

There's a saying among aviators that an exceptional pilot isn't the one who uses superior flying skills to survive a life threatening situation; an exceptional pilot is the one who uses superior skills keep out of a life threatening situations in the first place!

In the world of contracts, we could say that an exceptional contract isn't the one with superior Terms and Conditions to help us "survive" a costly dispute; an exceptional contract is the one with a superior Statement of Work to keep us out of costly disputes in the first place!

In the real world of rushing to get the job done, the Statement of Work (SOW) is the first (and often the *only*) contract document the Project Team (customer and vendor) uses. Indemnity, liability, and legal jurisdiction are not things an overworked Project Manager (PM) with a tight schedule concerns herself with. And getting involved with the protracted negotiations or costly legal actions often required to enforce the Terms and Conditions are the *last* thing a PM wants or needs. In this part of the contracts world, the T's & C's are barely thought of, rarely used, and almost never vigorously enforced. If the statement of work isn't well written and complete, the delivered products and services are often less than 100% compliant. For all practical purposes, if it's not required by the SOW, it won't happen.

This is not to say that Terms and Conditions (T's & C's) aren't a critical part of a well-written contract; they are. T's & C's provide the framework around which the rest of the contract is written and within which the real work is done. Without the structure and support the T's & C's provide, the contract would be useless...and to settle for less than the best T's & C's we can negotiate would be an unconscionable dereliction of duty. We need to remember, however, that T's & C's are *only part* of a well-written contract (and, in the view of many folks who "do the real work", they're the least important part!).

The Statement of Work is our primary tool for communicating our needs to vendors. It helps vendors prepare effective bids and it aids us in evaluating those bids. It reduces the administration effort required after contract award and it provides a means of formal performance measurement. A well-written SOW is a clear, understandable document that can simplify and speed-up the procurement process and resolves many potentially time-consuming, costly disputes before they ever arise.

Unfortunately, as important as the Statement of Work is to our project's success, it is all-too-often a poorly written (by the vendor), hurriedly reviewed (by the technical staff) document that barely defines the minimum acceptable work required. In too many procurement efforts the buyer's most experienced, best trained negotiators spend the majority of their time arguing the less important Terms and Conditions while the critical Statement of Work issues are left for the technical team to work out. It's the Technical Team, (the folks who usually have the least experience and no negotiation training), that ends up being left the task of negotiating with the vendor's Sales Staff (who are almost always highly experienced, highly trained negotiators). Is it any wonder so many contracts result in confusion, disappointment, and animosity?

That's why I've written this article...to help Procurement Professionals write more effective Statements of Work and avoid the confusing, disappointing contracts we all too often end up with.

## SOW BASICS

### Basic Decisions

The first thing we should do in *any* procurement effort is to answer three simple questions:

- "What are we buying?"
- "Who'll be responsible for planning and managing the day-to-day work: us or them?"; and
- "Who'll be responsible for ensuring SOW requirements are met: us or them?"

The importance of the "What are we buying?" question is probably obvious; if we don't know what we want, how can we communicate that to someone else? Yet, as disarmingly simple as this question is, it's often surprisingly difficult to answer. It can take weeks, months, or even years to develop a good answer. Regardless of how long or how much effort it takes it is essential that we understand fully and completely what we want to buy before we start writing a SOW or any other contracts document. Unresolved issues here often become contract problems later.

The remaining two questions are as important as the first. They form the heart of ICN's Managed Acquisition Process™ (MAP). They are the essence of the "Results vs. Resources" decision. Whether the answer to these questions is "us" or "them" may vary from procurement to procurement, depending on our needs. But one thing that won't vary is the importance of having the same answer to both questions on each separate procurement. Conflicting answers here lead to a "conflicted" SOW and a confusing contract, which leaves us ripe for dispute.

Taken together, the answers to these three questions provide a theme for our SOW. Keeping the entire SOW consistent with these answers will go a long way to eliminating major conflicts and disputes throughout the life of the contract...and it will strengthen our case if a dispute ever ends up in court.

The remainder of this article assumes we've answered the "responsibility" questions with a resounding "THEM!".

## SOW STRUCTURE

The SOW should not be a complex document. It should, however:

- have a well structured, common-sense, "easy-to-navigate" format;
- be easy-to-read; using clear, unambiguous language;
- provide a brief, informative overview of the project's purpose, goals and objectives and how the SOW effort fits into the bigger picture;
- clearly define the specific authority, duties and responsibilities of *all* the parties involved;

- give specific, meaningful, non-contradictory details about tasks to be accomplished, services to be performed, and items to be delivered; and
- provide a project schedule which include key milestone, completion and delivery dates.

These aren't complex ideas, but they are important ones. When we combine them with our "theme", we can begin to develop a world-class document.

The next step is to decide on a basic structure for our SOW. There is no universally accepted format for a Statement of Work - the "look and feel" of ours may differ a great deal from the look and feel one written by our competitor for a similar purchase. What structure we use is not as important as *ensuring it has a structure!* Our SOW, should, however, show some evidence of common sense, and it should probably include:

- a cover page;
- a table of contents;
- a list of other applicable documents;
- an overview of the project;
- a detailed description of the work to be performed;
- a list of deliverable products and services; and
- a project schedule.

While not required, these features are extremely helpful in providing the common-sense, easy to navigate structure that is so critical to an effective working document.

### Cover Page.

The cover page is the first thing our reader sees when she picks up our document. Because of it's prominent position, our cover page sets the tone for our entire SOW. The cover page needs to convey a message of disciplined professionalism as well as provide the reader the following basic information:

- the title of the SOW (what our SOW pertains to);
- the larger project our SOW effort relates to;
- key contact information (web and street address, contact person, phone number, etc.);
- document revision level information and/or the document release date; and
- the company and/or project logo (if there is one).

We can make our cover page can be as fancy as the budget allows - from full color graphics printed on special paper to basic information typewritten on plain paper. The important thing is that it sets the right tone and gives the reader useful, pertinent information

### Table of Contents.

A Table of Contents (TOC) is a good idea for any document, but especially when our project requires a large, complex Statement of Work. The TOC provides a quick way to locate key information within the document and *can* serve as an outline for writing the SOW. When descriptive section headings are used, the table of contents provides our reader with a "quick glance" synopsis of our requirements.

There are a number of effective ways to incorporate a table of contents into our document. For longer documents, a detailed multi-page TOC should probably be used. On smaller documents, however, a short listing of SOW topics at the beginning of the document may be sufficient. If the SOW is released electronically (especially over the Internet), a "hyper-linked" table of contents is a great tool for easing navigation of the document.

Regardless of the form our table of contents takes, we need to make sure it includes enough detail to be useful to the reader, but not so much that it takes as long to find a topic in the TOC as it would to read the document. The table of contents should help our reader narrow his search to a specific *area* of the document, not try to get him to the exact paragraph and sentence.

### **Other Applicable Documents.**

This optional section is where we list any external documents that will be needed by the vendor to fully understand our requirements and complete the job. Typically this section includes references (don't forget hyper-links!) to things like drawings, industry specifications, style guides, engineering standards, or other similar material.

When we do include a list of other documents, we should make sure that every document is really needed to understand and complete the work - If there's a question, don't list it. Avoid the temptation to make the list "more comprehensive" by adding "nice to have" items...our goal is to give the reader a list of specific, necessary references here, not to send them off searching through every document in the world that even mentions your topic. And before listing anything in this section, review it to make sure it doesn't conflict with other listed documents, SOW clauses or T's & C's.

There are some procurement professionals who never include a list of documents, they simply incorporate the pertinent information into the body of the SOW and avoid adding another potential source of confusion. Whether you use a separate list or incorporate the information right into the SOW, the goal is the same: to point the reader toward information critical to the successful completion of the work.

## **SOW CONTENT**

### **Project Overview.**

The Project Overview provides a brief, informative, "executive summary" of our project. It introduces our project's goals and objectives and shows how the work in our SOW fits into the "big picture". The overview lets our reader know what part they will play in the overall project. It can help the vendor "see the forest", despite the fact that our SOW's primary focus might be a single tree. For most projects a few paragraphs are sufficient to get the information across.

The overview is the first time our reader is given the answer to our "What do we want?" and "responsibility" questions. If the answer isn't obvious from reading our overview, we shouldn't go any further. We need to fix this section before completing the rest of our Statement of Work. Writing an overview also provides us with an opportunity to re-look at the work you're contracting for.

### Description of Work.

This section is the heart of the SOW. Just as the contract is meaningless without a well-written SOW, the SOW is meaningless without a clear, concise description of the work to be completed. This is where we specify (in detail) the duties, responsibilities, and authority of the parties involved. This is where we tell the contractor what needs to be done: what tasks will be accomplished, what services will be provided; and what items will be delivered. It is here that we detail the performance standards and acceptance criteria for each task/deliverable.

The Description of Work (or Specification) is where a common sense, "easy-to-navigate" format is essential. Using topic headings that correspond to our table of contents; grouping related ideas together; and providing cross-references (or hyper-links) within the document all help make the document more user friendly. And remember, a (well-drawn) picture is worth a thousand words - it'll help get our message across in a way that words never can.

It should also be clear to even the most casual reader who is responsible for each task/requirement. We can do this in a number of ways: by breaking the document into "our work" and "their work" sections; adding margin notes indicating responsibility for each section; adding a responsibility matrix; or using some other method. Assigning responsibility for each task eliminates a lot of ambiguity as the contract work progresses and makes it easier for a judge or jury to understand our intent if we do end up in court. If we don't, there is a real danger we could end up being held responsible for *their* non-performance.

Our descriptions of the work need to address the "*WHAT*" of the effort (when the vendor is responsible!), not the "*HOW*". We need to describe the functional aspects of the end product to be delivered: the specific benefits we expect the delivered items to bring us; specific functions the deliverables will perform; where it must fit (if there's a space limitation); and when and where we want it delivered.

We need to include enough *consistent* detail about what we expecting so that work plans, management plans, system designs, and coding/manufacturing plans and test plans can be developed and executed by the vendor. The idea is to provide the vendor with enough details so they know what we want, but leave them enough leeway to bring their innovative ideas and unique expertise to bear on the problem. If our vendor is going to be responsible for doing the work and meeting the requirements, they need the authority to decide *how* to meet the requirements in our SOW.

At some point we need to trust the contractor to do their job. Of course, like President Reagan said, we need to "trust but verify". Every SOW we write should require regular, detailed status meetings

and/or status reports with meaningful performance metrics. Every one of our development procurements needs to include design and "in-process" reviews; site visit; incremental tests; and delivery of useful, complete documentation throughout the development period. And we need to *always, always, always* require acceptance tests.

In those cases where we answer the "who's responsible" questions with "US!", it's imperative that we specify not only "what" we want the vendor to provide, but also "how", "when", "who", and "where" the work will be done. In these cases, anything we don't include in the SOW is automatically our responsibility. We usually use this approach on procurements where we don't need (or particularly want) the contractor to innovate...we need the contractor to deliver the specific "materials" (whether iron ore, compute power, or personnel) we will use to build the product. In these cases, it is more *important* that we specify how we want the contractor to meet our SOW requirements: what how to design, build, code, and; how their people will be utilized.

Regardless of the type of procurement, we need to discipline ourselves to raise our concerns with the vendor - promptly and in writing - when we have any questions or misgivings about their performance (or non-performance). Whether this is a concern with their design assumptions, development methods, key personnel or anything else, it is our responsibility to ask the questions and to force them to provide us a satisfactory answer. Asking questions and raising concerns is one of our responsibilities in the relationship.

The remainder of this section provides additional helps and hints on writing more effective Descriptions of Work.

#### *Progress, Status, and Risk Reporting Requirements.*

Requiring structured progress, status and risk meetings and reports does two things for us: 1) it forces us to evaluate our information needs before we negotiate the contract; and 2) it forces the vendor to take a more disciplined approach to managing and controlling their performance. Face to face status meetings should be required regularly and often, with status reports required in the interim between status meetings. As a minimum these meetings and reports should address these key areas:

- accomplishments since last meeting/report (tasks completed, milestones reached, deliveries made);
- problems encountered (including "no impact" problems) and milestones missed during the reporting period;
- work planned for the next reporting period;
- risks identified during the period; progress of mitigation efforts on previously identified risks;
- cost and schedule progress, status and projections; and
- changes or movements of key personnel.

These reports don't need to be long-winded to get the information across. I've seen effective monthly progress reports for major (upwards of \$50M) system design/build/Install projects take less than two

pages - with weekly updates fitting on half a page.

### Performance Measurement Metrics/Acceptance Criteria.

Performance measurement metrics and acceptance criteria are absolutely essential to an effective SOW. By defining the specific methods and objective metrics we'll use to measure performance, we can virtually eliminate disputes over the whether the contractor's work is done or not in critical areas. And if we're clear about how we will perform assessments in subjective areas, we can dramatically reduce the controversy in these areas as well.

Ideally, our performance metrics and acceptance criteria will be an integral part of each task description we write. If that's impractical, then each section of the SOW (remember, we've already grouped similar or related tasks together in a logical manner) should have a sub-section addressing acceptance testing and performance measurement metrics. The key is to make sure that the performance measurement/acceptance criteria associated with each task and deliverable is clearly defined and easily tracked to that task.

Acceptance criteria and performance measures should be as objective and easy to collect as possible. Our metrics need to provide a meaningful indication of performance. Measuring lines of code written by the contractor while under a "time and material" agreement might provide a meaningful indication of their performance...as long as the "quality" and "necessity" of each line is measured somewhere else.

At a minimum, each requirement should be measured against two factors: quality and time. Quality measures will check functional performance, compliance with the SOW/Spec, errors encountered, etc. Time measures will tell how closely the contractor performs to schedule. In some cases, we may need or want cost measures as well.

In cases where we don't have the expertise to specify the acceptance criteria, we can make the contractor responsible for developing a test plan and test criteria; or break the procurement into smaller pieces we can define and require the contractor to deliver a plan for the next phase before proceeding to the next phase. Regardless of how we do it, each and every requirement must include performance and acceptance criteria.

### **DELIVERABLES**

In the interest of easing the contract management task after contract award, include a single summary list of *all* deliverables. Make sure you list *everything*: hardware, drawings, parts lists, software, documentation, processes, procedures, status reports and anything else to be delivered as part of the contract. Providing a summary helps both parties better understand what we want and plan how to give it to us. Also, for us, it makes it easier to track compliance.

- A descriptive title or name of the deliverable product or service;
- A part number, inventory code, or other reference number (if known) of each deliverable;
- The quantity desired;

- Delivery address(es);
- Delivery date - this can be a set date, number of days after contract award, or tied to an event in the project schedule (like the completion of a key task or milestone).
- Notes - include short reminders of any special requirements for that particular deliverable item. On deliverables which are document or process based, consider whether you need hard copy, electronic format (and what file format), or both. For example, you might need a document delivered both in hard copy and electronic formats. And consider whether there is a specific file format you need - if the company standard is MS Excel and the file is delivered in Lotus 1-2-3, will you be able to use it? You may need that widget delivered with a bright blue finish instead of the standard green; Hardware might
- A reference back to the SOW section where the item's detailed requirements are found.

Probably the easiest way to do this is to add a table to the SOW.

## SCHEDULE

Provide a project schedule or time-line detailing key milestones and delivery dates. The best of these provide graphical as well as written information on start and stop dates, key delivery dates and inter-relationships between tasks on the schedule. Whether you use an integrated, computer generated schedule or a simple table of key dates, the idea is to get the critical delivery information to the folks doing the work. Whatever format allows you to do this most effectively is acceptable.

Also, as part of the regular status meetings and reports, we need to require that the contractor provide us with detailed schedule(s) for all their work, updated on a regular basis. Ensure the vendor incorporates the critical high level tasks, milestones and dates outlined in the SOW schedule and provides greater detail on how they will accomplish those tasks and meet delivery requirements. With the electronic scheduling tools available today, it's not unreasonable to expect a vendor to provide weekly milestones for each task.

## SOW LANGUAGE

For many years language was rarely a concern for American companies...everyone we wanted to deal with understood English and if someone didn't, then we simply didn't deal with them! But things are changing - the choice of contract language is taking on greater and greater importance. US companies are learning that to get the best deals, sometimes you need to speak the local language.

Language should always be looked at. With open bids and international business becoming a larger part of many companies' income, we should consider providing translations into various language(s) potential vendors may use. This gives us control over the translation, and will speed up response time.

When we *do* provide translations, make sure they're accurate. Have someone fluent in the "target" language read the document *before* you release it. Correct the problems they find. Imagine a multi-million dollar acquisition with a SOW that reads like the directions to that imported toy we assembled

for your son's last birthday...it happens.

I once bid on an international job where the entire RFP, including the SOW, was released in the customer's native language. Unfortunately, their native language wasn't the native language of *any* of the bidders. It took our company three weeks to get all the documents translated - fully one half the allotted six-week response time! Needless to say, that particular customer didn't get our best offer.

And keep in mind that language doesn't just mean English, French, or German. Every industry and every company has technical language or internal "shorthand dialects" that are universally understood within our industry or organization, but that don't mean a thing (or, worse yet, mean something completely different) outside it. Consider adding a "Definitions" section to the SOW; avoid using acronyms or spell them out the first time (at least) you use them; have non-technical staff review technical sections for readability and unintelligible jargon; and avoid using industry or company specific language wherever possible.

We'll let our choice of language be determined by our audience. Whether it's a specific language such as English, French, German, or Swahili or technical language peculiar to a specific industry, be aware of who will be reading the document. Provide translations and define words or expressions where necessary. It would be a shame to lose the best candidate simply because they couldn't translate our SOW.

## **OTHER SOW CONSIDERATIONS**

And finally...this section contains all those useful, nice to know ideas and thoughts that didn't fit anywhere else. They're listed in no particular order.

- *Develop a SOW Template and Checklist.* Consider developing a SOW template to use as a guide for future procurements. This will speed the writing process, reduce the chance of forgetting critical requirements, and improve comprehension. Use the ideas from this article as a starting point and add those that are unique to your organization.
- *Make Sure Everyone Who Works The Contract Has Easy Access To The SOW.* Plan how you'll get the SOW into the hands of potential bidders and the workers after contract award. Consider e-mailing electronic copies of the document or publishing it on your company web-site.
- *Proofread Before Release.* Regardless of how you distribute the SOW, proofread it before releasing it. Preferably the proofreading will be done by a person not familiar with the document. You'll be amazed at how many errors and misspellings they'll find (just ask the person who proofed this article!).
- *Manage the SOW writing effort.* Ideally, writing the SOW will be a collaborative effort with all the authors co-located, and each coordinating what they're writing with the others to avoid overlaps and eliminate contradicting requirements. Often the task of writing the description of work is assigned to a number of people from a number of different disciplines and departments. They write their piece in addition to their regular work. Make sure someone

coordinates the effort and edits out any inconsistencies. Assign a team to write the SOW. Give them the time and the tools needed to write it well. Whenever possible let them work on the SOW full time until it's done...locate all team members in the same area (or at least provide the team a common meeting/resource area). Provide an overall outline/theme for *all* the writers to follow. It's critical that every person contributing to the SOW understands the purpose of the project and how the work in this particular SOW fits in with it.

- *Plan How To Handle SOW Changes*. Think about how you will make SOW changes if they're needed after the SOW is released for bid or after a contract is signed. Document the process...and make sure you follow it!

## **CONCLUSION**

The SOW is arguably the most important document in your contract. Give it the attention it deserves. Whether you're buying or selling it's in your best interest to make sure the SOW accurately and clearly defines what needs to be done. A clear, well written SOW will help both sides avoid much of the confusion and conflict that arises during any project; and it will help you resolve more quickly those that can't be avoided.