

STAFF REPORT



MEETING DATE:	December 12, 2017
SUBJECT:	Adopt Unsolicited Proposals Policy
AGENDA ITEM:	10
STAFF CONTACT:	Dan Little, Executive Director

STAFF RECOMMENDATION

It is recommended that the SRTA Board of Directors approve the attached policy to establish a procurement process for unsolicited proposals.

BACKGROUND

SRTA is sometimes approached with ideas from the private sector to partner on projects that further SRTA's mission. Currently, there is no formal process to consider private sector ideas that have merit. Private sector proposals can only be in response to staff-solicited requests. This process stifles dialogue to develop ideas jointly. Obviously, staff has no monopoly on good ideas, and private sector proposals should be encouraged. The attached Unsolicited Proposal Policy would provide an avenue to consider and develop private sector ideas in a way that is consistent with SRTA's procurement standards and fair competition principals.

The draft policies allow conceptual proposals to be accepted by staff. For proposals determined to have merit, proposers would be invited to provide further details, some of which may be confidential or proprietary. If the project proceeds, a sole source procurement – or more likely – a competitive request for proposals would be issued by SRTA. Although the original creator of the idea is not guaranteed a SRTA award, they would typically have a fair competitive advantage because of their understanding of the project concept and any propriety information they may possess.

ALTERNATIVES

The SRTA Board of Directors could modify or decline the Unsolicited Proposal Policy.

FINANCING

Adoption of the policy will have no direct fiscal impact.

A handwritten signature in blue ink, appearing to read "D. Little", is written over a horizontal line.

Daniel S. Little, AICP, Executive Director

Attachment: Unsolicited Proposal Policy (Title 2 – Financial & Accounting Policies & Procedures, Chapter 2.35, Section 2.35.090)

2.35.090 - SHASTA REGIONAL TRANSPORTATION AGENCY (SRTA) UNSOLICITED PROPOSAL POLICY

A. APPLICABILITY

This policy applies to Unsolicited Proposals received by SRTA.

B. UNSOLICITED PROPOSAL DEFINITION

1. An unsolicited proposal is a written proposal that is submitted to SRTA on the initiative of the submitter, to develop a partnership that is not in response to a formal or informal request issued by SRTA.
2. An Unsolicited Proposal is distinguishable from a project already part of SRTA's long-term budget planning process and plan if it uses innovative but pragmatic solutions that offer added value, such as enhanced financing options, improved customer service outcomes or advanced delivery dates. Sales tax bonds and certificates of participation are not unique and innovative financing tools.
3. An Unsolicited Proposal is not an offer responding to SRTA's previously published expression of need or request for proposals, an advance proposal for property or services that SRTA could acquire through competitive methods, or a replacement for an existing contract that is already in effect.

C. UNSOLICITED PROPOSALS PROCESS OVERVIEW

All Unsolicited Proposals shall be submitted to the SRTA Executive Director for review. SRTA will evaluate the proposal using a two-phased approach. In Phase One, Conceptual Proposals are evaluated. If there is interest in a Conceptual Proposal, the proposer may be asked to submit a Detailed Proposal for evaluation in Phase Two. If the project proceeds beyond Phase Two, or otherwise involves a competitive procurement or sole source procurement, SRTA's procurement policies and procedures will apply. SRTA may, at any time, choose not to proceed further with any Unsolicited Proposal.

D. CONCEPTUAL PROPOSAL OVERVIEW - PHASE ONE

1. The purpose of Phase One is for SRTA to receive a written, concept-level proposal to determine whether to request additional and detailed information for Phase Two.
2. Before initiating a Phase One evaluation, SRTA staff will determine if the Conceptual Proposal meets threshold requirements outlined in Exhibit B. Furthermore, if the proposal meets the threshold requirements, SRTA will follow the procedures outlined in Exhibit A.

E. CONCEPTUAL PROPOSAL CONTENT

Conceptual Proposals should include the information identified in the Conceptual Proposal Form made available by SRTA.

F. CONCEPTUAL PROPOSAL EVALUATION

1. Conceptual Proposals will be evaluated promptly in accordance with the criteria set out in this section. The evaluation process will include a financial evaluation team. The proposer(s) will not initiate any interaction with the evaluation team.
2. The evaluation team will determine the evaluation criteria, as necessary, to address the specific proposal, but generally will consider the following factors:
 - a. offers direct or anticipated benefits to SRTA, its partners and the public;
 - b. consistency with SRTA's planning and programming goals and objective;
 - c. satisfies a need for SRTA that can be reasonably accommodated in SRTA's annual long-term budget, or through grants, without significant change to planned expenditures, projects or costs;
 - d. offers goods or services that SRTA may not have intended to procure or provide through the normal SRTA procurement process; and
 - e. Other factors appropriate to the proposal.

G. DETAILED PROPOSAL OVERVIEW - PHASE TWO

The purpose of Phase Two is for SRTA to receive more detailed technical and financial information to fully understand and evaluate the proposal.

If SRTA desires to proceed to Phase Two, SRTA will request a Detailed Proposal.

H. DETAILED PROPOSAL PROCESSING

Once the Detailed Proposal is received, SRTA will retain a record of the persons on the evaluation team and record the final disposition of the proposal. Outside advisors will be consulted only if the SRTA evaluation team deems it necessary and beneficial.

I. DETAILED PROPOSAL CONTENT

In addition to the information provided in Phase One, a Detailed Proposal must, at a minimum, include information outlined in Exhibit B.

J. DETAILED PROPOSAL EVALUATION

Detailed Proposals will be evaluated promptly, in accordance with the criteria set out in Exhibits A and B, as well as any other evaluation criteria identified in the request for Detailed Proposal.

K. DETAILED PROPOSAL RECOMMENDATION

SRTA's Executive Director will consider the proposal for review and approval. If SRTA Board of Directors' or Finance Committee approval is required, the proposer will be notified of the date of the meeting when the proposal will be discussed.

L. FULL AND OPEN COMPETITION REQUIREMENTS

SRTA's receipt of an Unsolicited Proposal does not, by itself, justify a contract award without full and open competition. If the Unsolicited Proposal offers a proprietary concept that is

essential to contract performance, it will be deemed a Sole Source (see section below). If not, SRTA will pursue a competitive procurement.

M. UNSOLICITED PROPOSAL - SOLE SOURCE AWARD

If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, as determined by SRTA, SRTA may make a sole source award, as provided in SRTA's Sole Source Award policy in Chapter 2.35, Section 2.35.060 of SRTA's Financial and Accounting Policies and Procedures.

N. UNSOLICITED PROPOSAL - COMPETITIVE SOLICITATION PROCESS

If the Unsolicited Proposal does not meet the criteria of a sole source award, SRTA will proceed with steps outlined in Exhibit A before entering into a contract resulting from an Unsolicited Proposal.

O. CONTRACT RESULTING FROM AN UNSOLICITED PROPOSAL

Nothing in this policy or otherwise requires SRTA to act or enter into a contract based on an Unsolicited Proposal. SRTA, at its sole discretion, may return and/or reject an Unsolicited Proposal at any time during the process.

P. PREREQUISITES TO CONTRACT NEGOTIATION

1. The SRTA Contracting Officer or other duly authorized SRTA representative(s) may commence negotiations only after the following prerequisites have been met:
 - a. An Unsolicited Proposal has received a favorable comprehensive evaluation, including in comparison to any proposals received following publication as provided in this policy; and
 - b. The SRTA Board of Directors furnishes the necessary funds, and provides a sole-source justification (if applicable).

Q. PROHIBITION OF USE OF CONFIDENTIAL INFORMATION

If SRTA pursues a competitive procurement, SRTA personnel shall not use any data, or any confidential patented, trademarked, or copyrighted part of an Unsolicited Proposal or confidential technical or financial proprietary information as the basis, or part of the basis, for a solicitation or in negotiations with any other firm, unless the proposer is notified of and agrees to the intended use. Concepts or ideas are not considered proprietary by SRTA but specific implementing methodologies that are unique to the proposer will be recognized. SRTA staff shall place a cover sheet on the proposal expressing limitations, unless the proposer clearly states in writing that no restrictions are imposed on the disclosure or use of the data contained in the proposal.

R. PUBLIC RECORDS ACT

1. Unsolicited Proposals are subject to the provisions of the California Public Records Act (California Code Government Code §6250 et seq.). Public Contract Code Section 22164 provides that: information that is not otherwise a public record pursuant to

the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code) shall not be open to public inspection. Any documents provided by the proposer to SRTA marked "Trade Secret," "Confidential" or "Proprietary," or any financial records provided by the proposer to SRTA, shall be clearly marked with the proposer's name. SRTA will use its best efforts to inform the proposer of any request for any financial records or documents marked "Trade Secret," "Confidential" or "Proprietary" provided by proposers to SRTA. SRTA will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

2. In the event of litigation concerning the disclosure of any records, SRTA's sole involvement will be as a stakeholder, retaining the records until otherwise ordered by a court. The proposer, at its sole expense and risk, shall be fully responsible for any, and all, fees for prosecuting or defending any action concerning the records and shall indemnify and hold SRTA harmless from all costs and expenses, including attorney's fees, in connection with, any such action.

EXHIBIT A

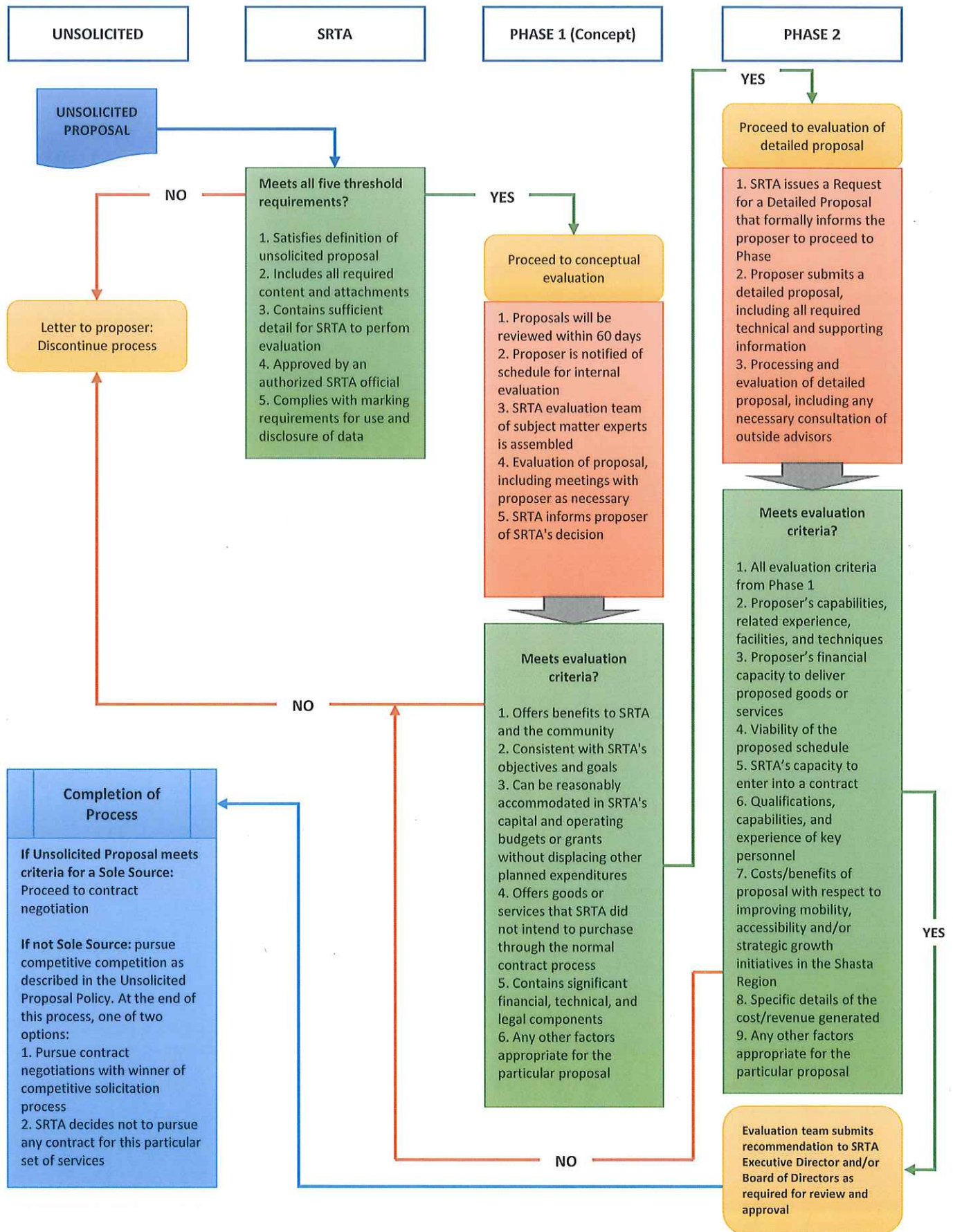


EXHIBIT B

A. CONCEPTUAL PROPOSAL THRESHOLD REQUIREMENTS

1. Promptly acknowledge receipt of the proposal (email or letter to proposer); and
2. Determine whether the proposal meets the threshold requirements of an Unsolicited Proposal.
3. Before initiating a Phase One evaluation, SRTA staff will determine if the Conceptual Proposal meets the following threshold requirements:
 - a. Satisfies the definition of an Unsolicited Proposal;
 - b. Includes all required content and attachments;
 - c. Contains sufficient detail to enable SRTA to perform an adequate evaluation;
 - d. Has been approved by a responsible official or other representative authorized to contractually obligate the proposer; and
 - e. Complies with the marking requirements for use and disclosure of data.

B. CONCEPTUAL PROPOSAL THRESHOLD REQUIREMENTS (SRTA PROCEDURES)

1. Log the proposal and assign it a number;
2. Set and notify the proposer of the schedule for internal evaluation;
3. Assemble an evaluation team;
4. Schedule a meeting with the proposer, if it's determined that a meeting would be helpful to more fully understand the proposal;
5. Facilitate the evaluation process as needed; and
6. Notify the proposer of SRTA's decision. The possible outcomes may be to discontinue the process, proceed to Phase Two, or pursue a competitive procurement. SRTA will provide a general explanation of the reasons for the decision.

C. PHASE TWO DETAILED PROPOSAL - PROCESSING

1. Essential terms and conditions that could be part of a subsequent agreement between SRTA and the proposer;
2. A goal for participation of disadvantaged business enterprises (DBE);
3. Schedule and important deadlines for the proposer;
4. Evaluation criteria; and
5. Requests for specific modifications or clarifications to the scope of the original proposal.

D. PHASE TWO DETAILED PROPOSAL - CONTENT DETAILED PROPOSAL

1. Technical Information:

- a. Names and professional information of the proposer's key personnel who would be committed to the project;
- b. Type of support needed from SRTA; e.g., facilities, equipment, materials, or personnel resources; and
- c. Type of support being provided by the proposer;
- d. A sufficiently detailed description of the scope of work being offered to allow SRTA to evaluate the value received for the price proposed;
- e. Proposed price or total estimated cost for the effort and/or the revenue generated in sufficient detail for meaningful evaluation and cost analysis, including an annual cash flow for the project and annual or future costs to operate and maintain;
- f. A schedule for the implementation, including specific details for any services to be provided by SRTA; and
- g. Proposed duration of effort.

2. Supporting Information:

- a. Type of contract being sought by the proposer (the final determination on type of contract shall be made by SRTA, should SRTA decide to proceed with a contract);
- b. Description of the proposer's organization, previous experience in the field, and facilities to be used;
- c. Required statements and disclosures, if applicable, about organizational conflicts of interest or other potential issues; and
- d. Information, in the form of SRTA's Pre-Qualification Application (see Exhibits D & E) demonstrating to SRTA that the proposer has the necessary financial resources to complete the project, as determined by SRTA staff. Such information may include (i) financial statements, including an Auditor's Report Letter or an Accountant's Review Letter, Balance Sheets, Statements of Income and Stockholder's Equity, and a Statement of Change in Financial Position; (ii) unaudited balance sheets; (iii) names of banks or other financial institutions with which the proposer conducts business; and (iv) letter of credit commitments.

E. PHASE TWO DETAILED PROPOSAL - EVALUATION DETAILED PROPOSAL

1. Evaluation Criteria:

- a. At Phase Two, the evaluation team will confirm the proposal meets the same evaluation criteria set forth in Phase One, in addition to the following minimum factors, and any additional criteria set out in the Request for Detailed Proposal:

- i. The proposer's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives;
- ii. The proposer's financial capacity to deliver the goods or services defined in the proposal;
- iii. Viability of the proposed schedule and SRTA's ability to meet activities required;
- iv. SRTA's capacity to enter into a contract under its current debt authorization;
- v. The qualifications, capabilities, and experience of key personnel who are critical in achieving the proposal objectives;
- vi. The relative costs and benefits of the proposal with respect to improving mobility, accessibility, and/or strategic growth initiatives in the Shasta Region;
- vii. The specific details of the cost/revenue generated; and
- viii. Any other factors appropriate for the proposal.

F. PHASE TWO DETAILED PROPOSAL - UNSOLICITED PROPOSAL - COMPETITIVE SOLICITATION PROCESS

1. Receipt: SRTA will publicize its receipt of the Unsolicited Proposal by posting on SRTA's website for purchasing opportunities.
2. Adequate Description: SRTA's publication of its receipt of the Unsolicited Proposal will include an adequate description of the property or services offered without improperly disclosing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought.
3. Interest in the Property or Services: SRTA also will publicize its interest in acquiring the property or services described in the proposal using the same or similar methods provided above.
4. Adequate Opportunity to Compete: SRTA will provide an adequate opportunity for interested parties to comment or submit competing proposals, and/or requests for an opportunity to respond within a time frame (minimum of 14 days).
5. Contract Award Based on Proposals Received: Finally, SRTA will publicize its intention to award a contract based on the Unsolicited Proposal or another proposal submitted in response to the publication using the same or similar methods provided above.