

POLICY NUMBER:

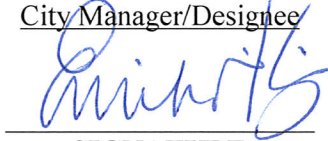
APM- 2-19

DATE:

March 26, 2019

ISSUED BY:

Emilio T. Gonzalez, Ph.D.
City Manager/Designee



SIGNATURE

CITY OF MIAMI



**ADMINISTRATIVE
POLICY**

<u>REVISIONS</u>		<u>DATE OF REVISION</u>
<u>REVISED SECTION</u>		
Created		3/26/19

SUBJECT: ELIMINATING THE PROCESS OF CURING IRREGULARITIES IN DOCUMENTS SUBMITTED IN RESPONSE TO REQUEST FOR QUALIFICATIONS (RFQ), REQUEST FOR PROPOSALS (RFP), REQUESTS FOR LETTERS OF INTEREST (RFLI), INVITATION FOR BIDS (IFB), INVITATION TO BID (ITB), INVITATION TO QUOTE (ITQ), AND REQUEST FOR SPONSORSHIP (RFS) EFFECTIVE MAY 6, 2019

PURPOSE:

To improve the procurement solicitation process in order to provide internal and external customers with a more efficient and effective procurement of goods and services for the City of Miami. This APM establishes guidelines that eliminate the process of curing irregularities in proposals and bids submitted in response to RFQs, RFPs, RFLI's IFBs, ITBs, ITQs and RFS.

BACKGROUND:

Currently, the Department of Procurement ("Procurement") allows Proposers and Bidders to cure certain deficiencies, deviations, irregularities, omissions, and/or technicalities in proposals and bids submitted to the City in response to RFQs, RFPs, RFLIs, IFBs, ITBs, ITQs and RFS.

In collaboration with the Department of Innovation and Technology ("DoIt"), Procurement has identified the process of curing as the cause of significant delays in formal solicitation process. When proposals and bids require a cure, Procurement sends out a "Notice to Cure" to Proposers and Bidders who are then given additional time to correct, complete, and re-submit the required documents. The process of curing is time intensive and delays the procurement of necessary goods and services for the City; it prolongs the due diligence review period and it stalls and delays the evaluation and selection process, resulting in the extension of time between the issuance of an RFP, RFQ, RFLI, IFB, ITB, ITQ, or RFS solicitation and its award date.

Eliminating the process of curing will streamline and improve the overall procurement solicitation process while making it more efficient by removing a source of delay, and more effective by concentrating due diligence reviews only on complete and responsive proposals and bids. Additionally, it is not a common procurement industry practice to allow cures. Other local public agencies such as Miami-Dade County and the Miami-Dade County Public School System do not presently allow cures in such similar instances.

GUIDELINES:

Procurement will only review and evaluate proposals and bids that have been deemed responsive. **Responsive bids and proposals responses are defined by our Procurement Code.**¹ Prospective Proposers and Bidders should understand that non-responsive proposals or bids will not be reviewed and will be eliminated from the evaluation and selection process.

The City will not consider the curing of any proposal or bid that fail to meet the minimum qualifications or submission requirements of an RFQ, RFP, RFLI, IFB, ITB, ITQ, or RFS as applicable. Material deficiencies, deviations, irregularities, omissions, and/or technicalities are not waivable.

Proposals and bids submitted with deficiencies, irregularities, omissions, and/or technicalities that deviate from the minimum qualifications and/or submission requirements for RFQs, RFPs, RFLIs, IFBs, ITBs, ITQs and RFS shall result in a non-responsive determination. The following list includes, but is not limited to, proposal and bid deficiencies, deviations, irregularities, omissions, and/or technicalities that shall result in a non-responsive determination for any solicitation issued on or after May 6, 2019:

If a proposal or bid is missing forms, or contains unnotarized forms, unsigned forms, incorrect forms, or forms signed by any individual, other than the Proposer or Bidder, Proposer's or Bidder's team members, and/or individuals attesting to the stated project experience, the Proposer or Bidder **will not** be given time to cure the proposal or bid, and the City shall deem such proposal or bid non-responsive. The City, at its sole discretion, reserves the right to waive minor deviations not listed above. Such minor deficiencies, deviations, irregularities, omissions, or technicalities may be timely cured by the Proposer or Bidder, at the sole discretion of the City. Material (i.e. substantial or notable) deficiencies, deviations, irregularities, omissions, or technical issues cannot be cured by the Proposer or Bidder and are not waivable by the City.

For illustrative guidance please see below an excerpt from State of Florida procurement instructions which discuss the difference in plain language between material and minor variances.

Responsive bidder, proposer, offeror, or respondent means a business which has submitted a bid, offer, proposal, quotation or response which conforms in all material respects to the solicitation. Sec. 18-73, City Code.

(Excerpt from 2012 WL 1155290 (Fla.Div.Admin.Hrgs.))

Mandatory Responsiveness Requirements: Terms, conditions or requirements that must be met by the proposer to be responsive to this RFP. The responsiveness requirements are **mandatory**. Failure to meet the responsiveness requirements will cause rejection of a proposal. Any proposal rejected for failure to meet mandatory responsiveness requirements will not be evaluated.

1.15 Material Deviations: The Department has established certain requirements with respect to proposals to be submitted by Proposers. The use of *shall*, *must* or *will* (except to indicate simple futurity) in this RFP indicates a requirement or condition which may not be waived by the Department except where any **deviation** therefore is not **material**. A **deviation** is **material** if, in the Department's sole discretion, the deficient response is not in substantial accord with this RFP's requirements, provides an advantage to one Proposer over other Proposers, or has a potentially significant effect on the quantity or quality of items or services proposed, or on the cost to the Department. **Material deviations** cannot be waived and shall be the basis for rejection of a response. Because this is an RFP, the Department will apply this definition liberally in reviewing responses in regard to service delivery.

1.16 Minor Irregularity: A variation from the RFP terms and conditions which does not affect the price proposed or gives the proposer an advantage or benefit not enjoyed by the other proposers or does not adversely impact the interests of the Department.