

NWFWMD Policy and Procedures for Unsolicited Project Proposals

Introduction

This is a guidance document for District staff to effectively comply with Florida law and District policy regarding unsolicited project proposals.

The District will implement this policy in accordance with s. 255.065, F.S., and any other applicable provisions of Florida law.

Definition

Unsolicited Proposal: A project proposal submitted to the District independently and outside of any formal District procurement process.

Step 1 – Initial Unsolicited Proposal Received

District receives an unsolicited project proposal. *Do not include information in your initial proposal that would be detrimental to competition (e.g., design details, cost, etc.) should the District decide to seek additional proposals through a procurement process.*

Proposals may be submitted either as a hard copy to the address provided below or electronically by email to the Agency Clerk at AgencyClerk@nwfwater.com:

Northwest Florida Water Management District
Attn: Agency Clerk
81 Water Management Drive
Havana, Florida 32333

Step 2 – Initial Application Fee

Administrative Services – Collect Initial Application Fee of \$1,000.00. Payment must be made by cashier's check, online through the District's online payment portal, or other noncancelable instrument. Personal checks will not be accepted.

Step 3 – Determination of Qualifying Project

District Staff and General Counsel – The applicable Division Director and General Counsel will review the initial application and determine whether the project meets the definition of a qualifying project under District policy and s. 255.065, F.S and aligns with District priorities.

Step 4 – Determination by Governing Board

At a subsequent board meeting, the Governing Board will determine whether to direct staff to proceed with evaluating the proposal, solicit additional proposals, or decline to evaluate.

Administrative Services – If the Governing Board chooses not to evaluate the proposal, then the Initial Application Fee will be returned to the private entity stating the District will not move forward with evaluating the proposal.

Step 5 – Determination of Evaluation Criteria

Upon direction from the Governing Board to evaluate the proposal or solicit additional proposals, staff will develop evaluation criteria.

Evaluation criteria should include consideration of whether:

- The proposal contains sufficient information to allow the District to evaluate the project, including the project scope and schedule, property interests, financing approach, proposed fees or payments, contact information, pricing, and any additional information requested by the District.
- The project serves the public interest, including public benefits, economic efficiencies, compatibility with regional infrastructure plans, public comments received during the review process, and the qualifications and experience of the proposer.
- The project is operationally and financially feasible, including project costs, revenues, financing sources, cash-flow projections, and other information necessary to demonstrate the proposer's ability to successfully deliver and maintain the project.
- The proposal includes appropriate ownership provisions and safeguards to protect the public interest, including protections against additional costs or service disruptions, provisions for future capacity expansion, and compliance with applicable statutory ownership requirements.

If applicable, the evaluation shall include:

- Review by a qualified licensed professional to assess design quality, material standards, space utilization, budget estimates, project schedules, and applicable sustainability standards.
- Consideration of whether the project addresses a demonstrated public need or benefit, is reasonably priced in comparison to similar facilities, and can be timely delivered, operated, and maintained.

Evaluation criteria shall include an independent analysis of the proposed public-private partnership which demonstrates the cost-effectiveness and overall public benefit before the procurement process is initiated or before the contract is awarded.

Sec. 255.065(5)(d), F.S.

In considering an unsolicited proposal, the District may require from the private entity a technical study prepared by a nationally recognized expert with experience in preparing analysis for bond rating agencies. In evaluating the technical study, the District may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of external advisors or consultants who have relevant experience.

Sec. 255.065(3)(h), F.S.

Step 6 – Determination of Evaluation Fee

Establish an Evaluation Fee based on complexity and type of project and the evaluation criteria.

Evaluation Fee is meant to pay for staff time and resources spent evaluating the project proposal. The District may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors or consultants.

Step 7 – Determine Timeframe for Accepting Additional Proposals

If the District will solicit for additional proposals, determine the appropriate timeframe for the District to accept other proposals based upon the complexity of the qualifying project and the public benefit to be gained by allowing a longer or shorter period of time within which other proposals may be received. However, the timeframe for allowing other proposals must be at least 21 calendar days, but no more

than 120 calendar days, after the initial date of publication of the notice of accepting additional proposals.

Step 8 – Publish Notice of Accepting Additional Proposals

If the District will solicit additional proposals, publish notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the District has received a proposal and will accept other proposals for the same project.

Mail a copy of the notice to each local government in the affected area.

If the project includes professional engineering, surveying and mapping, landscape architecture, or architectural services that exceed \$35,000, the Notice should include dates/times/locations for public meetings under s. 287.055, F.S. (CCNA).

Step 9 – Request Evaluation Fee, Provide Evaluation Criteria and Deadline for Submitting an Updated Proposal

Establish a deadline for submission of an updated proposal, which shall be between 21 and 120 calendar days after the Proposer receives the evaluation criteria, based on the project's complexity and scope. If additional proposals will be solicited, the deadline shall align with the solicitation period.

Provide email notice to the Proposer requesting payment of the evaluation fee, stating whether additional proposals will be solicited, and providing the evaluation criteria and proposal submission deadline. The evaluation fee must be paid within 30 calendar days of the request. *The District may stop the evaluation of the proposal until it receives the Evaluation Fee.*

Step 10 – Evaluate and, if applicable, Rank the Proposal(s)

The Evaluation Committee, comprised of District staff, shall evaluate and score the proposal(s) using the established evaluation criteria and, if applicable, rank the proposals.

If the highest-ranked proposals receive identical scores, the Committee may utilize the following tie-breaking method, each being assigned one point: respondent that certifies compliance with s. 288.703(1), F.S., respondent that certifies compliance with s. 295.187(3)(a), F.S., and respondent that certifies compliance with s. 287.087, F.S.

The Committee shall prepare a written recommendation to the Governing Board that includes the evaluation results.

If no additional proposals are solicited, the Evaluation Committee shall hold a second public meeting to present the updated proposal. As a result of the second public meeting, the Evaluation Committee will make a written recommendation containing the results of the evaluation and a Public Interest Determination Report.

The Public Interest Determination Report must include the proposal's benefits to the public, financial structure and economic efficiencies, the proposer's qualifications, experience and ability to perform the project, compatibility with regional infrastructure plans, and public comments received at the meeting when determining whether the proposal should proceed.

Step 11 – Publish Public Interest Determination Report in the FAR

If the District did not solicit additional proposals, it must publish a Public Interest Determination Report in the Florida Administrative Register for at least seven days.

Step 12 – Governing Board Approval

Take the rankings (if applicable) to the Governing Board for approval to negotiate and enter into an Agreement.

Step 13 – Negotiations

The District may negotiate with the highest-ranked proposer, or the sole proposer if no additional proposals were solicited, and may terminate negotiations, proceed to the next-ranked proposer as applicable, or reject all proposals at any time before executing the comprehensive agreement.

Step 14 – Comprehensive Agreement

The District shall negotiate and execute a Comprehensive Agreement that, at a minimum:

- Establishes the rights, responsibilities, and performance obligations of the District and the private entity, including project scope, schedule, operation, maintenance, and compliance with applicable laws, regulations, and District policy.
- Provides that ownership of the completed project, together with all associated facilities, improvements, and assets, will be transferred to and become the property of the District upon project completion or at the time specified in the agreement.
- Provides appropriate financial and contractual protections, including performance and payment bonds, insurance requirements, default and termination provisions, lender and investor protections, and procedures for assumption or transfer of project responsibilities when necessary.
- Establishes the financial terms of the project, including project funding, fees, lease or service payments, revenues, financing arrangements, reimbursement requirements, and other terms necessary to protect the public interest.
- Provides for District oversight of the project, including review and approval of design, inspection of project activities, monitoring of operations and maintenance, and financial and performance reporting.
- Includes any additional terms and conditions the District determines are necessary to protect public interest and ensure the successful delivery, operation, and maintenance of the qualifying project.