Furthermore, by limiting bidders to restrictive specifications and unreasonable requirements, entities risk alienating suppliers and losing out on more robust, diverse responses.

Neglecting to leverage the tools of the procurement process

- Numerous tools are available to today's procurement practitioner. By neglecting to leverage tools such as pre-solicitation meetings, market research, and other supplier communications, entities deny themselves valuable information. To elevate the level, quality, and diversity of the supplier pool, entities must expand supplier-practitioner engagement opportunities without compromising the integrity of the competitive process. Entities often have a specific, narrow frame of reference for a purchase. However, they can create a broader, more holistic view of the purchase by allowing pre-solicitation meetings and other information-gathering events. The goal is to create an opportunity to engage, create, and present the optimal solution for the entity.

The public procurement profession advocates for entities taking advantage of a “best value” approach to sourcing for goods and services. A “best overall value” approach focuses on the overall solution that serves the best interest of the entity. This includes identifying the solution that provides the lowest total cost of ownership, improves the entity's process, reduces additional related costs, and is provided by a qualified supplier.

In its 2018 presentation, the NIGP Business Council highlighted the “Cost to Procure,” including the numerous actions and resources required for entities to create and manage a solicitation process as well as the processes required for suppliers to submit a proposal in response to a solicitation. Excerpts from that presentation, provided in the tables below, provide insight that can help practitioners make informed decisions about sourcing approaches. The tables also demonstrate the financial impact on suppliers who decide to engage in sourcing processes.

Cost to Procure vs. Cost to Propose (Actions)

GOV/ED ENTITY

- Industry/Category Research
- Existing Contract Review
- New Document Development
- Create Evaluation Committee
- Pre-Solicitation Internal Meeting
- External (Supplier) Meeting
- Publication, Q&A Responses
- Receive/Review Proposals
- Evaluate Score
- Product Demonstration(s)
- Intent to Award
- Negotiations
- Award & (Potentially) Transition
- Manage Over Term (e.g., five years)

SUPPLIER ORGANIZATIONS

- Review Current Entity Contract
- Review Entity Relationships
- Attend Pre-Solicitation Meeting
- Submit Doc Recommendations
- Post-Publication: Review RFP
- Conduct Internal Meetings
- Legal Review - T's & C's
- Answer Questions/Write Copy
- Calculate Pricing Model
- Final Review/Signatures
- Submit Proposal
- Product Demonstration

Cost to Procure vs. Cost to Propose (Staff)

GOV/ED ENTITY

- Buyer/Contract Manager
- Manager/Director
- VP/CPO
- Legal Counsel
- Risk Management
- Supplier Diversity (DEI)
- Evaluation Committee (3-5+ ppl)
- End Users/Internet Customers
- Finance/Accounts Payable
- Board/District/Council
- Communication

SUPPLIER ORGANIZATIONS

- Local Sales Rep
- Local Sales Manager/Director
- Regional/National VP
- Supply Chain Leader
- Local/Regional Service/Operations
- Pricing Analysis
- Proposal Writer
- Contract Compliance
- Risk Management
- Legal Counsel
- IT Resource
- Implementation Resource
- HR/Diversity & Employment
- Communication

This information should be leveraged by practitioners and entities to consider the impact of their solicitation decisions and the costs associated with those decisions. Practitioners and entities should recognize that suppliers make similar analyses when they decide whether to respond to sourcing opportunities.

Communication Is Key

The more detailed a solicitation's specification or scope of work is, the more restrictive it becomes, potentially creating barriers to competition. Although an entity may feel that a very detailed specification will simplify the selection process and defend it against potential challenges (such as a protest), this approach may in fact prevent opportunities for better, more cost-effective solutions.

Unfortunately, entities sometimes issue solicitations with complex, excessive requirements, which can lead to complex and costly contract administration. This approach can lead suppliers to determine that the cost of proposing is too high, leading to another "No Bid" outcome. Similar to the procurement community analyzing the cost of conducting a sourcing process, the supplier community must also analyze the costs and benefits of responding to a competitive solicitation opportunity.

When considering where to invest their time to pursue business opportunities, suppliers will focus their efforts on entities that:

- Demonstrate an interest in partnering with suppliers for mutually beneficial contracts
- Create open, non-restrictive solicitations and sourcing processes
- Present requirements that do not favor specific suppliers or specific solutions
- Consider proposal and administration costs that impact suppliers when assembling a solicitation response and when performing under a contract
- Are open to receiving information and learning about how to improve their solicitation and sourcing process

? Ask Yourself

Does your solicitation accurately reflect your entity's needs?

When entities use a detailed specification, they should seek out subject-matter experts (SMEs) to evaluate and verify that the responses to the solicitation are compliant. However, in most cases, strategic suppliers are more knowledgeable than an entity's SMEs are about their market, current technology, and products. While SMEs may have background and experience in the subject matter, they do not work in the supplier's market, and they do not have direct interaction with the industry. Suppliers respond to multiple solicitations for many different entity types (states, counties, cities, districts, school districts, etc.) within a wide variety of environments and under different conditions. Suppliers generally have a much greater breadth and depth of knowledge related to the issues involving a solicited product or service.

Increased Awareness Leads to Change

With an increased awareness of the various reasons that suppliers are choosing not to respond to a solicitation, it's important to take a critical look at the types of business practices that would likely increase a supplier's interest in providing a response. Consider the following:

- When a solicitation fails to attract responses from all potential suppliers, the procurement professional has done a disservice to the entity and, more broadly, the community it serves.
- When large and national suppliers do not participate in a solicitation, the entity loses market intelligence that would allow them to take advantage of industry trends and best practices.
- When medium-sized suppliers do not participate, it could indicate that suppliers are electing to move away from the public sector market, focusing their energies on the private sector (often considered the more cost-effective client to pursue in the market).
- When small and disadvantaged businesses do not participate, entities lose access to diverse, creative suppliers as well as opportunities to meet established diversity, equity, and inclusion goals.
- When entities experience fewer (or no) responses to solicitations, it is likely indicative of restrictive, unclear, or challenging requirements.
- When a contract is awarded to the lowest-priced supplier, it is possible that it is being awarded to the supplier with the lowest profit and the one most willing to take risks in attempting to meet contractual requirements.

? Ask Yourself

Will your planned approach provide the best overall value for your entity?

Through effective supplier-practitioner communications, suppliers can develop a better understanding of the needs, goals, and challenges an entity faces, enabling them to produce more responsive submissions. In turn, entities can potentially learn a great deal from industry subject matter experts. Reputable, sincere, and legitimate suppliers realize they will not win every contract for which they compete. However, they also realize that participating in a well-thought-out and fair solicitation process, with open specifications and requirements, allows them an opportunity to learn more about the markets they serve and potentially help an entity in the long term.

Opportunities to Improve

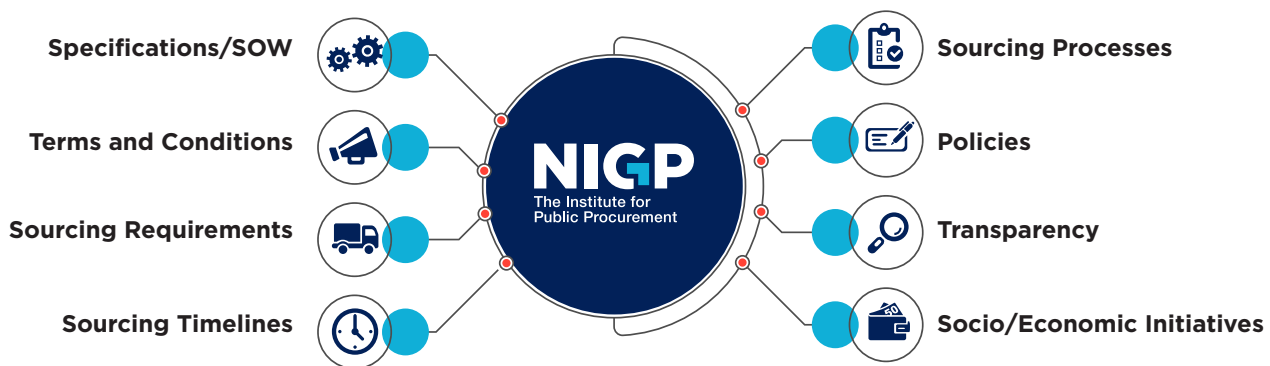
Practitioners have a tremendous opportunity to increase their value to their entity, reduce risk, and increase the level of competitive interest in their sourcing opportunities. Each of these areas present opportunities to generate more successful contracts and contractors, resulting in better service to the entity and the community.

This white paper is intended to create a space for conversation, analysis, and action. By considering the points presented by the Council (who are reflective of the broader supplier community), practitioners can generate a dialogue with their teams, broadly assess the effectiveness and efficiency of the procurement function, and increase the number and quality of solicitation responses they receive.

There are many areas in procurement that present opportunities for this type of exercise. While not exhaustive, below are some areas for consideration as you begin this conversation with your internal and external stakeholders. Ask these tough questions of yourself, your end users, and your suppliers in each area:

- How do we operate now?
- What barriers exist in this area?
- What makes life difficult for suppliers in this area?
- Are we looking for a basic supplier or a strategic partner for this procurement?
- What can be changed now?
- What are the long-term opportunities?

While not every question above may present viable opportunities for meaningful change, each step you take toward improvement and alignment with industry best practices is a win for your entity. Below are several areas of procurement practice that can be assessed for potential changes:



To further assist in conducting conversations about the areas above, Exhibit C provides talking points and examples.

Conclusion

The Council believes the supplier-practitioner relationship goes well beyond that of a buyer-seller interaction. Strategic suppliers and strategic practitioners recognize the tremendous mutual potential of a partnership that respects policy, process, and all of the values of the procurement profession. Together, suppliers and practitioners should continually hone their communications to identify ways to improve their services for the benefit of their respective clients.

For more information about the NIGP Business Council and Enterprise Sponsor Program, contact Fred Kuhn, Chief Growth Officer, at 703.429.2582 or fkuhn@nigp.org.

EXHIBIT A

Mitigation Checklist

The path to procurement can be rife with roadblocks. Consider the following options to mitigate the common barriers you might encounter.

If any of these describe your sourcing process...

The entity does not host pre-solicitation meetings that would enable suppliers to review current terms, conditions, and specifications.

... then consider this during your next team meeting

- Host pre-solicitation meetings and invite all interested parties to discuss the upcoming solicitation in general terms.
- Ask the supplier community the following questions:
 - What is new in your industry?
 - What are the challenges we should be aware of with this product/service?
 - What resources exist to help us define our need?
 - If you have responded in the past on this product/service, what terms or requirements were a barrier for you?

The solicitation timeframe is too short to adequately prepare a response.

- Ask questions of the end user to understand any defined timelines that potentially limit competition.
- Ask the supplier community about:
 - Timelines typically required to prepare a response for their industry
 - Any schedule implications the entity should be aware of before sourcing in the industry

The solicitation's requirement for fixed pricing is unrealistic for the market/industry.

- Ask the end user about reasons fixed pricing is important for a particular sourcing process.
- Understand what concerns procurement has about the fixed-price approach.
- Ask the supplier community about why a fixed-price approach may create challenges for the market/industry.
- Reach out to procurement peers to inquire about how they handled pricing issues.

The specifications are written to achieve a particular solution and/or supplier (favoritism).

- Challenge the end user on any restrictive requirements, focusing on understanding the need and identifying an alternative approach for the sourcing process.
- Ask the supplier community what parts of the specifications are restrictive for the competitive market.
- Research other specifications for other entities sourcing for similar goods/services.

<p>A solicitation's terms and conditions are outdated and/or not in alignment with current conditions, and the entity is not open to making adjustments to the solicitation's requirements.</p>	<ul style="list-style-type: none"> ■ Conduct a review of the entity's terms and conditions, to include involving legal, risk, end users, and the procurement team. ■ Ask the supplier community to provide feedback on current terms and conditions, identifying any barriers to competition and areas of confusion.
<p>The solicitation includes excessive requirements that do not provide value or present a competitive barrier.</p>	<ul style="list-style-type: none"> ■ Challenge the value of each requirement that may limit competition. ■ Ensure there is an understanding of what purpose each requirement serves to the entity. ■ Ensure there is an action that will take place for any documentation or information requested as part of the sourcing process.
<p>There is no consideration for buying under an existing cooperative contract.</p>	<ul style="list-style-type: none"> ■ Establish a list of vetted and approved cooperative contracts that comply with the sourcing requirements of the entity. ■ Identify pros and cons for using a cooperative contract vs. contracting independently. ■ Understand the basis for rejecting the use of a cooperative contract. ■ Define the internal costs of going through a competitive process.
<p>The evaluation method or type is not clearly stated.</p>	<ul style="list-style-type: none"> ■ Provide clarity in the sourcing document of how suppliers will be evaluated. ■ Ensure transparency in the evaluation process and resulting documentation.
<p>As a practice, the entity does not offer debriefs to unsuccessful competitors.</p>	<ul style="list-style-type: none"> ■ Offer for a defined period of time and upon request by a supplier debriefs that are framed by an established policy.
<p>The supplier's cost to propose exceeds the value of a contract.</p>	<ul style="list-style-type: none"> ■ Analyze all requirements of the sourcing process that incur cost. ■ Identify alternatives to the items creating cost for the supplier to determine the value of the incurred cost to the entity (given its likelihood of being passed on to the entity in the offer).

EXHIBIT B

Applying Best Practices and Other Supporting References

The public procurement industry has developed a series of Global Best Practices that address many of the areas discussed in this white paper. The supplier community supports the adoption of these best practices within entities to increase consistency in practice as well as to create a standard set of expectations among the supplier community as they engage with the government sector.

The following resources offer additional information to build on the topics discussed here:

Global Best Practices

- [Procurement's Role in the Use of Non-Emergency Federal Funds](#)
 - [Establishing an Effective Supplier Diversity Program](#)
 - [Transparency in Public Procurement](#)
 - [Strategic Procurement Planning](#)
 - [Risk Management](#)
 - [Market Research Process: Research, Analysis, and Intelligence](#)
 - [Use of Cooperative Contracts for Public Procurement](#)
 - [Distinguishing Between Scope of Work and Statement of Work](#)
 - [Invitation for Bids \(IFBs\)/aka Invitation to Tender \(ITT\)](#)
 - [Request for Proposals \(RFP\)](#)
 - [Stakeholder Relationships](#)
 - [Supplier Relationship Management](#)
 - [Debriefs](#)
-

Position Papers

- [Best Value in Government Procurement](#)
 - [Transparency in Government Procurement](#)
-

Other White Papers & NBC Presentations

- [The Supplier-Practitioner Connection: Adding Value to Procurement](#)
- [Total Cost of Ownership: Realizing Procurement's Full Potential in Value Creation](#)
- [The Healthy Agency/Supplier Relationship Guide](#)
- [Everybody Wins: Crafting a Solicitation That Fosters Transparency, Best Value, and Collaborative Partnership](#)

EXHIBIT C

Opportunities for Improvement

Open communication with suppliers and other stakeholders can uncover misunderstandings and clear the way for novel solutions. Consider adopting new approaches in the following areas.

Specifications/SOW	<ul style="list-style-type: none">■ Review all specifications and scopes of work for potential limitations to open competition.■ Discuss potential changes with appropriate internal stakeholders to understand their impact.■ Discuss potential changes with external stakeholders to identify potential alternative language or approaches.
Terms and Conditions	<ul style="list-style-type: none">■ Review T&Cs with the supplier community to remove barriers that prevent suppliers from engaging in the sourcing process.■ Afford the supplier community the opportunity to review requirements in advance, allowing them to point out areas in which requirements are unintentionally adding cost, increasing risk, limiting options, or missing key components.■ Review T&Cs on a regular basis to ensure they are updated, applicable, in alignment with best practices, and support full, open competition.■ Explicitly state top contract issues. Identify where there is willingness to adjust the terms and conditions.■ Consider the following areas for possible impediments to supplier engagement:<ul style="list-style-type: none">• Broad indemnification for intellectual property rights• Broad indemnification for injury and property damage• Broad liability for damages, including liquidated damages• Most Favored Nation clause• Other entities may piggyback without meeting creditworthiness standards• First priority for service over other customers in emergency• Cancel for Convenience vs. Fiscal Funding Out Clause• Prevailing Wage• Buy American Act (BAA) compliance requirements rather than preference• Related - Buy America, other Onshoring mandates
Sourcing Requirements	<ul style="list-style-type: none">■ Consider the value and impact of various requirements on the decision-making process.■ Recognize the requirements that create a competitive barrier for the supplier community.■ Separate the requirements that may be of value for short-listed or final candidates, but may not be necessary for all suppliers submitting responses

Sourcing Timelines	<ul style="list-style-type: none"> ■ Create timelines that afford suppliers sufficient response time. ■ Ensure timelines are reasonable to encourage supplier interest. ■ Incorporate timelines into the various events involved in the sourcing process. ■ Analyze the steps in the sourcing process, removing those that do not provide value or do not impact the decision-making process.
Sourcing Processes	<ul style="list-style-type: none"> ■ Create opportunities to meet with suppliers, either individually or collectively and: <ul style="list-style-type: none"> • Establish a standard process for communicating with the supplier community. • Give a group presentation to all interested parties (keeping in mind that vendors do not like discussing the uniqueness of their product in front of their competitors). ■ Discuss: <ul style="list-style-type: none"> • Requests for Information • Down select • Vendor presentations • Requests for quotation • Final Presentations • Awards
Policies	<ul style="list-style-type: none"> ■ Develop or revise policy language regarding various sourcing processes. ■ Ensure policies are referenced in sourcing documents (such as protest procedures and definitions). ■ Update policies on a regular basis.
Transparency	<ul style="list-style-type: none"> ■ Develop a repeatable, standard process that is inclusive, clear, documented, and shared with all stakeholders. ■ Identify with various stakeholders potential limitations to an open, competitive process. ■ Offer debriefs to unsuccessful offerors/bidders to identify areas of opportunity for improvement and/or deficits noted by evaluators in comparison to competitors.
Socio/Economic Policies	<ul style="list-style-type: none"> ■ Provide suppliers training/information on programs (such as Local Preference and Disadvantage Business Enterprises) and their goals. ■ Identify policies and requirements for these programs.

The 2022 NIGP Business Council



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