RFP Writing: Scope of Work & Incentives

Module 4: RFP Writing - Scope of Work & Incentives

In this module, you will:

- Learn how to draft a scope of work that aligns vendors' objectives with your contract goals, and offers vendors the opportunity to provide new and impactful solutions.
- Develop, where appropriate, unique payment or contract structures to incentivize vendor performance.

4.1 Best Practices

With a clear definition of the problem you aim to solve and the success you hope to achieve established, you will now develop your scope of work. In this module, we will discuss what it takes to create an inviting and clear scope of work that gives vendors the space to test new or adapt existing approaches to solve your government's problem.

The purpose of a scope of work is to give prospective vendors a clear sense of the work required of them, including how they should bring their expertise to the table. Often, it can be tempting to develop a scope of work that is a long list of tasks for a vendor to do and requirements to meet. The problem with this approach, however, is that it encourages vendors to prioritize compliance over outcomes. This can have a number of unintended consequences. It might result in unnecessary costs that do not meaningfully impact the product or services delivered. It may foster a relationship between you and the vendor that is combative, rather than collaborative. Most critically, by taking this approach, you miss an opportunity to enlist vendors' valuable expertise to better solve your problems.

Rather than writing a scope of work as a prescriptive to-do list, remember that it is fundamentally a job description. The most successful scopes of work anchor on your RFP goals. They set clear expectations and parameters for the project, while leaving space for vendors to bring their expertise to the solution. Prospective vendors should finish reading the scope of work excited about the opportunity to work with your government, and with a clear understanding of: 1) the work required to meet the contract outcomes; 2) opportunities to innovate to achieve these outcomes; and 3) any operational, policy, or legal requirements to which a vendor must adhere.

The specific content you include in your scope of work will be determined by your RFP goals and the context of your project; however, it may draw from elements in the list below. Being realistic about what a vendor can provide given the time, budget and constraints outlined in your scope of work will help generate relevant, high-quality proposals. You likely will want to use the market research you conducted during module 2 to inform your assessment of what is reasonable to ask of a vendor.

- *Expected outputs and deliverables:* What will the vendor need to deliver in support of your goals?
- *Functional requirements or technical specifications:* What is the desired magnitude of the program or service? Who will be the users? Are there specific functions that the solution must perform, or that the program must deliver? What components of your service model are mandatory versus nice-to-have?
- *Project management and communication:* Are there any key timelines or milestones in the project? How will the vendor be working with government staff and what responsibilities will the government retain? How do you expect the vendor to communicate with you about what work they have completed?
- *Compliance:* What are the legal, regulatory, or policy frameworks with which the vendor must comply?

A variety of approaches can be effective for organizing the content in your scope of work. For instance, you may choose to organize the scope of work for a complex project (e.g., social service programs, large-scale IT projects) based on expected outcomes. In contrast, you may choose to organize the scope of work for a more narrowly defined or transactional project (e.g., auditing services or IT hardware) based on operational milestones or related categories of activities. Regardless of your approach, be intentional and logical about the organizational structure you use.

Lastly, as you draft your scope of work, beware of two common pitfalls!

To minimize risk, cities often take the approach of specifying precisely how a vendor shall deliver services (even down to the exact height of the lettering on lawn maintenance equipment!). Specifying this kind of detailed, relatively unimportant information sets up the government-vendor relationship as one where the vendor is executing on systematic directions rather than bringing valuable expertise and a problem-solving mindset to the table. While some specifications are necessary to ensure that vendors follow the law or a government's policy priorities (e.g., workers must wear hardhats at construction sites), other specifications are so limiting that vendors are unable to offer new solutions that might save time and money and produce better outcomes. Rather than prescribing "how" a project should be done in a scope of work, define "what" the city is trying to achieve. Risk can then be managed through performance metrics and your contract management approach, as you will see in module 5.

Remember, a scope of work is not a contract. While it may be important for potential vendors to be aware of future contract terms up front, it can often be confusing or off-putting to include extraneous contract language as part of the scope of work. Consider whether you might include contract terms and conditions in an RFP appendix or omit terms that you will negotiate and finalize after contract award.

	KEY CONCEPT: CHARACTERISTICS OF AN EFFECTIVE SCOPE OF WORK
1	**Connects closely to your goals.** In Module 3, you identified the goals for your RFP. The scope of work should closely connect to your goals and provide context for the vendor to understand the work that they will need to do in order to achieve these goals.
2	**Is well-organized.** A clear, logical structure for your scope of work will help the vendor understand what you expect of them. Be intentional about the organizational structure you use to ensure it logically orients vendors towards your goals, communicates your needs, and outlines any operational or regulatory guardrails.
3	**Encourages innovation**. Vendors are often subject-matter experts who can contribute to the design of innovative and cost-effective approaches to achieving your goal. A well-crafted scope of work leverages these unique capabilities by allowing for a range of solutions, for adaptation of existing approaches, or for new solutions to be tested.
4	**Invites collaboration.** The scope of work will set the tone for your working relationship with vendors moving forward. It should create a positive impression of your government as a client and set expectations for how you will work together throughout the project. This can be accomplished by using a collaborative tone, clearly defining roles and responsibilities, and (when appropriate) structuring positive incentives for the vendor that are aligned with overarching project goals.
5	**Is realistic.** From your market research in module 2, you should have a good sense for what vendors are able to provide, and what is attainable given the time and budget for the project. The scope of work should be drafted with these considerations in mind. A realistic RFP will be more likely to receive relevant, high-quality responses.

Using Payments or Contract Structures to Minimize Risk and Incentivize Performance

Your payment structure is another method of minimizing performance risk and encouraging strong vendor performance. There are many ways to incentivize vendors to perform well, including financial incentives (performance payments), transparent vendor performance reviews, and ongoing collaborative contract management. Many of these techniques will be discussed in the following modules.

As you develop your scope of work, consider how you might incorporate any of the following methods of incentivizing vendor performance through your scope of work or payment structure:

	KEY CONCEPT: PAYMENT CONSIDERATIONS
1	**Timing of payments.** Contracts often withhold payment until key deliverables are completed or milestones are met.
2	**Collecting metrics or grading vendor performance**. Defining, measuring, and discussing performance regularly over the course of the contract, even without performance payments, can provide a meaningful performance incentive.
3	**Selecting future work based on vendor performance.** A common complement to grading vendor performance is to condition future work on satisfactory performance. This can apply to selecting vendors from a vendor pool, contract extensions, new work under an existing contract, or the opportunity to compete for future contracts.
4	**Structure of payments.** How payments are structured, of course, can be the most important performance incentive. Here are some of the ways that governments can structure payments to vendors: • Fixed Price: Contract is paid as a lump sum based on completing requirements. • Time and Materials: Government pays a vendor over time, based on the dollars spent or hours worked. • Performance Payment: Government pays out some portion of the contract based on performance, measured using process and/or outcome metrics. When designing performance payments, carefully consider what structural barriers vendors will face in their efforts to achieve outcome metrics. Check that you are not basing your performance payments on outcomes that a vendor may be unable to control during the contract term. If a performance payment is not deemed feasible, a fixed price contract will likely be optimal because it ensures that you will not exceed the price agreed upon with the contractor. In a fixed price contract, the risk falls to the contractor that the actual cost of the work will be higher than the price of the contract. Time and materials contracts can generally be appropriate only if there is high uncertainty about the extent or duration of the work or ability to anticipate costs with confidence.

4.2 Examples

Example 1: An IT scope of work that connects to goals and encourages innovation
The example below showcases an excerpt from a well-organized scope of work for a new citywide project management software. In this example, the scope of work was organized by six key project features/goals. For each goal, the City described the ideal end state, and listed 1-5 desired features. This content was presented in a concise (<1 page per goal), results-oriented manner, with mandatory functionality differentiated from nice-to-haves. This approach gave prospective vendors responsibility for solution design, while ensuring minimal functional criteria were met.

OUTLINE OF SCOPE OF WORK
Overview
1: Project transparency through data centralization
2: Robust workflow visualization
3: Facilitates collaboration
4: Promotes active project management
5: Can interface with the City's current systems
6: Secure and dependable experience in the office and field

Content Deep Dive | Goal 6. Secure and dependable experience in the office and field
The City requires a hosted cloud-based solution with 99.9% availability. We require access to all data, compliance with data retention/public records laws, and protection of sensitive data such as school layouts and utility infrastructures. We also expect regular updates to the software. Your tool should provide an intuitive, beautifully designed user experience. Drag-and-drop functionality for dashboard, process flow, and report customization would be preferred, as would automatic routing/upload of documents via Google email. Ideally, your tool will be consistent with the City's visual brand (details regarding the City's brand are available at www.gplexamplecity.gov/brand-guidelines), and should be accessible for users with disabilities under ADA Title II (see WCAG2 and Section 508 for guidance). Your tool should be available on any web browser or mobile device. We require in-person training as part of implementation, using a "train-the-trainer" model, with electronic resources available moving forward. The ability to conduct additional training in-house, segmented by specific user groups (i.e., administrators, project managers, contractors) is key. Ongoing support throughout the deployment phases is also critical, as designated City staff will require help desk support in order to escalate technical issues. Key features can be summarized as follows: • Hosted solution • Simple and intuitive user experience • Availability on any web browser or mobile device • Technical training and continued support

Example 2: A parks department scope of work that is less prescriptive and invites collaboration

The example below shows how a parks department improved a heavily prescriptive section of its scope of work for landscaping services. The original version had led vendors to prioritize compliance over impact, and had contributed to a tense working relationship between vendors and the city.

The revised language focuses on "what" the city is trying to achieve rather than "how" the vendor achieves it. In this way, it aligns vendor priorities with the city's goal, while still effectively managing risk, without an exhaustive list of compliance requirements.

Original Procurement	Revised Procurement
Minimum Equipment List (See Attachment A) for performing the work under these specifications shall be possessed by the Contractor for listed project areas at time of award of bid and maintained throughout the maintenance season. It will be determined by the city, after bid openings, whether more equipment will be required due to how many acres are actually awarded. Number of acres, slope areas and maintenance cycles will be determining factors. Any additional equipment will be purchased prior to award of bid. Mowers shall be of an appropriate size for the area being mowed. Blades shall be sharp as to give a fine, clean cut. Mower decks shall be leveled as to give an even, level cut. The equipment shall be operated at a speed and manner that poses no danger to the public and achieves the desired appearance. Contractor's vehicles, tractors and mowers (60" deck or larger) are to be clearly identified in a visible contracting color with the name of the Contractor's company, using minimum two (2") inch (height) letters. The Contractor's company name is to be permanently placed on the equipment in a location which is highly visible to the general public. The City shall approve equipment identification.	Proposed Equipment. The contractor shall be responsible for providing all equipment necessary to perform these services. The City is not defining equipment requirements. However, proposals should include a list of all equipment anticipated to be utilized for the scope of work.

As part of this revision, the City also moved from a long list of punitive fines for damages (including $200 fines for each instance of mowed-over trash) to performance payments. For each location in which a contractor had only one or less unacceptable reviews, the contractor received an incentive payment equal to 5% of payment earned during that period of review.

MODULE 4: WORKBOOK

4.3 DISCUSSION QUESTIONS

Gather your RFP drafting team and discuss the questions below.

1. For each of the goals you developed for this RFP, with your RFP team, 1) brainstorm what activities you expect a vendor must do to meet the goal and what outputs you would expect to see produced from those activities, and 2) identify which activities are essential to achieving the outcome and which are desirable. Think of the output as the action or items that contribute to achieving the outcome. Be creative! You might sketch out the product or service or hold a group brainstorm.

2. Identify three (or more!) highly prescriptive requirements that you plan to include in the scope of work section of the RFP that you are worried that a vendor will not do unless required – why is it important that the vendor follow those specifications? Why are you worried that they will not deliver on those specifications? Is it a legal reason? If not, how might you reframe the requirement to make sure it is not overly prescriptive? *Note: We encourage you, for the items listed here, to reach out to your legal counsel contact for support in identifying which requirements are legal in nature.*

3. Indicate the risks and uncertainties for both the government and the vendor that you want to minimize in the delivery of the service you are procuring.

- What challenges and risks do you anticipate in the service delivery? For each of these risks, brainstorm strategies for minimizing the risks and discuss why you will employ these strategies, using the table below (strategies may include supplementing your goal definition, performance metrics, program requirements, or reforming your contract management approach):

Risk	Risk minimization strategy	Reason for choosing strategy

4. Using the table below, consider the payment structure options and indicate why these structures are or are not a good fit for your RFP.

Payment structure	Fit (Yes or No)	Rationale
Fixed Price		
Time and Materials		
Performance Payment		

5. For your contract, how do you expect the timing of payments to align with the delivery of the contracted services? Can you use the timing of payments to incentivize good performance? Why or why not?

4.4 DRAFTING PROMPTS

1. Write a well-organized scope of work for this service, organized either by your goals, or by categories of service to be provided. In drafting your scope of work, take the following steps:
    1. For each of the goals you developed for this RFP, describe your desired activities and outputs. Where possible, challenge your assumptions about the service model and think hard about what has to happen to meet the goal rather than to be faithful to the service model.
    2. Add all requirements that are necessary for vendors to: 1) meet regulatory or legal requirements; 2) meet city priorities; or 3) to comply with specific technical specifications. For each, consider why it is important for vendors to follow these specifications and to consider where you might reframe requirements to make sure they are not overly prescriptive.
    3. Include information that indicates how your government plans to manage risks. This could include a communication and monitoring plan, an expected project management approach, or information about the timing and structure of payments.
    4. Now that you have drafted the scope of work, review the language you have written in steps 1-3. Is there any opportunity to remove overly prescriptive requirements to allow more room for innovation?
    5. Consider the flow of your scope of work. Is it easy to follow and well-organized?

2. There may be outstanding questions that you need to answer to develop your scope of work. What additional information would you like to gather to complete your scope of work? Use the table below to outline this information and your plan for gathering it.

Additional Information Needed	Action Plan
Example: The number of city employees requiring access to and training on how to use a new Fire Department Records Management System (RMS). Without this information, the Department cannot give prospective IT vendors an accurate estimate of how many staff will require training.	*Example: 1) Review user accounts for the City's current Fire RMS system to estimate the current number of active users. 2) Speak with IT staff to understand which additional city employees should have access to the new RMS system, given improved functionality.*

3. Draft a "Terms of Payment" section for the RFP indicating how the vendor will be paid for the delivery of services. Indicate whether and how past performance will be used to either condition a portion of payments or to inform selection for future work/contract renewal.