



The difference between clarifications, shortlisting and negotiations in community service procurements

Clarifications

The purpose of a clarification is to clear up ambiguity in the existing information in a respondent's offer.

In a competitive process such as an open Request for Tender, clarifications should ideally be capable of being resolved with a yes or no answer. They should not be used to seek additional information and cannot be used to fix deficiencies or material omissions in an offer, materially alter the technical or cost elements of an offer, or otherwise revise an offer.

In a competitive process, detailed or open questions that require more information should be addressed through a shortlisting process where all offers that pass an initial evaluation are asked the same questions, or through more information or negotiations at preferred respondent stage.

In a direct negotiation process, more detailed clarifications are considered acceptable, as they will not unfairly impact other respondents. However, line agencies should ensure that they issue a comprehensive Request so that respondents can address the relevant criteria.

Clarifications must be explained in full in the Evaluation Report, including the reason the clarification was sought and how the clarified information was applied in the qualitative assessment.

Shortlisting

Shortlisting is an optional step in a procurement process where an agency reduces the number of offers under consideration to a smaller group for more detailed evaluation or negotiation. It is typically used where further assessment activities (such as demonstrations, provision of samples, site visits, or detailed proposals) would be impractical and/or costly to undertake with all respondents.

In an evaluation process that includes shortlisting, offers are first assessed based on compliance and competitiveness. Offers that are non-conforming, non-compliant or non-competitive in comparison to other offers that demonstrate value for money are excluded from further evaluation. The remaining offers are shortlisted and subject to further evaluation or negotiation. The rationale for exclusion or inclusion in the shortlist should be documented for each offer.

The inclusion of a shortlisting process in a procurement should be communicated to respondents before offers are submitted and detailed in the Request document. It is best practice to also set out

the shortlist criteria and any additional information, such as interviews and presentations, that will be required of the shortlisted respondents in the Request document.

The Evaluation Report and other relevant templates can be found at [Community services templates](#).

Negotiations

A negotiation is a strategic discussion that seeks to resolve an issue in a way that both parties find acceptable. Negotiations should take place after the offers have been evaluated and a preferred respondent(s) has been identified.

If negotiations with a preferred respondent are unsuccessful, the agency can determine if there is an alternative suitable respondent to begin negotiations with. If there are no alternative respondents considered suitable, all offers should be declined. Negotiations should be exhausted with the preferred respondent before proceeding to negotiate with the next preferred respondent.

Negotiating with multiple preferred respondents at the same time should generally only be undertaken if there is genuine intent to award all preferred respondents to the contract (i.e. for a panel contract). Where time constraints require a decision to be made and the contract awarded, negotiations may take place with multiple respondents if this is allowed for in the Request documentation. Agencies should review the Request documentation to ensure this practice will not breach the process contract. Generally, negotiation with multiple respondents should be considered as an exception rather than common practice.

The above activities should be carried out in a fair and equitable manner and in compliance with relevant Government legislation and policies. Please refer to the [WA Procurement Rules](#) and the [Act Ethically – With Integrity and Accountability Guideline](#) on wa.gov.au.