



CONFIDENTIAL REPORT as of July 31, 2014

END USER DEVICE RFP REVIEW

Prepared by the Vendor Appeal Panel
July 2014

1. BACKGROUND

Background

As part of the overall effort to enhance the maturity of the IT organization, and to enable various refresh processes (ie. Windows 7 upgrade), AHS continued the process of standardizing hardware vendors and platforms. The End User Device RFP enables AHS to achieve cost savings and ensure that the organization completes its competitive due diligence obligations to the marketplace across the in scope end user products while selecting standard providers across the provincial enterprise for each product/service category.

The RFP was issued in May 2013 and the evaluation process was completed in December 2013. The final approval by ELT was in April 2014.

The estimated budget impact of the RFP was estimated at \$82.2 million over three years of which only \$5.1 million or 6.2% related to the Unified Communications category which is the subject of this appeal.

13 vendors replied to the RFP however only 6 replied to the Unified Communications portion of the RFP which is the subject of this appeal. Only two vendors, the Successful Vendor and the Appellant, were short listed for the Unified Communications portion of the RFP.

Scope and Terms of RFP

The scope of the RFP includes the following 9 categories which as a set encompass all End User Device purchases aside from mobility, as well as IT Unified Communications and some Telehealth needs:

1. Computing Devices and Provisioning Services
2. Computer Carts and Provisioning Services
3. Computing Accessories and Provisioning Services
4. Unified Communications Devices and Provisioning Services
5. Monitors/Displays (Televisions and Mounts) and Provisioning Services
6. Ruggedized Devices and Provisioning Services
7. Apple Tablet Devices and Provisioning Services
8. End User Product Refresh Services
9. End User Computing Device Relocation Services

Emphasis was placed throughout the RFP process, and was clearly disclosed in the RFP documents, on AHS's strong preference towards consolidating these categories to award to as few vendors as possible in order to achieve economies of scale, more streamlined vendor management and procurement processes, and end user device deployment. This approach was also expected to help address the following problems which have been affecting AHS as a whole:

- Lack of end user technology standardization

- Lack of volume and market-based, long term province wide contracts
- Difficulty supporting AHS's entire geographic span
- Lack of automated and integrated procurement process (ie. Between end user device request, purchase order, asset management and accounts payable processes)
- Lack of transparency in the procurement of computer end user devices (replacing sole-source and/or legacy procurement arrangements)

The RFP was very clear that AHS was assessing total cost of ownership and was not focused on the lowest price as would have been the case if this was an RFQ (Request for Quotation). The RFP also was clear that AHS reserved the right to select any proponent other than the proponent whose proposal reflects the lowest cost to AHS.

Vendor appeal

In June 2014, the Appellant challenged the award decision for the Unified Communications portion of the RFP. The Appellant raised concerns that some of the RFP criteria had not been properly applied and, specifically, that:

- they were treated unfairly in spite of being very competitive on pricing and that, in fact, pricing was not appropriately considered in the RFP evaluation process,
- the Successful Vendor did not meet the warranty requirements set out in the RFP, and
- there was a bulk purchase of headsets in February 2014 from a vendor who was a partner of the Successful Vendor in the RFP award and this bulk purchase impacted the RFP award decision to the detriment of the Appellant.

Objective

The objective of this appeal was to determine whether there is any substance to the concerns raised by the Appellant with respect to the process followed for the RFP.

In support of the above objective, Internal Audit:

- Interviewed the Appellant to clarify the nature of their appeal and obtain any information they may have that is relevant to the appeal.
- Reviewed all documentation relevant to the subject of the appeal, including documents related to the RFP process, vendor submissions, vendor evaluations, and the final award decision.
- Interviewed individuals who had a key role to play in developing the RFP requirements or in the RFP process including:
 - CPSM personnel to understand the process used for the RFP to ensure it was consistent with AHS policy
 - End Users, including members of the evaluation team, to understand the rationale for the inclusion in the RFP the criteria that are relevant to the Appellant's appeal.
 - Evaluation committee members to understand the process used for the evaluation, what factors and information were considered in the evaluation of the specific criteria for each vendor relevant to the Appellant's appeal and whether the process was equitable and treated all vendors in a consistent manner.

Summary of Findings

An analysis of each of the issues raised by the Appellant including information obtained by Internal Audit in its review of the issue and a conclusion on the issue is located in Section 2 of this report.

From an overall perspective, Internal Audit found that:

- The evaluation team was consistent in the methodology they used to evaluate both the Successful Vendor and the Appellant and in how the RFP criteria, including those related to pricing and warranty, were evaluated.
- The evaluation team was unanimous in their decision to award the RFP in its entirety to the Successful Vendor as that was consistent with the objectives of the RFP and presented the best value to AHS.
- There is no evidence that the bulk purchase impacted the RFP evaluation process or the decision on who to make the RFP award to.

Internal Audit's Advice to Management

Based on the results of the review of the appeal, Internal Audit offers the following advice to management.

Management may want to develop guidance for making significant purchases of product that are related to a competitive procurement process that is still ongoing with respect to:

- Vendor selection criteria,
- Preferred procurement strategy,
- Analysis and documentation of the impact (real or perceived) of the purchase on the fairness and transparency of the competitive procurement process, and
- level of management and CPSM approval required in the circumstances.

Vendor Appeal Panel Conclusions and Recommendations

The panel agrees with Internal Audit's conclusions and recommends that:

- the appeal of the Appellant not be upheld,
- management accepts Internal Audit's advice, and
- A redacted copy of the report be provided to the Appellant and be made public.

2. RFP PROCESS CONCERNS

The following is an analysis of the key issue raised by the Appellant related to the RFP process including information obtained by Internal Audit in its review of the issue and a conclusion on the issue.

1. The Appellant was treated unfairly in spite of being very competitive on pricing and that, in fact, pricing was not appropriately considered in the RFP process.

The Appellant believes that pricing was not appropriately considered in the RFP evaluation process.

The Appellant has stated that they are extremely knowledgeable about their market segment and, since they stated that they purchase all of their products directly from the manufacturer (Jabra) while all other vendors in the market have to purchase through intermediaries, they are convinced that they were the low bidder in their category. Given that pricing was weighted at 40% of the total scoring for the RFP, they cannot understand how they could have lost the award. They were very insistent on knowing whether they were or were not the low cost bidder and at one point were asking for the actual bid prices to be released. As part of their vendor debrief, the Appellant was informed that their pricing was competitive.

Since it is AHS policy not to provide vendors with any information about their competitors or that would enable a vendor to determine how they compared with their competitors on any criteria included in the RFP, the Appellant was not provided with this information. Letting the Appellant know whether or not they were the low bidder could have enabled them, since they are extremely knowledgeable about their market segment, to derive the pricing strategy of the Successful Vendor. Only in extraordinary and very limited cases of bid appeal may such information be provided to a vendor with the approval of the Senior Program Officer of CPSM in consultation with Legal and Privacy.

The Appellant was not satisfied with this explanation and continued to challenge the RFP award decision to the point where it was decided it was necessary to refer the matter to the Vendor Bid Appeal Procedure. This was initiated by AHS as permitted under the Procedure rather than by the Appellant.

Since, as noted above, the non-disclosure of relative pricing information is AHS policy, the issue of whether AHS should have disclosed whether the Appellant was the low bidder is not included in this vendor bid appeal. The appeal process is intended to address concerns about the proper application of AHS policy. It is not a vehicle for challenging an AHS policy itself.

Information Obtained by Internal Audit

The result of the EUD RFP was a decision to award the full contract to the Successful Vendor as the primary provider with [redacted] as the secondary provider for the Core Computing Device category as a risk mitigation strategy. For both the Successful Vendor and [redacted] will be the distributor. One of the factors in selecting the Successful Vendor (with [redacted] as a secondary provider) was that the Successful Vendor had submitted a proposal that covered every category in the RFP. The Successful Vendor was the only vendor that was short listed for all categories of Products or Services in the RFP and there were no major technical issues with the products proposed by the Successful Vendor in any of the categories. The Successful Vendor proposal scored highest or well within [redacted] of the highest scoring proposal for all categories.

The Appellant, as a niche vendor, only submitted a proposal for the Unified Communications portion of the RFP. The Appellant was short listed on the Unified Communications portion of the RFP.

The RFP was clear that *“AHS would be evaluating Proposals with a view to making an award and selection based on the best overall outcomes and value to AHS, using a total cost of ownership approach...As a result of this guiding principle, a Proponent who may be ranked first for a particular Product category or Service area may not ultimately be selected for such Product category or Service area if a different Proponent offering multiple Product categories and/or Service areas is ranked higher...Ultimately, AHS reserves the right to make an award and select Proponents based on any business scenario that is in the best interests of AHS...”* The RFP further states *“While each of the seven sets of Products and Services detailed above will be evaluated for independent award...AHS will give preference to Proponents whose Proposals contain the most comprehensive Products and Service offerings which may result in consideration of that Proposal during the evaluation process across multiple Product and/or Service award categories.”*

Finally, the RFP document set out the following objectives:

“Some of the key challenges that AHS faces with the current EUD products and services include:

- *Lack of standardization*
- *Lack of volume based contracts*
- *Difficulty supporting remote sites*
- *Lack of automated and integrated procurement process (ie. Between EUD request, purchase order, asset management and accounts payable processes)...*

AHS' primary objectives are to limit the number of vendors with whom AHS will contract for the Products and Services throughout the province and to adopt a comprehensive EUD Products provisioning and Services solution that addresses the current deficiencies and challenges identified above..., and NOT a simple purchasing agreement. AHS seeks to achieve the following improvements from the current environment and achieve the following supporting objectives:

- Consolidate and optimize the number EUD Product supply and related service agreements...*
- Execute province wide technology standardization and simplification that will support EUD flexibility and mobility...*
- Manage Product provisioning at the provincial level as part of a larger end user technology strategy to provide common tools across the province, predictable refresh cycles, and a manageable user experience.*
- Improve end user satisfaction through improved timely and professional on the ground service province-wide...*
- Increase standardization of EUD Products and platforms where possible, and minimize Product obsolescence and incompatibilities.*
- Procure value priced Products, which are readily available, aligned with IT marketplace technical standards and currency, and have quick order fulfillment cycles in all AHS locations.*
- Improve AHS' end to end procurement process.*
- Improve EUD asset management and control.*
- Leverage Proponents' logistics processes, tools and installation resources across all Product categories and AHS geographic locations.”*

[REDACTED]

[REDACTED] Pricing was based on a combination of unit cost and provisioning cost. With these costs combined, the Successful Vendor's overall pricing is within [REDACTED] of the Appellant and both the Successful Vendor and the Appellant are proposing the same set of Jabra devices. [REDACTED]

[REDACTED]

Deploying Unified Communications peripherals such as those provided by the Appellant as part of a new device provisioning refresh would create significant efficiencies versus having a standalone Unified Communications peripheral process with a separate vendor such as the Appellant. In interviews with the members of the Unified Communications evaluation team for the RFP and with end users, there was consensus that the efficiencies gained by contracting with one vendor for all end user devices significantly outweighed the cost savings within the Unified Communications section of the RFP if AHS had contracted for that portion with the Appellant rather than the Successful Vendor. This was especially true given that Unified Communications was a relatively small part of the overall value of the RFP (estimated at approximately [REDACTED] of the total value of the award over three years) and that the Successful Vendor was aggressive in its pricing over all categories of the RFP. This resulted in significant savings to AHS as a result of the economies of scale that the Successful

Vendor could expect to realize if all categories were awarded to the Successful Vendor.

Had the RFP been for Unified Communications products and services alone, and had the Successful Vendor and the Appellant submitted the same proposals and pricing, it is very possible that the Appellant would have been successful on the RFP. However, in light of the overall AHS objective of consolidating its purchasing of end user devices with one vendor, the award of the Unified Communications portion of the RFP to the Successful Vendor along with the rest of the RFP was consistent with the objectives set out in the RFP.

Finally, to present a balanced picture of the scoring of the Unified Communications portion of the RFP, the following presents a high level summary of the scoring.

- The final scoring for the Successful Vendor and Appellant was very close
- The Appellant was rated higher than the Successful Vendor for the product and pricing categories but this was offset by the fact that the Successful Vendor was scored higher than the Appellant on every other category of the RFP.

Audit Conclusions:

The scoring criteria set out in the RFP, including those related to pricing, were applied consistently to all proponents and the Appellant was treated equitably in this respect.

The final award decision was consistent with the overall objectives of the RFP and was supported by the overall scoring of all product and service categories.

Audit Advice:

None.

Vendor Panel Conclusion and Recommendations:

The panel agrees with Internal Audit's conclusion.

2. The bulk purchase of unified communications devices during the RFP process affected the RFP award decision to the detriment of the Appellant.

There was a bulk purchase of end user devices in February 2014 through the use of a sole source Purchase Order. The equipment included on the Purchase Order was the same as some of the equipment included in the Unified Communications category in the EUD RFP. The timing of the Purchase Order was after the short list for the RFP had been announced but before the final award decision had been announced although the recommendation had been made at that point to award the RFP to the Successful Vendor. [REDACTED]

[REDACTED] The Appellant believes the timing of the purchase relative to the stage the RFP was at best unusual and may have affected the RFP award decision to the detriment of the Appellant.

Information Obtained by Internal Audit

The timelines for the RFP were significantly longer than anticipated. The original timeline contemplated that the RFP process would be concluded and contracts with the selected vendors would be in place by September 2013. By February 2014, the RFP evaluation process had been completed and a recommendation to make the award to the Successful Vendor had been prepared by CPSM and the RFP evaluation team. The recommendation was simply awaiting final approval before it could be announced. It was expected that it would be April or May before that occurred due to the need for the RFP award recommendation to be reviewed by the Major Contracts Oversight Committee and the Executive Leadership Team.

By February 2014, the Unified Communications Team had exhausted their stock of devices and were almost 8 months behind in supplying new users. The delay was so long and was impacting end users so much that Internal Audit was informed that some end users were purchasing their own devices since they could no longer wait for Unified Communications to provide them. A decision was made that AHS could not wait for the final award decision to be announced on the RFP so Unified Communications requested that an early start letter be put in place with the preferred vendor on the RFP (the Successful Vendor) so they could procure the necessary equipment for deployment across AHS.

CPSM reviewed the request and determined that it would be inappropriate to put in an early start

letter or to do a sole source purchase order with the Successful Vendor since the final RFP award decision had not yet been announced and could not be until the approval process had been completed. CPSM also felt that purchasing the equipment from the Successful Vendor would compromise the integrity of the RFP process. Had the bulk purchase been made from the Successful Vendor with a subsequent announcement that the Successful Vendor was the winning vendor on the RFP, the Appellant could have perceived this as AHS favouring the Successful Vendor even though the RFP was not yet finished and concluded that the RFP award decision was affected as a result, to the Appellant's detriment.

CPSM understood the business need to obtain devices so they considered the options available and identified two existing contractual relationships that AHS had with vendors for end user devices:

1. A Request for Quotation from 2012 that included a number of vendors including the Appellant. This RFQ included some, but not all, of the items contained in the bulk purchase.
2. A Master purchase agreement with [redacted] for End User devices that was put in place in early 2013 and renewed in early 2014. This agreement did not include any of the items contained in the bulk purchase.

After considering the options, CPSM concluded that they could not make the bulk purchase from the Appellant under the RFQ for the same reasons they could not make the purchase from the Successful Vendor. The RFP process was not yet concluded and the Successful Vendor and the Appellant were on the short list and each vendor was aware they were on the short list. Purchasing from either vendor would have compromised the integrity of the RFP process by apparently favouring that vendor.

CPSM concluded that they could also not purchase the equipment from [redacted] under the existing master services agreement since the agreement did not cover the specific items to be purchased. However, since [redacted] had been selected prior to the RFP as the supplier of end user devices as an interim measure until the EUD RFP was concluded as articulated in the Master purchase agreement, CPSM decided it would be acceptable to purchase the equipment from [redacted] through the use of a sole source purchase order.



Making the bulk purchase from [redacted] was considered acceptable even though [redacted] had been named as a distribution partner by the three major computing device manufacturers who had submitted proposals in response to the RFP since [redacted] would be a distribution partner for whoever won the award in those categories and since [redacted] had not been shortlisted on the RFP. CPSM concluded that this procurement strategy would have the least impact on the RFP process.

It is important to note that the decision to make the award on the EUD RFP to the Successful Vendor

was made by the RFP evaluation team which did not include CPSM. CPSM was not involved in making the RFP award decision. The decision to make the bulk purchase from [redacted] was made by CPSM in response to the request from United Communications in IT. Since the decision makers for the RFP award and the bulk purchase were different, this minimizes the risk that the RFP award decision was impacted by the bulk purchase.



The other products included in the bulk order were not included on the 2012 RFQ so could not have been purchased under that RFQ. As a result, the only way the Appellant could have supplied them to AHS would be if AHS had made a sole source purchase order to the Appellant for those products since no existing contracts were in place. Doing so during the RFP process would, using the Appellant's logic, have disadvantaged the Successful Vendor the same way that the Appellant alleges that they were disadvantaged by AHS making the bulk purchase from [redacted].

Audit Conclusions:

The decision to make the bulk purchase from [redacted] was made after the RFP evaluation process was concluded and a recommendation had been made to award the RFP to the Successful Vendor. In addition, the decision makers for the RFP award and the bulk purchase were different. As a result, there is no evidence that the bulk purchase impacted the RFP evaluation process or the decision on who to make the RFP award to.

Audit Advice:

Management may want to develop guidance for making significant purchases of product that are related to a competitive procurement process that is still ongoing with respect to:

- Vendor selection criteria,
- Preferred procurement strategy,
- Analysis and documentation of the impact (real or perceived) of the purchase on the fairness and transparency of the competitive procurement process,
- level of management and CPSM approval required in the circumstances, and
- communicating AHS's plans with respect to the bulk purchase to the market and/or

proponents to the RFP.

Vendor Panel Conclusion and Recommendations:

The panel agrees with Internal Audit's conclusion.

The panel recommends that management accept Internal Audit's advice.

3. The winning vendor did not meet the warranty requirements of the Unified Communications portion of the RFP.

The Appellant believes that, as the only vendor in Canada who can buy directly from the manufacturer (Jabra) and can sell to an end user, it meets the warranty requirements set out in the Unified Communications portion of the RFP. The Appellant believes that since the Successful Vendor does not have this relationship with Jabra, it is not compliant with these requirements.

Information Obtained by Internal Audit

Within the Unified Communications section of the RFP, there was a set of requirements for each of the six products categorized as "Warranty" requirements. These requirements were:

- Support and warranty needs to be flexible to work with AHS processes (either through end user or end user experience).
- In house 2 year warranty/repair/replacement for wired headsets and speaker phone.
- In house 1 year warranty/repair/replacement for wireless headsets.
- AHS will not have to contact a third party.
- Dedicated dial-in line for AHS staff to provide first line support with 8-5 MST business hours support from category sales specialists within the Respondent organization.
- Guaranteed 24 hour replacement/repair turnaround on products or parts under warranty (received at AHS site within 24-48 hours).
- Two week shipping – may ship centrally or to a specific address as required.
- Stock will be kept at Respondent facility to meet AHS requirements and Respondent agrees to negotiate stock level as required.

In their responses to the RFP, both the Successful Vendor and the Appellant:

- proposed the same piece of equipment for each of the 6 categories within the Unified Communications portion of the RFP – 5 were Jabra products and one was a Microsoft product.
 - Indicated they were compliant with each of the above warranty requirements for each piece of equipment.
 - Indicated they were an authorized reseller of the product.
-

- [REDACTED]
- Submitted as part of their response a declaration that all information provided in the response was complete and accurate.

The major difference in the responses from the Successful Vendor and the Appellant was that the Successful Vendor included a fairly extensive narrative in the body of its response on its strategy for meeting the warranty requirements including an offer to provide an enhanced level of warranty for critical areas in AHS's urban zones at no extra cost. The Successful Vendor identified this as a value add that they could provide as a result of their partnership with [REDACTED]. The Appellant on the other hand only stated "Fully compliant" with respect to the warranty requirements on the product specifications schedule without any significant additional narrative in their response. The Successful Vendor also indicated that they were compliant on the product specifications schedule but, as noted above, added some significant additional narrative as well as a value add in their response.

In discussion with members of the evaluation team, Internal Audit was informed that both vendors were evaluated against the warranty criteria set out in the RFP based on their submissions under the RFP and this evaluation was done in a consistent manner.

In discussion with CPSM, Internal Audit determined that as part of the evaluation process, vendors are evaluated based on their submissions and those submissions are accepted at their face value unless AHS has knowledge directly to the contrary. This is based partly on the practical considerations of the work that would be required to independently verify all of the information submitted and partly on the fact that, as part of their submission, vendors are required to make a formal declaration that all of the information contained in their submission is complete and accurate. Once an award is announced, contracts will be developed based on the requirements of the RFP and if, during that process, a vendor is unwilling to include an RFP requirement in the contract as something they cannot fulfill (contrary to what they asserted during the RFP process), then AHS would revisit the award decision and whether the vendor can substantially fulfill the requirements and, if not, whether that failure is sufficient to void the award decision and award it to a different vendor.

In discussion with the Appellant, Internal Audit determined that the Appellant had no direct evidence of their assertions that the Successful Vendor could not meet these requirements but was basing their assertions on their knowledge of the market and what appeared to be second hand information about Acrodex's past performance with AHS.





Audit Conclusions:

The submissions by the Successful Vendor and the Appellant with respect to the warranty requirements of the Unified Communications section of the RFP were virtually identical to the extent that they both confirmed compliance. The Successful Vendor's submission had more information on its strategy for providing warranty service and offered an enhanced level of warranty for the urban zones at no additional cost.

Both proposals were evaluated against the criteria set out in the RFP in a consistent manner resulting in both vendors being treated in an equitable manner.

Audit Advice:

None.

Vendor Panel Conclusion and Recommendations:

The panel agrees with Internal Audit's conclusion.

