

When NOT to Respond to an RFP

By Jim Austin

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Equally important to the RFP process is deciding simply not to participate. Sometimes the “winning” proposal is simply no response at all. Learn more at the ABA marketing conference during the 10x10 program.

It’s 5:30 p.m. on a Friday. You’re getting ready to leave for the weekend when the phone rings.

“I just got a very important fax from XYZ Widget Corporation,” Partner X tells you. “It’s a request for proposal to handle all their widgety mergers, plus all their widget liability litigation and widget IP for the next two years! What a great opportunity! I need you to help me put together a response.”

“OK,” you respond, trying desperately to keep that sinking feeling from creeping into your voice. “How well do you know the person who sent you the fax? (‘A fax’, you think to yourself. ‘Do people still use those?’) What’s our history with the company? Oh, and when is it due?”

“I don’t know anyone at XYZ Widget,” Partner X responds. “Actually, I’m not sure who there sent it, or why it was sent to me. I don’t think we’ve done any work for them, but it’s a great company. What a fantastic opportunity! Oh, and its due Monday at 5 p.m. They ask a bunch of questions about rates and fixed fees, but I’m sure you have stuff in the can on that. Can you make up a Widget Practice Group description real quick? Or do you have an old widget RFP you can dust off to use for this? It’s really a fantastic opportunity!”

“Um, no,” you respond, your vision of a nice weekend quickly disappearing. “Tell you what, send me the RFP and I’ll take a look at it, but it sounds like a real long shot. Have you run a conflict check and talked to Department Chairman A and Finance Chairman B about it?”

“No, but I’m sure they’ll be fine with it,” Partner X responds. “Why would we NOT respond? We can’t waste time on this - I’m telling you, it’s a great opportunity!”

If you’re a law firm marketing director who has spent any time at all dealing with RFPs, chances are the scenario above is depressingly familiar. Or, if you’re a partner like Partner X, you might also be frustrated that your marketing support team is not chomping at the bit to help you with this opportunity. RFPs, of course, are a time-tested way for business clients to select a wide variety of goods and services, including outside counsel, and often they are not only good opportunities, but absolutely essential to winning new business. Not all RFPs are created equal, however, and it is

inevitable at some point you will need to answer that question: “Why would we NOT respond?”

Ideally, your firm has a formal process for considering and responding to RFPs, including a detailed matrix for making that all-important Go/No Go decision. If your firm is like most, however, the process is not always followed as rigorously as you would like, and certain partners may just ignore the process altogether. In those situations, how do you answer Partner X?

The main point, of course, is that there is no such thing as a free lunch – RFPs, when done right, require a significant investment of time and energy (by partners, not just the Marketing Department), and the cost is not worth it if the chances of a winning work are too low. Here are a few top reasons for making your case for not responding to an RFP.

- 1. No Relationship with the Company.** Blind RFPs rarely are worthwhile. Often, a company issuing an RFP already has a firm or a short list of firms in mind – typically firms they know well and have worked with before. If you’re not on that list, you’re unlikely to make the cut – even if you’re able to put together a stellar response (which is pretty hard to do with no existing relationship and no give-and-take with the issuer). It’s still a good idea to call the issuer of a blind RFP to find out why it was issued to your firm. It’s also a good idea to assess the blind RFP the same way you would assess one from a current client – chances are, a blind RFP has more warning signs than just the lack of a current relationship (see the other factors below).

Often partners will still want to respond – the typical argument being that even if we’re not selected, it’s an opportunity to get in front of top decision makers at the company. Again, the answer is “it depends” – if the RFP response requires a rush job of rehashed boilerplate marketing material and a rate quote, it’s unlikely to go anywhere or be read by anyone. If the blind RFP is right up your firm’s alley, and the issuer engages in the back and forth needed for you to put together a solid response, then it might be worthwhile. In more than 12 years in the business, however, I can count on one hand the number of blind RFPs that were worth the time and effort. Remember, the RFP document itself is only a portion of the overall RFP process – getting to know the client, assess their needs and coming up with a solid plan to fill them is the way forward, not just throwing a bunch of paper at them.

A corollary of the blind RFP is the RFP from a company you know well – but not in a good way. If you’ve responded to a half-dozen RFPs from the same company, but never even made it to the interview stage, it’s probably time to invest your efforts somewhere else.

- 2. Company or Project is Not a Good Fit with the Firm.** The irresistible urge to win new business sometimes causes partners to make bad decisions – like forgetting to look at potential conflicts, or inventing practice specialties on the fly to fit the requirements of the RFP. Financial considerations also are vital – and a “canned” response on rates or alternative fees, or a fee proposal lifted from another RFP, is not the best way to start a response. Any “Go/No Go”

decision matrix should include a careful review of the issuing company, how desirable the proposed work is to your firm, and if it's financially worthwhile. If the RFP falls short, walk away.

3. **Refusal to Answer Questions or Insufficient Responses to Questions.** Most RFPs include a Q&A opportunity with the issuer for all respondents. If the RFP does not allow for any back-and-forth with the issuer, *run*, don't walk away. That's a solid sign the RFP is rigged. Similarly, if there is a Q&A with the issuer, but the issuer declines to answer critical questions (such as timeline, budget, prior history with similar work, etc.) or provides insufficient information to craft a good response, it's a losing proposition.
4. **Excessive Demands for Irrelevant Information.** It happens – usually from RFP issuers that won't answer questions about themselves. If an RFP is asking for ridiculous amounts of detailed information that's not relevant to the work at issue – partner and employee salaries, identities of top clients and what you billed them, details of confidential settlements, etc. – politely decline.
5. **Insufficient Time to Respond.** Sometimes it's unavoidable – for example, if a company was served with a lawsuit and issues an RFP with a very short response time so they can have counsel in place in time to deal with the complaint. Large, multi-matter RFPs, however, should give respondents sufficient time to put together a thoughtful response. Such RFPs that give you less than two weeks or so to respond are likely wired for someone else.

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