Procurement Reform: Invitation to Negotiate

CATEGORY:

State CIO Office Special Recognition

STATE:

Colorado

PROJECT INITIATION DATE:

July 2019

PROJECT END DATE:

December 2019

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Executive Summary

We've all heard it - the state procurement process is complex, takes too long, and is just too ingrained to effect change. Further, Colorado's state agencies operate on tight budgets, and the traditional Request for Proposal (RFP) process minimizes negotiating power. A series of events enabled the Governor's Office of Information Technology (OIT) to tackle this problem head-on and culminated in an "ITN-First" policy:

- In November 2018, Colorado updated its Procurement Code and Fiscal Rules to allow for the use of the Invitation to Negotiate as a solicitation tool, particularly with information technology purchases in mind.
- In January 2019, a new CIO & Executive Director was appointed to lead the Governor's Office of Information Technology (OIT).
- In April 2019, the Colorado General Assembly passed, and the Governor signed, Senate Bill 19-006[1], which requires OIT and DOR to implement a simplified, user-friendly system for accepting and processing returns and payments for the sales and use tax levied by state and the more than 70 local tax jurisdictions.

Invitations to Negotiate (ITN) provide Colorado the opportunity to increase vendor competition, drive down costs, and elevate the influence of the state's procurement professionals. As a result and for the first time ever, on July 26, 2019, OIT used the innovative Invitation to Negotiate (ITN) process for the software procurement related to the legislative mandate. ITNs have subsequently been used two more times in 2019 - for an electronic prescriber tool and a Community Corrections Information and Billing system.

ITNs are proving to be a valuable tool. Of note, as a result of the solicitation done in 2019, the Sales and Use Tax Simplification System was launched in May 2020 ahead of schedule and under budget, the first Major IT Project initiated and completed for the Polis administration.

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[1] The Colorado legislation was a result of the United States Supreme Court's decision in South Dakota v. Wayfair, Inc., et al., which allows states to require retailers without a physical presence in the state to collect sales tax on purchases made by in-state customers.

Project Narrative

Concept

Colorado, like many governments, has a history of engaging vendors to implement large monolithic systems over the course of several years. Many of those implementations fail to result in successful systems. The state has invested millions of dollars in proprietary solutions that fail to meet the needs of the users. The Governor is interested in entering into shorter, more effective IT contracts that result in solid products. OIT saw the use of ITNs as an opportunity to break the pattern of large failed contracts.

OIT used the ITN to engage vendors in discussion regarding a solution to solve the state's issue with collecting sales and use tax because of the Wayfair decision. OIT reviewed proposals from a wide range of vendors, with some vendors offering their off-the-shelf solutions and at the other end of the spectrum, some offered to partner with the state to build a solution from scratch. The process of negotiation allowed the state to find the best fit solution and vendor.

Significance

OIT is just one of three state agencies using ITN's - we are leading the way in reforming state procurement. Three systems are now being built or have been implemented using agile development in task order contracts at a significantly lower cost than previous system implementations. The Sales and Use Tax Simplification System (SUTS) was deployed in six months and $4.9 million under budget.

Impact

In piloting the use of the ITN for SUTS, OIT committed to a close partnership with the Department of Revenue (the product owner) and the task force that drove the legislation to appropriate funding for a system to meet the needs of taxpayers (businesses) and political subdivisions and home rule cities that were looking to collect the taxes. Those stakeholders participated in the development of the solicitation and in defining the outcomes that were sought. All those groups had representatives in the selection committee to determine the vendors who were identified as being in the competitive range and would advance to the negotiation phase of the process.

This partnership built stakeholder confidence in the procurement process and helped to secure their investment in a successful outcome. OIT followed this pattern with two more ITNs, one for the Department of Labor and Employment and one for the Department of Public Safety. The results were similar. Stakeholder investment was high and the prospects of successful implementation are very good.

In each solicitation, contracts were executed with vendors who had a clearer understanding of the

state's needs and expectations thanks to the discussions that occurred during negotiations. This has resulted in closer partnerships between the state and the contractors. It is also expected that fewer vendor contract issues will result. At the time of this submission, no contract issues have been seen.

The OIT Procurement Team has participated in panel discussions with those of other ITN users to share knowledge and expertise with procurement staff across Colorado state agencies. OIT has also encouraged procurement officials across the state to participate in these ITNs to learn from OIT's experience. In sharing openly regarding the process used and the experiences seen with OIT's ITNs, the relationship between OIT and other procurement offices has also improved. The sharing of this information will therefore benefit the entire state and not just the Governor's Office of Information Technology.