Global Best Practices

Theory, Process, and Application

Principles and Practices of Public Procurement
VALUES AND GUIDING PRINCIPLES OF PUBLIC PROCUREMENT

Accountability
Taking ownership and being responsible to stakeholders for our actions...essential to preserve the public trust and protect the public interest.

PRINCIPLES:
- Apply sound business judgment.
- Be knowledgeable of and abide by all applicable laws and regulations.
- Be responsible stewards of public funds.
- Maximize competition to the greatest extent practicable.
- Practice due diligence.
- Promote effective, economic, and efficient acquisition.
- Support economic, social, and sustainable communities.
- Use procurement strategies to optimize value to stakeholders.

Ethics
Acting in a manner true to these values...essential to preserve the public’s trust.

PRINCIPLES:
- Act and conduct business with honesty and integrity, avoiding even the appearance of impropriety.
- Maintain consistency in all processes and actions.
Agenda

• Awareness
• Access
• Education
• Application
Awareness

- Familiarity
- Use
- Experience
- Expectations
Value: Accountability

Taking ownership and being responsible to stakeholders for our actions…essential to preserve the public trust and protect the public interest.
Guiding Principle

Maximize competition to the greatest extent practicable.
Specifications practice

• Maximize full and open competition.
  – Provide allowable variation in measurement or other characteristics of the commodity
  – Avoid suggestions of bias
Access

• Website
• Publications
• Workshops
The NIGP Procurement Resource Center offers the tools you need to support your day-to-day activities and effectively manage your procurement organization. Many of the resources here are NIGP members-only or offered through partnerships that provide services at member-discounted rates.

**Document Library**
- Dictionary of Terms
- Directories
  - Cooperative Contracts
  - Cooperative Purchasing Programs
  - Other Associations
  - State & Provinces
  - Procurement Websites
- Supplier Directory
- Commodity Price Indexes

**Guidance**
- Global Best Practices
- Values and Guiding Principles
- Position Papers
- Research Reports
- Resolutions
- White Papers

**Agency Development Path**
- MEASURE Savings Calculator
- NIGP Code
- NIGP Consulting
- NIGP Observatory
- PASS Survey Supplier
- PASS Survey Customer
- Spend Management

**NIGP Accreditations**
- Cooperative Accreditation - NAC
- OA4 Accreditation
- Pareto Accreditation

**Publications**
- Looking for guidance about best practices in public procurement? From "Cooperative Transparency" to "Government Procurement Magazine eNewsletter NForm" these Global Best Practices provide foundational information and your agency.

**More Information**
PROCUREMENT TERM:

Specifications

A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a
NIGP Forum 2016

Awesomeness...it’s something you do every day and in every way. From sharing a cup of coffee and a smile with a colleague or loved one to offering a tip on how to word that solicitation to save your entity thousands of dollars to procuring bullet-proof vests that will save lives. It’s just who you are and what you do. You are the definition of awesome.

So what happens when nearly 1,000 awesome public procurement professionals gather in one location for the largest educational event in North America? You experience Forum AWESOMENESS. There’s something incredible that

“Networking with others affirmed that I was doing it right which was a great feeling.”

- Tara Acton, CPPB, Forum 2015 First Timer
Education

- Content highlights
- Process
- Structure
Specifications
practice highlights
Process

• Vision
• Mission
• Approach
• Development
Vision

A set of robust Global Best Practices that:

1. Provide useful guidance for procurement professionals, and
2. Elevate the procurement profession.
Mission

We are a group of committed and knowledgeable procurement professionals, academics, and staff members who collaboratively develop global best practices based on objectives that are useful and grounded in research and expertise.
Approach

\[ C + R + V \uparrow \ \text{(almost)} \ \rho \downarrow + r \]

= Best Practice Documents
Development

• Task force
• Discussion
• Outline
• Drafts
• Internal and external reviews
Structure

• Standard
• Definition
• Elements
• Background
• References/Resources
Public Procurement Practice
SPECIFICATIONS

STANDARD
Specifications define precise requirements of commodities (i.e., goods and services) sought through a solicitation process. To understand the context in which the commodity will be used and with declarative knowledge of statutes, regulations, policies, market availability, budget, and the strategic plan of the entity, procurement professionals collaborate with end users to translate a particular need into detailed requirements. Written with an intent to maximize competition, specifications should use language that is relevant to and understood by potential offerors.

Definition

Specification:
A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract.

There are two types of specifications, Design and Performance.
A performance specification may utilize a functional description to define the task or desired result of the commodity. Functional descriptions are commonly used for technology-related commodities, and focus on observations or experiences during system usage (e.g., the program, computer peripherals, or other computers).

**Example:**

Upon landing on the website home page, the user is prompted to enter their password and confirm their status using Captcha.

**Element 1.2.1a: Advantages of functional descriptions**

- Well suited for information technology products
- Well suited when the options available in the marketplace are unknown
- Provide clarity to offerors on the desired results from the commodity

**Element 1.2.1b: Disadvantages of functional descriptions**

- May result in a wide range of offers that are not necessarily comparable
- Take more time and effort to develop and to evaluate
References


Public Procurement Practice
THE EVALUATION PROCESS (Cont’d)

Impartiality and Non-Disclosure – All panel members should sign a declaration of impartiality and non-disclosure or similar kind of declaration before they start to evaluate the submitted documentation. By signing such a document each panel member:
- Declares that he/she is not associated with any of the potential suppliers or their proposed sub-contractors, etc.
- Commits to not disclosing any information acquired during the evaluation process to potential suppliers or to any other persons not officially involved in the evaluation process.

Element 1.2: Receipt/Opening and Compliance
Depending on the type of procurement, the evaluation process may involve several stages. The first stage usually includes the receipt, opening and compliance validation of the submitted documentation. Once this stage has been completed the evaluation panel will conduct the full evaluation in accordance with the established criteria. The completion of this stage will result in a recommendation for award by the evaluation panel to the contracting authority.

Where an e-procurement system or portal is being used for the receipt of tenders, the security built into the system only allows for opening after the final tender receipt time/date is reached. The central procurement team will open the tenders and send them along with the evaluation score sheet electronically to the panel to enable evaluation to begin.

The following receipt and opening process details the traditional paper-based approach for receipt and opening:

Receipt – Upon receiving the requested documentation, the contracting authority must record the following information:
- Declares that he/she is not associated with any of the potential suppliers or their proposed sub-contractors, etc.
- Commits to not disclosing any information acquired during the evaluation process to potential suppliers or to any other persons not officially involved in the evaluation process.
Application
## Application

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Public Procurement Practice

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There are two types of specifications, Design and Performance.
Best practices are written *for you and by you.*
Participation

• Be a catalyst for your entity to become a supporting or adopting organization
• Join the review team and provide input.
• Comment on the final draft of the practice.
• Contribute resources and examples.
• Present a webinar on a practice.
• Suggest a topic.
VALUES AND GUIDING PRINCIPLES OF PUBLIC PROCUREMENT

Accountability
Taking ownership and being responsible to stakeholders for our actions...essential to preserve the public trust and protect the public interest.

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Ethics
Acting in a manner true to these values...essential to preserve the public's trust.

PRINCIPLES:
- Act and conduct business with honesty and integrity, avoiding even the appearance of impropriety.
- Maintain consistency in all processes and actions.
- Meet the ethical standards of the profession.

Impartiality
Unbiased decision-making and action...essential to ensure fairness for the public good.

PRINCIPLES:
- Be open, fair, impartial, and non-discriminatory in all processes.
- Treat suppliers equitably, without discrimination, and without imposing unnecessary constraints on the competitive market.
- Use sound professional judgment within established legal frameworks to balance competing interests among stakeholders.

Professionalism
Upholding high standards of job performance and ethical behavior...essential to balance diverse public interests.

PRINCIPLES:
- Be led by those with education, experience, and professional certification in public procurement.
- Continually contribute value to the organization.
- Continually develop as a profession through education, mentorship, innovation, and partnerships.
- Develop, support, and promote the highest professional standards in order to serve the public good.
- Seek continuous improvement through on-going training, education, and skill enhancement.

Service
Obligation to assist stakeholders...essential to support the public good.

PRINCIPLES:
- Be a crucial resource and strategic partner within the organization and community.
- Develop and maintain relationships with stakeholders.
- Develop collaborative partnerships to meet public needs.
- Maintain a customer-service focus while meeting the needs, and protecting the interests, of the organization and the public.

Transparency
Easily accessible and understandable policies and processes...essential to demonstrate responsible use of public funds.

PRINCIPLES:
- Exercise discretion in the release of confidential information.
- Maintain current and complete policies, procedures, and records.
- Provide open access to competitive opportunities.
- Provide timely access to procurement policies, procedures, and records.

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Adopted by
NIGP
THE INSTITUTE
for PUBLIC PROCUREMENT
October 23, 2010
SHAPING, EMPOWERING, AND ELEVATING THE PUBLIC PROCUREMENT PROFESSION THROUGH VALUES AND GUIDING PRINCIPLES AND GLOBAL BEST PRACTICES.

SHAPING OUR PROFESSION - VALUES OF PUBLIC PROCUREMENT

ACCOUNTABILITY | ETHICS | IMPARTIALITY | PROFESSIONALISM | SERVICE | TRANSPARENCY

In October 2010, the Values and Guiding Principles were finalized and adopted by the NIGP Board of Directors. From that point forward, the Values and Guiding Principles have been supported or adopted by over 100 organizations, and thousands have commented on the practices to ensure that each practice represents the voice of our profession.

“TELL ME AND I’LL FORGET; SHOW ME AND I MAY REMEMBER; INVOLVE ME AND I’LL UNDERSTAND.”
— Chinese Proverb
EMPOWERING OUR PROFESSION

We are a group of committed and knowledgeable procurement professionals and staff who collaboratively develop global best practices based on objectives that are useful and applicable and grounded in research and expertise. Our goals are:
- To provide useful and applicable guidance for public procurement professionals
- To elevate the procurement profession

ELEVATING OUR PROFESSION - WAYS YOU CAN HELP

What are your areas of expertise? There are multiple ways you can contribute that can fit your interest and availability as well as make an impact on the profession:
- Join a task force to develop a practice
- Participate on the review team
- Comment on the final draft of the practice
- Contribute resources and examples
- Suggest a topic
- Present a webinar on a practice

The practices are for you and you are what make the practices.

ADVANCING OUR PROFESSION – GLOBAL BEST PRACTICES

Current Best Practices
- Developing a Procurement Policy Manual
- Developing Evaluation Criteria
- Ethical Procurement
- Lease-Purchase Decision
- Outsourcing
- Performance-Based Contracting
- Performance Management
- Performance Measurement
- Performance Metrics
- Public-Private Partnership
- Qualifications-Based Selection for Architectural and Engineering Services
- Risk Management
- Specifications
- Spend Analysis
- Strategic Procurement Planning
- Sustainable Procurement Practice
- Supplier Relationship Management (SRM)
- Technology in Public Procurement
- The Evaluation Process
- The Place of Public Procurement within the Entity
- Transparency
- Use of Cooperative Contracts

CONTACT US

For more information on the Values and Guiding Principles and Best Practices of Public Procurement, email the Global Practices Developer at principlesandpractices@nigp.org or visit www.principlesandpractices.org. We look forward to talking to you about your area of expertise and what resonates with you. Together, we can help shape, empower, and elevate the public procurement profession.
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Definition

**Specification:**
A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract.

There are two types of specifications, Design and Performance.

**Element 1: Specifications should be written using attributes of design and performance, as required by the procurement.**

A design specification details physical characteristics, materials, and product features, as well as details of the manufacturing methodology for the commodity. A performance specification describes the desired end result or outcome for the commodity.

A specification may incorporate features of both design and performance. Specifications may be viewed on a continuum with pure performance on one end and pure design on the other. Each requirement in a specification falls somewhere on this continuum.

**Element 1.1: Design specification**

A design specification establishes the characteristics a commodity must possess, including details of how the commodity will be manufactured; engineering plans, drawings, or blueprints may be included. The design specification states in prescriptive terms what the potential offeror must provide to the buyer.

The objective of a design specification is to meet a custom or unique requirement. A design specification is complete and limits the options of the contractor or manufacturer, placing high risk on the buying entity for design errors or omissions within the specification. For example, if the desired outcomes from a solicitation are not achieved, the supplier may argue that any poor performance is due to the design that was specified and not the supplier’s assembly.
Public Procurement Practice

SPECIFICATIONS

Element 1.1.1: Design specifications may include any or all of the following:

- Drawings (e.g., engineering plans, blueprints)
- Dimensions that allow for tolerance levels and ranges
- Definition of terms
- Description of materials for cost determination, process of construction, delivery, and implementation of requirements by supplier
- Minimum requirements
- Detailed test, sample, and inspection methods to ensure compliance with the specification
- Industry standards
- Alternatives that may be considered

Technical specifications are a subset of design specifications, often used when precise shapes, dimensions, close tolerances, and a high degree of manufacturing precision are required (e.g., construction and heavy equipment).

Element 1.1.1a: Advantages of design specifications

- Provide the end user with increased certainty about the commodity
- Allow for objective evaluation of offers
- Award is based on compliance with the specification and made to the lowest responsive offer and responsible offeror

Element 1.1.1b: Disadvantage of design specifications

- Prescriptive, may limit competition
- Increased risk to entity
- Loss of innovation
- Expensive and time consuming to prepare, may require the services of engineers, architects, and other technical resources, as well as multiple levels of review and approval
- Implementation may be expensive and time consuming. The entity is responsible for inspections, testing processes and associated costs, as well as prototype costs

Element 1.2: Performance specification

A performance specification describes the desired outcome or intended use of a commodity and how the commodity will perform (e.g., number of items, distance to travel, time required). Performance metrics\(^1\) are essential to define acceptance testing and successful achievement of outcomes. The metrics may be linked to incentives or disincentives.

Performance specifications:

- Allow offerors to use their expertise, creativity, and innovation to provide a solution. The offeror chooses the method of achieving the outcome.
- Are used when the method and means of achieving the outcome are unknown.
- Place a higher degree of risk on the awarded supplier, who is responsible for achievement of the outcome and will be evaluated based on defined criteria.
- May describe a commodity that will be integrated into existing systems and be interchangeable with parts, services, or other basic elements.

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Element 1.2a: Advantages of performance specifications

- Provide opportunity for innovation; allow offerors to put forth unique solutions to defined needs
- Allow end user to benefit from the latest products and technologies
- Corrective action may be applied if service levels are not achieved

Element 1.2b: Disadvantages of performance specifications

- Well-defined performance metrics are needed to ensure that the specified performance will achieve the desired outcome
- Require reliable, practical, economical tests of performance
- Evaluations are subjective and require additional time and effort to complete

Performance specifications may include functional; brand name; or brand name or equivalent descriptions.

Element 1.2.1: Functional descriptions

A performance specification may utilize a functional description to define the task or desired result of the commodity. Functional descriptions are commonly used for technology-related commodities, and focus on observations or experiences during system usage (e.g., the program, computer peripherals, or other computers).

Example:

Upon landing on the website home page, the user is prompted to enter their password and confirm their status using Captcha.

Element 1.2.1a: Advantages of functional descriptions

- Well suited for information technology products
- Well suited when the options available in the marketplace are unknown
- Provide clarity to offerors on the desired results from the commodity

Element 1.2.1b: Disadvantages of functional descriptions

- May result in a wide range of offers that are not necessarily comparable
- Take more time and effort to develop and to evaluate

Element 1.2.2: Brand name descriptions

A brand name description is a title, term, symbol, design, or any combination thereof used to describe a product by a unique identifier and its producer. Performance specifications may use brand names to describe the desired output and quality levels of a commodity.

Element 1.2.2a: Advantages of brand name descriptions

- Allow for agency standardization (e.g., fleet standardization for purposes of training and maintenance)
- Meet the expectations of the end user by providing the exact commodity needed
- Reduce the time required to develop the specification
Element 1.2.2b: Disadvantages of brand name descriptions

- Very restrictive; limit competition
  - Potentially equivalent products are not considered for award; alternative brands would be excluded from consideration
  - May result in increased price
  - May lead to a sole source procurement and create dependency on a specific supplier
- Requires significant justification (e.g., maintenance, compatibility of parts)

Element 1.2.3: Brand name or equivalent descriptions (also referred to as “brand name or equal”)

- A brand name or equivalent description provides one or more manufacturers’ brand names with identifying model numbers. In a performance specification, a brand name or equivalent description states the standards of quality, performance, and characteristics needed to meet the requirements of the end user. To meet the standard of performance of “or equivalent,” the commodity must be functionally equivalent to the brand name product but not necessarily the same in every detail. A checklist may be included for suppliers to identify how their commodity meets or could be modified to meet the specification requirements. When appropriate, the description should include at least two acceptable brand name products.

Example:

Comparable pickup trucks might be the Ford F150, Chevrolet Silverado, Ram 1500, or Toyota Tundra.

Element 1.2.3a: Advantages of brand name or equivalent descriptions

- Aid in communicating the desired quality and performance levels to potential offerors
- Reduce the time required to develop the specifications

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2 Federal Acquisition Regulation (FAR) 52.211-6 Brand Name or Equal.
As prescribed in FAR 15.107(a), insert the following provision: Brand Name or Equal (Aug 1990)
(a) If an item in this solicitation is identified as “brand name or equal,” the purchase description reflects the characteristics and level of quality that will satisfy the Government’s needs. The salient physical, functional, or performance characteristics that “equal” products must meet are specified in the solicitation.
(b) To be considered for award, offers of “equal” products, including “equal” products of the brand name manufacturer, must-
(i) Meet the salient physical, functional, or performance characteristic specified in this solicitation;
(ii) Clearly identify the item by-
(i) Brand name, if any, and
(ii) Make or model number;
(iii) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and
(iv) Clearly describe any modifications the offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.
(c) The Contracting Officer will evaluate “equal” products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.
(d) Unless the offeror clearly indicates in its offer that the product being offered is an “equal” product, the offeror shall provide the brand name product referenced in the solicitation.

3 The Court of Claims has specifically rejected the Government defense that it is entitled to get exactly what it specifies. The substitute does not have to comply with every detail of the specification, but only function as well as the specified product. Aerodex, Inc. v. United States, 477 F.2d 1361 (Ct.Cl.1972); Jack Stone Co. v. United States, 344 F.2d 370 (Ct.Cl.1965). See also Ocean Elec. Corp., NASA BCA No. 371-8, 73-2 BCA p 10,355.
Element 1.2.3b: Disadvantages of brand name or equivalent descriptions

- Considered to be restrictive
- Require justification
- May deter competition, which may increase price
- Must define criteria to determine responsiveness to “or equivalent”
- Risk of litigation by brand name manufacturer
- Brand name must be well known throughout a particular industry

Element 2: When procuring commodities, procurement professionals must provide the needed context to achieve the expected and desired outcomes of the end user.

Context refers to how the commodity will be used and conform to an existing environment. Providing context should result in:

- Specification requirements that will accurately define, represent, and fully express end user needs.
- Potential offerors who can provide responsive solutions.
- Full and open competition, which allows for unbiased decision-making.
- The ability of the purchasing entity to monitor the procurement and achieve the desired end results.

Element 3: Specifications should be written clearly, concisely, consistently, and precisely, using plain language.

Well-written specifications allow potential suppliers to easily read and understand the requirements. Well-written specifications encourage suppliers to make offers, thereby maximizing competition and increasing the likelihood of receiving a commodity that achieves the objectives of the procurement.

- Use language that is consistent, concise, plain, and precise.
  - Avoid ambiguous language
  - Choose simple words over complex ones
  - Avoid use of acronyms and clichés
- Use proper grammar and punctuation.
- Use consistent style and formatting.
- Categorize or group similar items for ease of readability.
- Organize specification content with a consistent numbering system.
- Maximize full and open competition.
  - Provide allowable variation in measurement or other characteristics of the commodity
  - Avoid suggestions of bias
- Ensure specifications are current and relevant.
- Identify physical, functional, environmental, and quality characteristics of the commodity (e.g., design, size, weight, power capacity, output, grade).
- Identify minimum requirements.
- State the required/optional outcomes.
- Clearly convey to potential offerors and other relevant stakeholders the application or intended use of the commodity.
- Identify acceptable commercial standards (e.g., Underwriters Laboratory (UL), Military Specifications (MILSPEC), National Electrical Manufacturers Association (NEMA), International Organization for Standardization (ISO), British Pharmacopoeia (BPUK), United States Pharmacopoeia (USP)).
- Include acceptance criteria.
- Detail how the commodity will be tested or evaluated for conformance.
Public Procurement Practice

SPECIFICATIONS

Provide reproducible test methods.
Include performance metrics for assessing the achievement of performance outcomes.
Include a mechanism allowing for specification revision during the course of the contract.
If using a brand name or equivalent, cite the specific brand name of the manufacturer to establish the standards of quality and required performance.
  • Include details on how the comparison of an “equivalent” or better is to be manufactured
  • When possible, specify at least two acceptable brand name products

Poorly written specifications may result in:

Less competition; potential offerors may choose not to submit offers.
A commodity that does not meet expectations.
Additional costs due to subsequent changes made to the specification.
Poor relationships with the supplier, end user, and others involved.
Inappropriate contract awards and potential unfair competitive advantages.
Protests.

Avoid the following when writing specifications:

Conjunctions (e.g., and, or, also, with)
Escape clauses (e.g., if, when, but, except, unless, although)
Mixing different types of requirements (e.g., combining system, business, and design requirements in the same section of a specification)
Run-on sentences
Speculative language (e.g., usually, generally, often, normally, and typically)
Unverifiable or vague terms (e.g., flexible, proper, suitable, reasonable, appropriately, user-friendly, approximately, as possible)
Absolute terminology (e.g., 100% safe, totally reliable, runs on all platforms, functioning 100% of time, fully compatible)
Ambiguous punctuation (e.g., use of slash “/”)
Assumptions
Over or understating the desired quality, output, or function

Steps for developing specifications

1. Meet with end users, clients, other stakeholders, and the evaluation committee to understand needs.
2. Seek external assistance, when needed, to provide expertise to clearly and correctly state what is required in terms of capability and capacity.
3. Conduct thorough research of market and trends.
4. Understand the capability and capacity of the supply chain, as well as potential influences (e.g., energy availability, storage for contaminated material).
5. Choose the type of specification based on the identified needs.
6. Conduct analyses (e.g., life cycle cost (LCC), value analysis, value engineering, best value).
7. Clearly identify the supplier’s obligations (e.g., risk and responsibility) according to the type of specification chosen.
8. Explain, clarify, and define all compliance obligations.
9. Include essential characteristics and a clear statement of intended use.
10. Include a clear and consistent methodology for determining if all the requirements have been met by offerors.
11. Ensure there is an internal review process by members of the solicitation team to help identify inconsistencies and ambiguities.
Public Procurement Practice

SPECIFICATIONS

Specification Checklist

Consider the following list when developing specifications, only including the items that are applicable and relevant to the commodity being procured, as well as the chosen specification type.

- Intended use/purpose
- Detailed good/service requirements
- Performance requirements
- Traceability
- Inspections - Acceptance
- Compliance (e.g., safety, environmental, industry standards)
- Any restrictions that a local agency might impose
- Delivery locations
- Installation
- Available facilities and utilities
- Entity-provided items or services
- Guarantees/Warranty
- Training requirements
- Delivery/Completion
- Quantity
- Key deliverables
- Responsibilities
- Packaging
- Quality control
- Contract transition
- Services provided by third parties

Background

This public procurement practice provides entities with guidelines that should be considered when preparing specifications for solicitations and contract documents. Since the specifications will be read and interpreted by multiple persons of various skill levels and backgrounds, specifications must be written in a manner that minimizes multiple interpretations and gives all parties a clear understanding of what is to be produced or delivered.

References