

# Purchasing Guide State Purchasing Division State of New Mexico



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## **Forward:**

The purpose of this guide is to provide background, as well as detailed information about what the State buys and how it buys it. This guide will serve as a training guide to procurement professionals learning the ins and outs of the New Mexico purchasing process, agency personnel needing to acquire goods or services, and vendors looking to extend their products and services to the State.

This guide will not provide all the information for all processes and methodologies used in procurement, but will provide references and links to pertinent sources. The State Purchasing Division of the General Services Department is always a good source of up to date information on procurement code regulations and rules as well as a source of best practices.

Please refer to the State Purchasing Division website for details on requirements, processes and templates for use in the procurement process.

The Appendices at the end of this document will provide a step by step process flow for common processes employed by SPD, detailing the actions necessary to complete each type of procurement.

## **What Does the State of New Mexico Purchase**

The State of New Mexico purchases a wide variety of products and services ranging from cars, trucks and bookmobiles, to architectural services, buildings, and museum exhibits, to pharmaceuticals, brain injury services, and support services for victims of crimes. The State purchases almost two (2) billion dollars of goods and services each year and must ensure that each dollar is spent fairly and transparently in accordance with the New Mexico Procurement Code.

Whether an Agency needs pencils or a supercomputer, the State Procurement Code governs the action to ensure the tax dollars are spent responsibly, in a manner that ensures fair and open competition, or proper justification is documented when competition is not available.

## **Legal Procurement Methods**

The State Procurement Code was enacted by legislative action to provide guidelines and requirements for the spending of State dollars. The Procurement Code can be found at <http://www.generalservices.state.nm.us/spd/index.html>. Updates are periodically issued revising the requirements and methodology of procurement and must be followed by all state entities.

The New Mexico Procurement Code allows for three (3) types of procurement actions; Competitive, Sole Source, and Cooperative Agreement. These procurement methodologies are described as follows, and should be noted that each is appropriate to particular conditions or environment of the purchase. Not all methodologies apply to all situations.

### ***Competitive***

The procurement code's preferred method of procurement is through competition. This can be accomplished through either the Invitation to Bid (ITB) or the Request for Proposal (RFP) process. In each case vendors compete for the business, essentially identifying the current market price for the product or service being acquired.

#### **Invitation to Bid (ITB)**

The Invitation to Bid process is the fastest, generally easiest competitive procurement method and is used to acquire commodity-type products and services. The need must be able to be filled by a number of suppliers providing essentially the same item for the ITB process to be a viable option. The procurement is advertised and

specifications and response requirements are distributed to registered vendors. Sealed bids are received and on the closing date bids will be publicly opened. Provided the supplier is responsible and the supplier's product or service meets the specified requirement(s), the offeror providing the lowest price will receive the award. There is no ability to select a particular vendor, or to negotiate the price (please note that there are certain conditions that may allow for negotiation in event the bids exceed the available funding). This is the default method of formal procurement.

## **Request for Proposal (RFP)**

The Request for Proposal is a more complex and time consuming procurement method. The RFP process is used when there are varying products or services that could *potentially* meet the State's needs and detailed evaluation of the offeror's product or solution(s) is necessary to determine which offered product or solution will provide the "best value" to the State. It entails development of a detailed statement of work defining the State's need and also provides/explains the criteria to be employed by the evaluation committee in rating the proposals. Frequently used criteria for evaluation include technical compliance to the requirements, stability of offeror, experience and education of key personnel to work on the project, and price offered. Unlike the ITB process, cost is not the sole criteria in the evaluation. Life cycle costs are often evaluated and scored. A proposal providing the lowest price will not necessarily receive the bid. Prior approval is required to use the RFP process for any procurement other than Pure Professional Services exceeding \$50,000.00

## **Sole Source**

By definition, sole sources are not encouraged by the State Purchasing Division because pricing and terms and conditions are difficult or impossible to negotiate. No open market exists to ensuring reasonable pricing. When this situation occurs and there are no alternatives, the State will issue a contract or agreement for a limited term to provide the product or service. Maintenance of proprietary systems and proprietary software are examples of sole source procurements.

## **Cooperative Agreements**

Cooperative agreements can be a useful procurement methodology allowed by the Procurement code. They are based upon already negotiated agreements, allowing the State to "piggy-back" on work that has been done by others. There are restrictions on the usage of cooperative agreements as described below.

## **General Services Agreements (GSA)**

General Services Agreements (GSA) are contracts placed by the General Services Administration of the United States Federal government. They are negotiated agreements intended for use by various government entities to streamline the federal

procurement process. The Procurement Code DOES NOT allow the state of New Mexico to utilize these contract vehicles directly. It DOES allow the State Purchasing Division to “mirror” the GSA contracts, by issuing an exact duplicate of the GSA agreement for the State of New Mexico.

The New Mexico “mirror” contracts are required to include all terms, conditions, and pricing included in the GSA agreement on which it is based. There is no ability to extend a New Mexico contract beyond the scope or expiration date of the GSA agreement.

## **Western States Contracting Alliance (WSCA)**

The Western States Contracting Alliance was formed by fifteen (15) western state members of the National Association of State Purchasing Officials (NASPO). This organization has emplaced agreements for various products based on the combined volumes. The result being that substantial savings result from the collective volumes.

The State Purchasing Agent may allow New Mexico entities to utilize the WSCA agreements provided New Mexico participated and advertised the procurement.

## **Types of Procurements**

Purchasing processes, requirements, and the responsible organization vary depending on what is purchased. The State Purchasing Division of the General Services Department is responsible for all formal purchases of tangible goods, services, and hybrids for Executive Branch Agency's. Individual Agencies and the Department of Finance and Administration are responsible for purely professional services.

In addition to the product or service required, the dollar value of the procurement will dictate the handling. Procurements are handled at three levels, each with its own process and authorizations. They are Small purchases, Informal purchases, and Formal purchases.

Small purchases are conducted by the agency procurement agents and are based on “best obtainable price.”

Informal purchases are purchases that are greater in value than small purchases, but less than formal purchase value. For Executive Branch Agency's purchasing levels are set by the procurement regulation; however, agencies may incorporate more restrictive levels. At the present time, informal procurements are those that exceed \$10,000.00 but do not exceed \$20,000.00.\* In this price range three (3) valid quotes are required.

Formal procurements require the State Purchasing Division to conduct the procurement.

\*Except for Pure Professional Services.

## ***Tangible Goods***

Tangible goods are products that can be touched. This includes software licenses and intellectual property.

Procurement levels for tangible goods are:

- Less than \$10,000 for Small Purchase (Best obtainable price)
- \$10,000 to \$20,000 for Informal Procurement (3 valid quotes)
- \$ 20,000 or greater for the Formal process

## ***Services***

Services are performed by personnel that do not need extensive education or specialty training or licensing. Examples include janitors and clerical support. Please follow the link below for a guide to distinguish between Services and Professional services.

SEE Service/Professional Service Guide

Procurement levels for services are:

- Less than \$10,000 for Small Purchase (Best obtainable price)
- \$10,000 to \$20,000 for Informal Procurement (3 valid quotes)
- \$ 20,000 or greater for the Formal process

## ***Professional Services***

Professional services are performed by persons or organizations requiring specialty skills. Examples include architects, specialty trained medical personnel, surveyors, etc. Please follow the link below for a guide to distinguish between Services and Professional services.

SEE Service/Professional Service Guide

Procurement levels for professional services are:

- Less than \$50,000 for Small Purchase
- \$ 50,000 or greater for the Formal process

## ***Hybrids***

Hybrid procurement are procurements for any combination of two (2) or more of the categories listed above. All hybrid agreements greater than \$20,000 must be processed through the State Purchasing Division as a formal procurement.

Procurement levels for hybrid procurements are:

- Less than \$10,000 for Small Purchase (Best obtainable price)
- \$10,000 to \$20,000 for Informal Procurement (3 valid quotes)
- \$ 20,000 or greater for the Formal process

# Types of Contracts/Agreements

## **Contracts**

### **Agency Price Agreements**

This term contract is issued for *estimated* quantities for specific products or family of products, or services for use by individual state Agency Agreements and are a type of indefinite quantity, indefinite schedule contract. Individual orders are placed by issuance of purchase orders specifically identifying the product or service and funding the effort. An example of this type of price agreement would be for janitorial services for a particular agency or a periodic acquisition of a particular good or service. The Formal Sealed Bid is generally used; however, the Informal Bid process may be used if the total purchase is estimated to be less than \$20,000.00.

### **State-wide Agreements**

The State Purchasing Office establishes statewide price agreements for commodities or services commonly used *in volume* by state agencies. State-wide Price agreements are a type of indefinite quantity, indefinite schedule contract. Individual orders are placed by issuance of purchase orders specifically identifying the product or service and funding the effort. The State allows Local Public Bodies, (counties, cities, schools, etc.) to purchase from these contracts. These contracts are generally awarded by the **FORMAL SEALED BID ACQUISITION METHOD** and are issued for definite periods of time, usually one (1) year.

## **Protests**

Protests to a procurement may be submitted and allow non-awarded vendors the opportunity to question the decision made by the procurer and ask for a formal review and determination by the State Purchasing Agent. This is a formal process so the offeror must submit their protest in writing in the form of a letter to the State Purchasing Agent along with any documentation to support their claim. Once the letter is received an Acknowledgment of Receipt letter will be sent to the offeror. SPD will then collect data and conduct an investigation. Based on the investigation a determination will be made and a letter drafted and reviewed by legal. The letter will be sent to the offeror with the determination and based on what that determination is there are several outcomes including cancellation of the response, contract awarded to the offeror or possible closing of the protest if it was denied.



## **Appendix A- Pre-Procurement Activities**

For a successful procurement the user and SPD need to work together to develop a strategy. Time is saved if this is done before presenting your package to SPD.

### ***Requirements:***

Determine if this is tangible personal property, service, professional service or hybrid.

If service check for State Use Act compliance.

Determine value of procurement to determine if SPD needs to be involved.

Assemble High level checklist of:

Statement of work (SOW)

High level data

Estimated value

ARRA?

Draft Schedule

Schedule meeting with SPD to discuss requirements and determine procurement method.

### ***SPD Action***

-Meet with user and review high level checklist.

-Determine procurement method.

### ***Step-by-Step Process***

See enclosed graph.

Pre-Procurement Activities				
Agency	<pre> graph TD     Start([Need Identified]) --&gt; AnyService{Any Service ?}     AnyService -- Yes --&gt; StateUseFilled{State Use Filled?}     StateUseFilled -- Yes --&gt; End1([End])     StateUseFilled -- No --&gt; PureProfes{Pure Profes. Services ?}     AnyService -- No --&gt; PureProfes     PureProfes -- Yes --&gt; DFAAgrees{DFA Agrees?}     DFAAgrees -- Yes --&gt; GT50K{&gt; \$50 K ?}     GT50K -- Yes --&gt; ReadyToProceed{Ready to Proceed ?}     GT50K -- No --&gt; AgencyProcure([Agency Procure])     PureProfes -- No --&gt; Value20K{Value &lt; \$20,000?}     Value20K -- Yes --&gt; AgencyProcure     Value20K -- No --&gt; ScheduleMeeting[Schedule Meeting with DFA and SPD]     ScheduleMeeting --&gt; AssembleChecklist[Assemble High-Level: Checklist of Information to Meeting]     AssembleChecklist --&gt; DiscussReq[Discuss Requirements and Plan for Procurement]     DiscussReq --&gt; DetermineMethod[Determine Procurement Method]     DetermineMethod --&gt; CompetitiveProc[Competitive Procurement]     DetermineMethod --&gt; GSAProcess[GSA Process]     DetermineMethod --&gt; SoleSourceProc[Sole Source Process]     CompetitiveProc --&gt; ITBProcess[ITB Process]     CompetitiveProc --&gt; RFPProcess[RFP Process]     ReadyToProceed -- Yes --&gt; CompetitiveProc     ReadyToProceed -- No --&gt; AgencyProcure     </pre>			
State Use				
Agency/SPD				
DFA				
SPD				

## **Appendix B- Detail Invitation to Bid (ITB) Process/Requirements**

An ITB is a form of competitive procurement that is price driven. If you have a clearly defined need and are looking for the best price available, that meets that need, and ITB is the procurement method you would want to use.

### ***Requirements:***

Completed request with refined specification and a Statement of Work (SOW)  
Requisition  
Applicable Commodity Codes

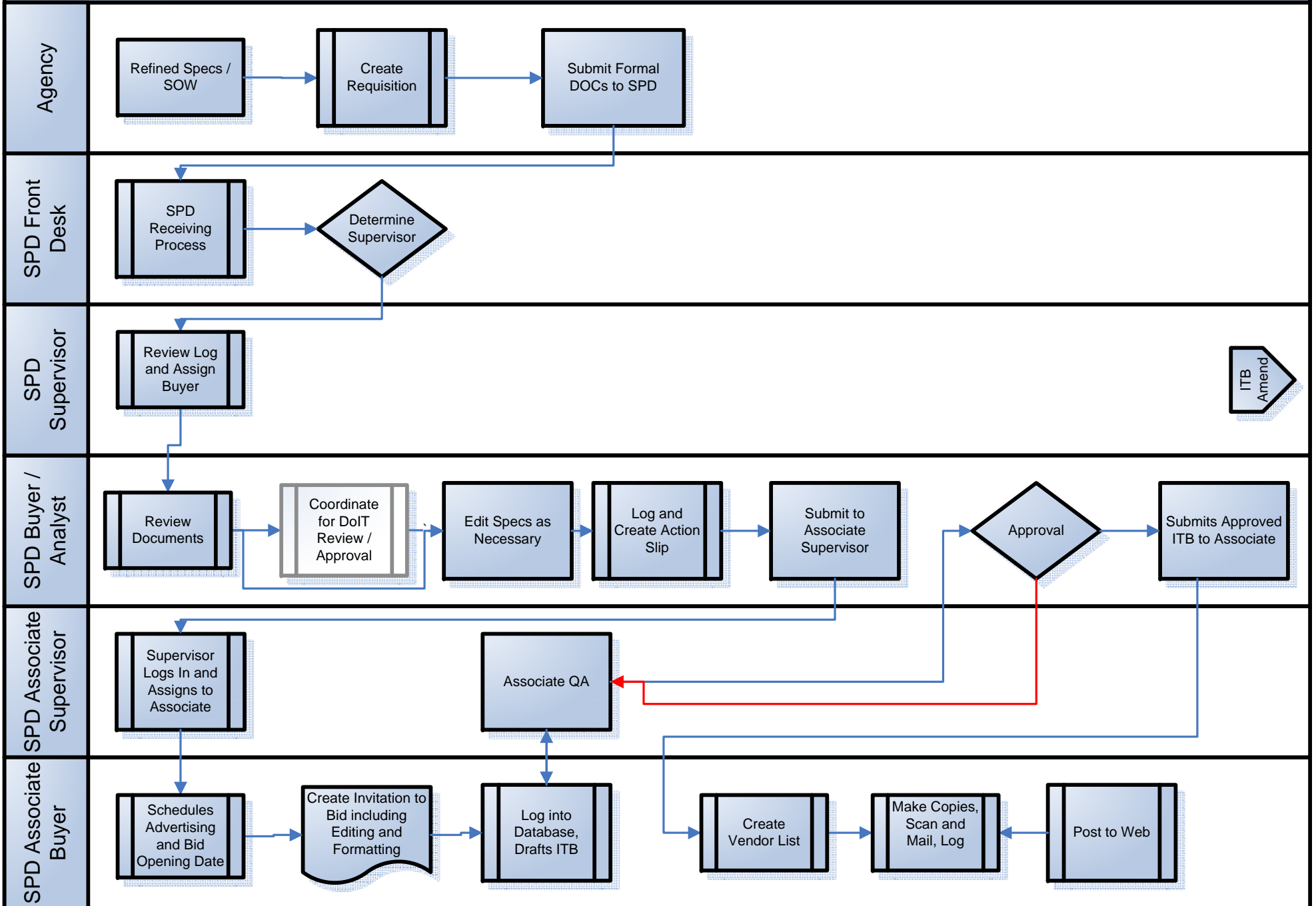
### ***SPD Action***

- Ensure above-listed requirements are met.
- Edit Specifications if needed.
- If IT, coordinate with DOIT for review and approval.
- Complete Action Slip and give to Associate before advertising deadline.
- Schedule advertising and bid opening.
- Edit, mail and post notice to web.
- Answer questions pertaining to ITB and amend if needed.
- Review Q&A, approve and post to web.
- Receive and time stamp sealed bids.
- Conduct public bid opening.
- Create abstract.
- Evaluate abstract and determine responsiveness.
- Create action slip for award.
- Management signs award package.
- Award copied, scanned and mailed
- Post award to the web.
- Enter into SHARE.

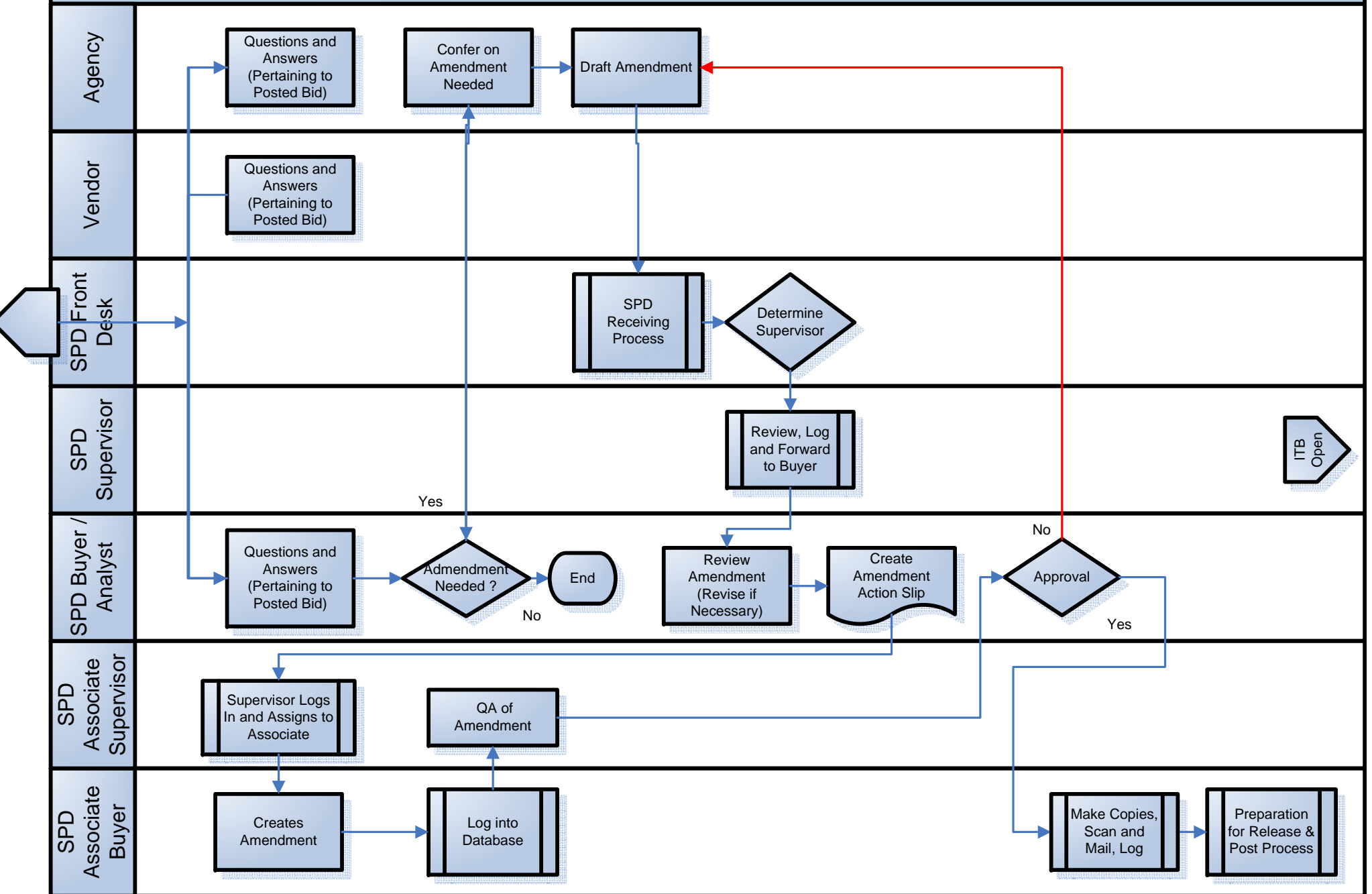
### ***Step-by-Step Process***

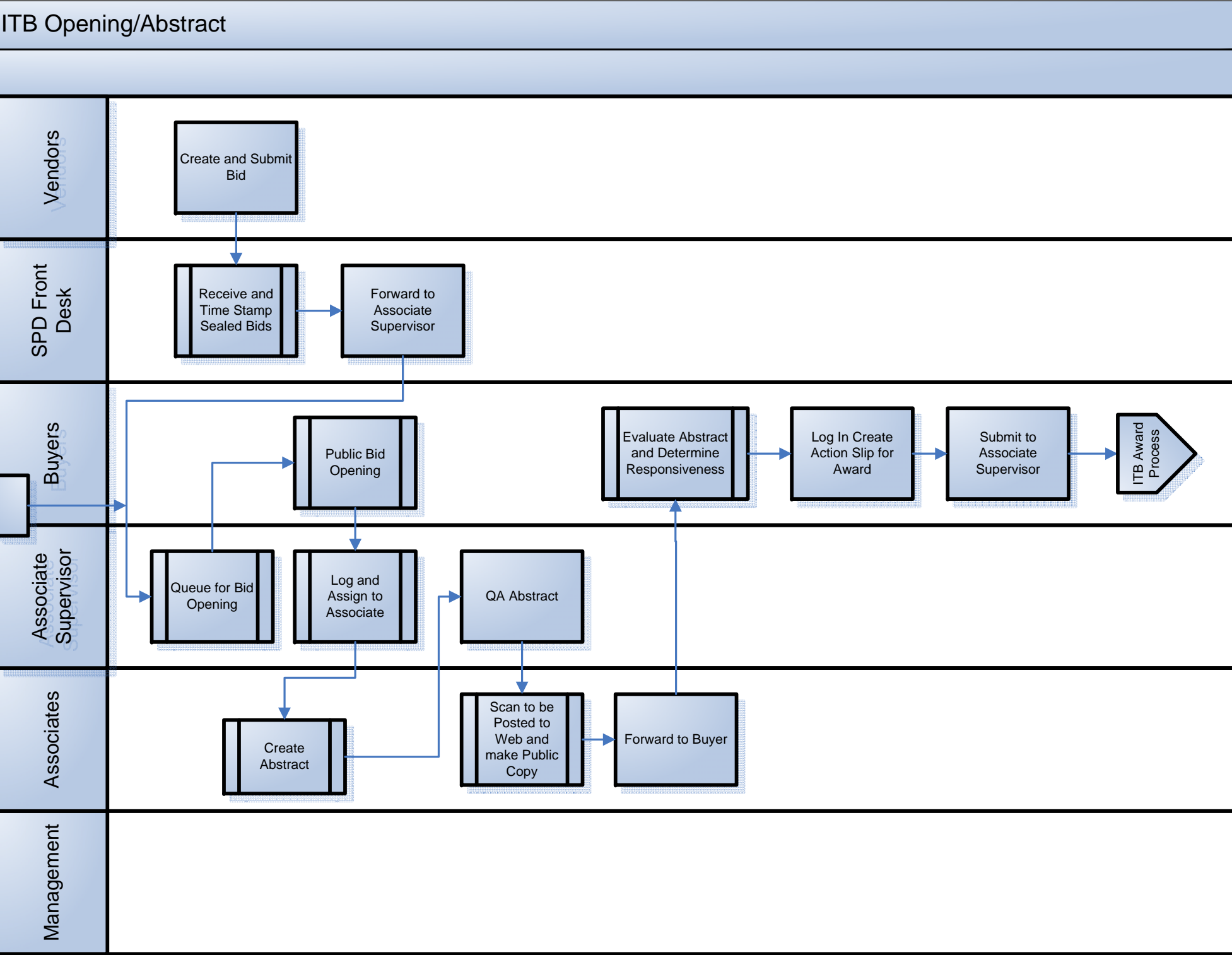
See enclosed graph.

# ITB Process



# ITB Page Two





**ITB Award**

```
graph TD
    subgraph Associate_Supervisor [Associate Supervisor]
        Start([From ITB Open]) --> LogIn[Log In and Assign to Associate]
        LogIn --> QADoc[QA Award Document]
    end

    subgraph Associates
        LogIn --> CreateDraft[Create Draft Award Package]
        CreateDraft --> QAandMgmt[QA and Forward to Mgmt]
        QAandMgmt --> CopyScan[Copy, Scan and Mail Award]
    end

    subgraph Buyers_Analysts [Buyers / Analysts]
        CopyScan --> EnterShare[Enter in to SHARE]
        EnterShare --> PostWeb[Post to Web]
    end

    subgraph Mgmt
        QAandMgmt --> Signature{Signature ?}
        Signature -- No --> QAandMgmt
        Signature -- Yes --> SignForward[Sign and Forward]
    end

    subgraph SPD_Front_Desk [SPD Front Desk]
        SignForward --> FileProcess[File Process]
        PostWeb --> FileProcess
        FileProcess --> Complete([Complete])
    end
```

The flowchart illustrates the ITB Award process across five swimlanes:

- Associate Supervisor:** Starts with "From ITB Open", leading to "Log In and Assign to Associate", which then leads to "QA Award Document".
- Associates:** "Log In and Assign to Associate" leads to "Create Draft Award Package". "Create Draft Award Package" leads to "QA and Forward to Mgmt". "QA and Forward to Mgmt" leads to "Copy, Scan and Mail Award".
- Buyers / Analysts:** "Copy, Scan and Mail Award" leads to "Enter in to SHARE". "Enter in to SHARE" leads to "Post to Web".
- Mgmt:** "QA and Forward to Mgmt" leads to a decision point "Signature ?". If "No", it loops back to "QA and Forward to Mgmt". If "Yes", it leads to "Sign and Forward".
- SPD Front Desk:** "Sign and Forward" leads to "File Process". "Post to Web" also leads to "File Process". "File Process" leads to "Complete".

## **Appendix C- Detail Request for Proposal Process/Requirements**

A true form of competitive procurement that is value driven as opposed to simply price driven. A process where the procurer knows what he/she wants as an end result is needed but leaves it up to the offeror to propose a solution as to how to get that result.

### ***Requirements:***

Completed RFP Authorization Form with Statement of Work (SOW)  
Requisition  
One Page Notice  
Applicable Commodity Codes  
Draft RFP

### ***SPD Action***

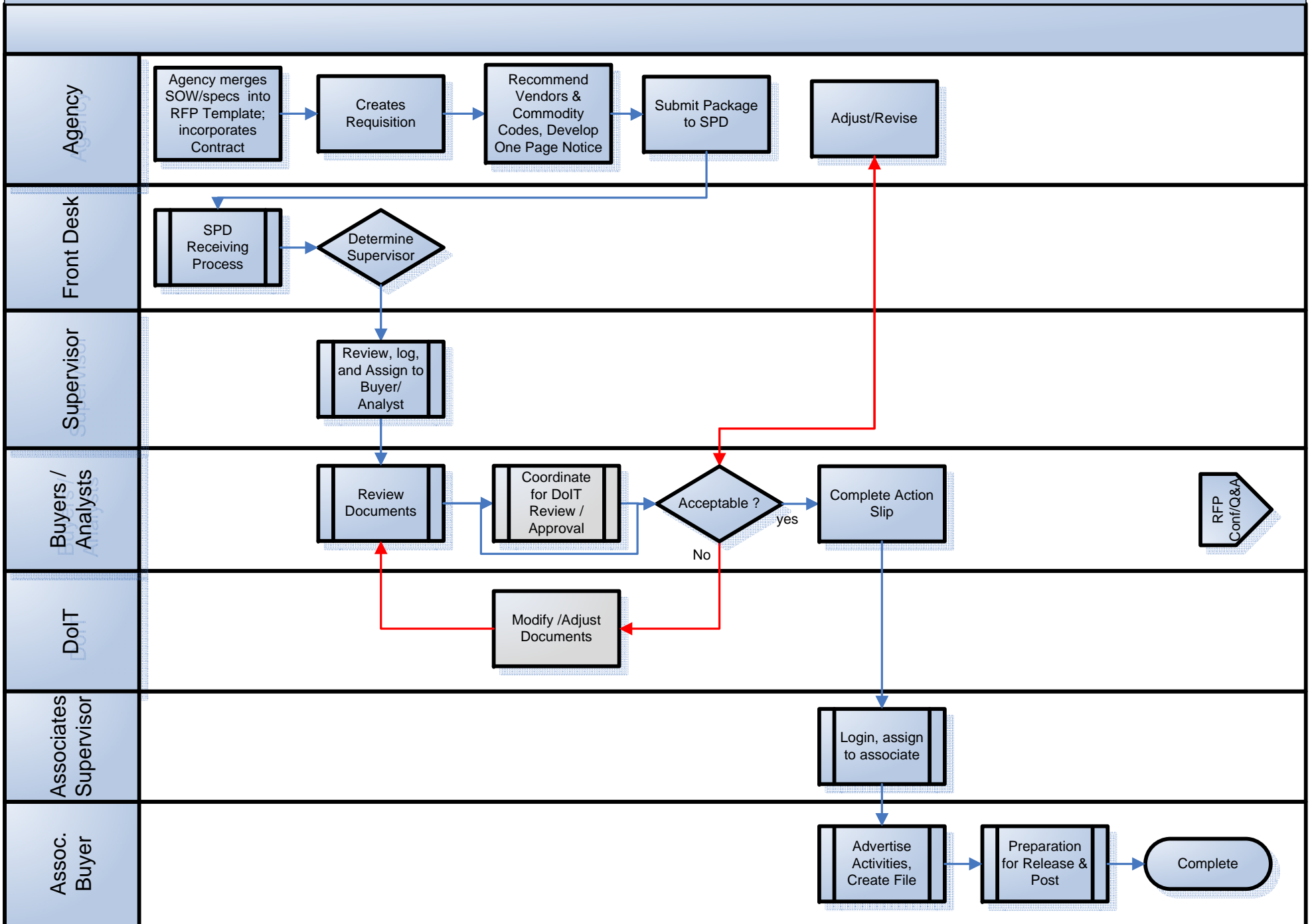
- Ensure above-listed requirements are met
- Approve RFP Authorization Form
- If IT, coordinate with DOIT for review and approval.
- Complete Action Slip and give to Associate before advertising deadline.
- Give approved RFP final to Associates for posting to web.
- Edit, mail and post to web.
- Prepare, conduct /attend Pre-Proposal Conference
- Prepare and conduct Evaluation Committee (EC) training
- Review Q&A and amendments, approve and post.
- Receive, time stamp and inventory proposals.
- Separate cost binders and forward others to EC.
- Answer EC questions and manage clarifications from vendors.
- Upon completion of technical scoring release cost binders to EC.
- Receive Best and Final (BAFO) and attend if applicable.
- Schedule or attend Oral presentation.
- Review and Approve EC report.
- Assist with offeror notification, negotiation and award.
- Legal and DOIT (when applicable) review when applicable.
- Once contract is completed finalize approval with Management signature.
- Award copied, scanned and mailed
- Post award on the web if statewide.
- Enter into SHARE.

### ***Step-by-Step Process***

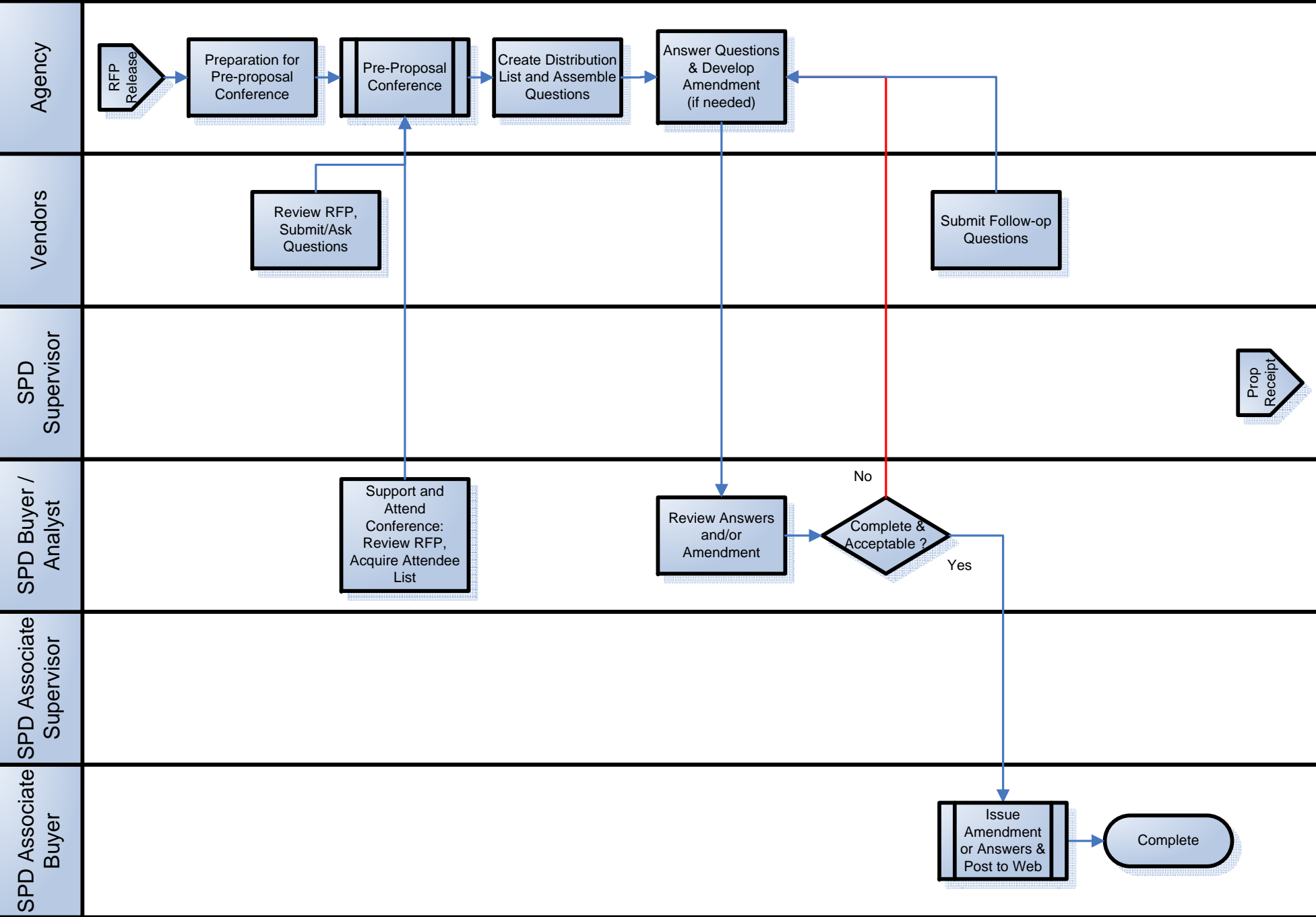
See enclosed graph.

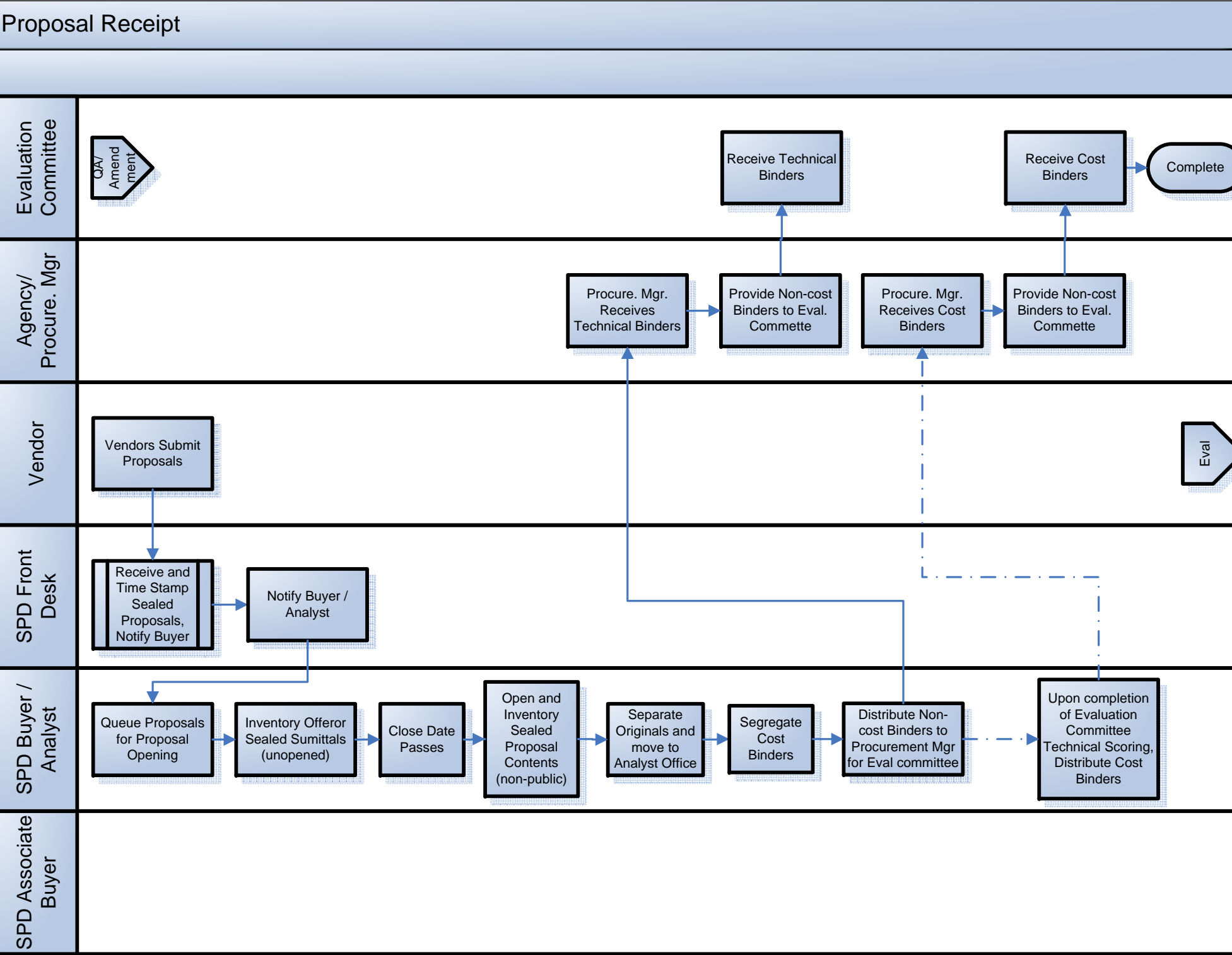


# RFP Preparation and Release

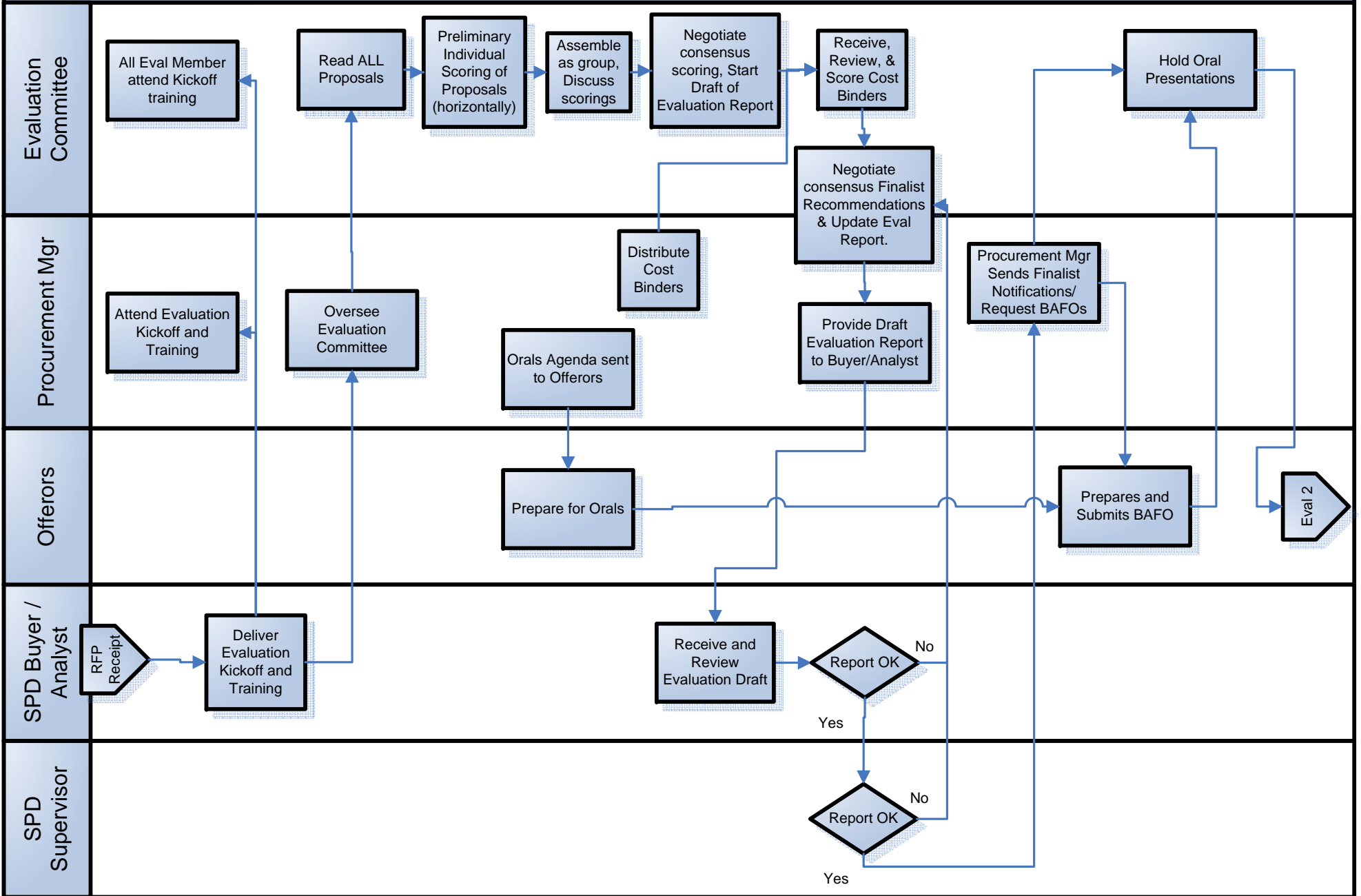


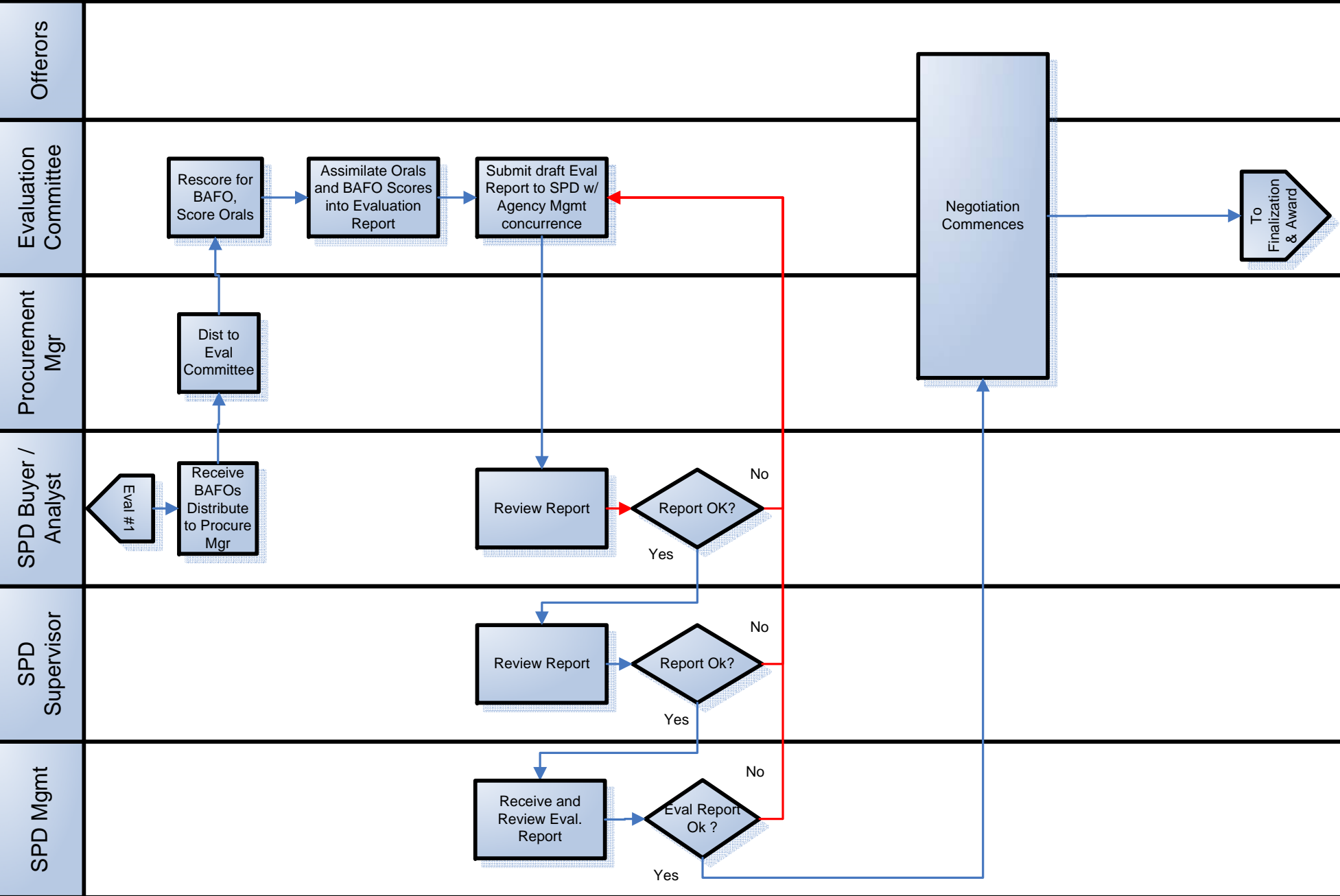
# RFP Pre-Proposal Conference, Q/A's, & Amendments



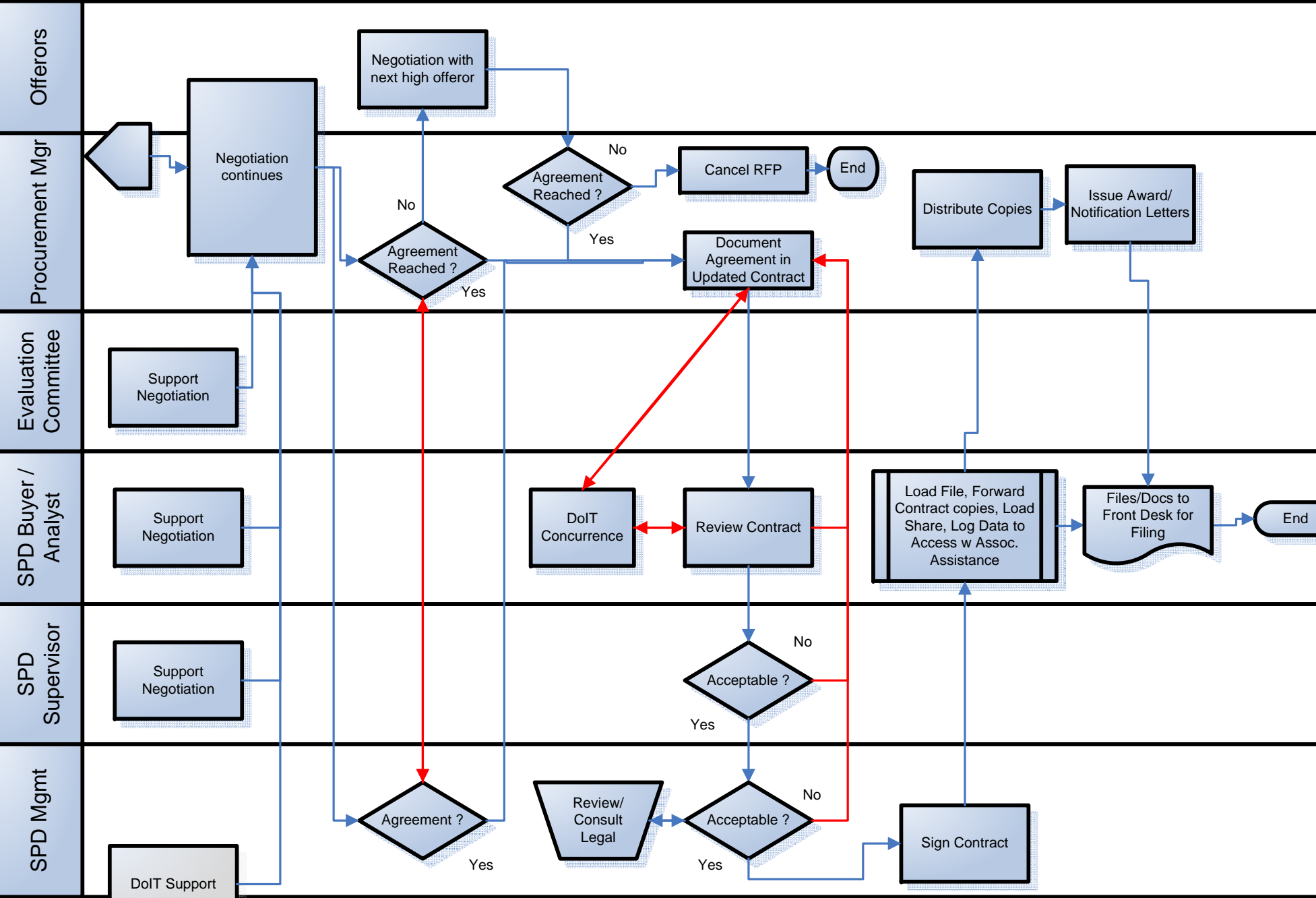


# Evaluation Process





# RFP Finalization and Award



## **Appendix D- Sole Source Process/Requirements**

By definition, sole sources are not encouraged by the State Purchasing Division because pricing and terms and conditions are difficult or impossible to negotiate. No open market exists to validate that pricing and terms and conditions are reasonable, and the State's leverage in negotiating with the sole source provider is limited.

### ***Requirements:***

- Request and Justification Letter from Agency
- Sole Source Validation Letter from Vendor
- Requisition
- Quote from Vendor
- Approval/Concurrence from DOIT if IT related
- Documentation that the sole source is justified (no other source is available)

### ***SPD Action***

- Ensure above-listed requirements are met
- Try to alternate source the effort
  - Check industry websites
  - Google
  - Other Sources
- Post the sole source specifications on the SPD website to allow vendors to challenge the request. \*
- Document attempt to source
  - Reject request if alternate sources are identified
  - Accept if no other sources found
- Negotiate the best terms possible with the sole source provider
- Issue a contract for maximum of one (1) year. (Justification will need to be validated on a regular basis)
- Create file
- Load into SHARE

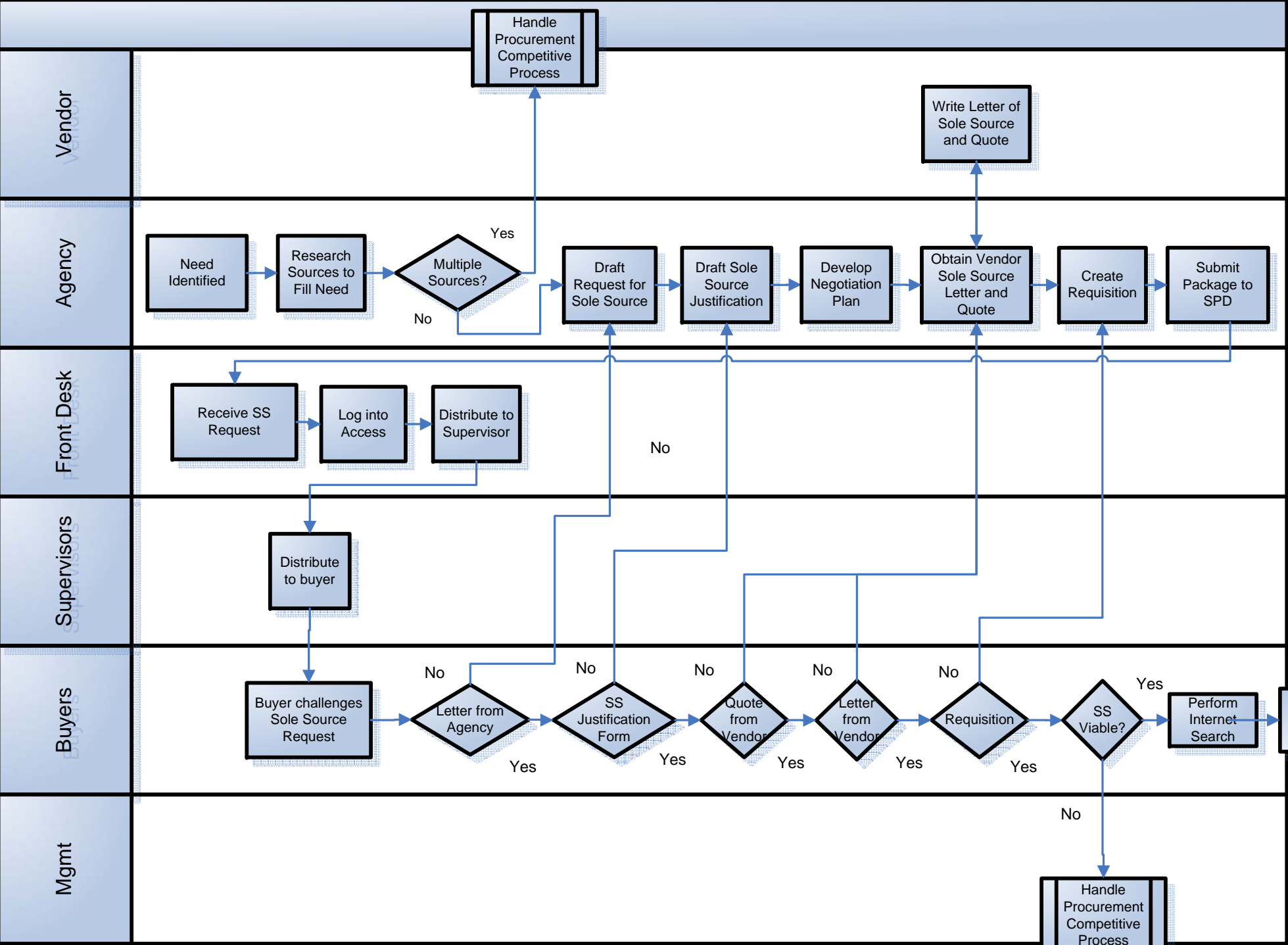
\*Note: State Purchasing is revising its process to include:

- Post the Sole Source Request on the SPD website for a minimum of ten (10) business days to allow vendors to respond with their capability to fulfill the request. If a vendor responds with a viable alternative, reject the sole source request and have the Agency competitively acquire the product/service. If no viable response is received, negotiate with the sole source provider and issue a contract for one (1) year. Justification will need to be validated on a regular basis.

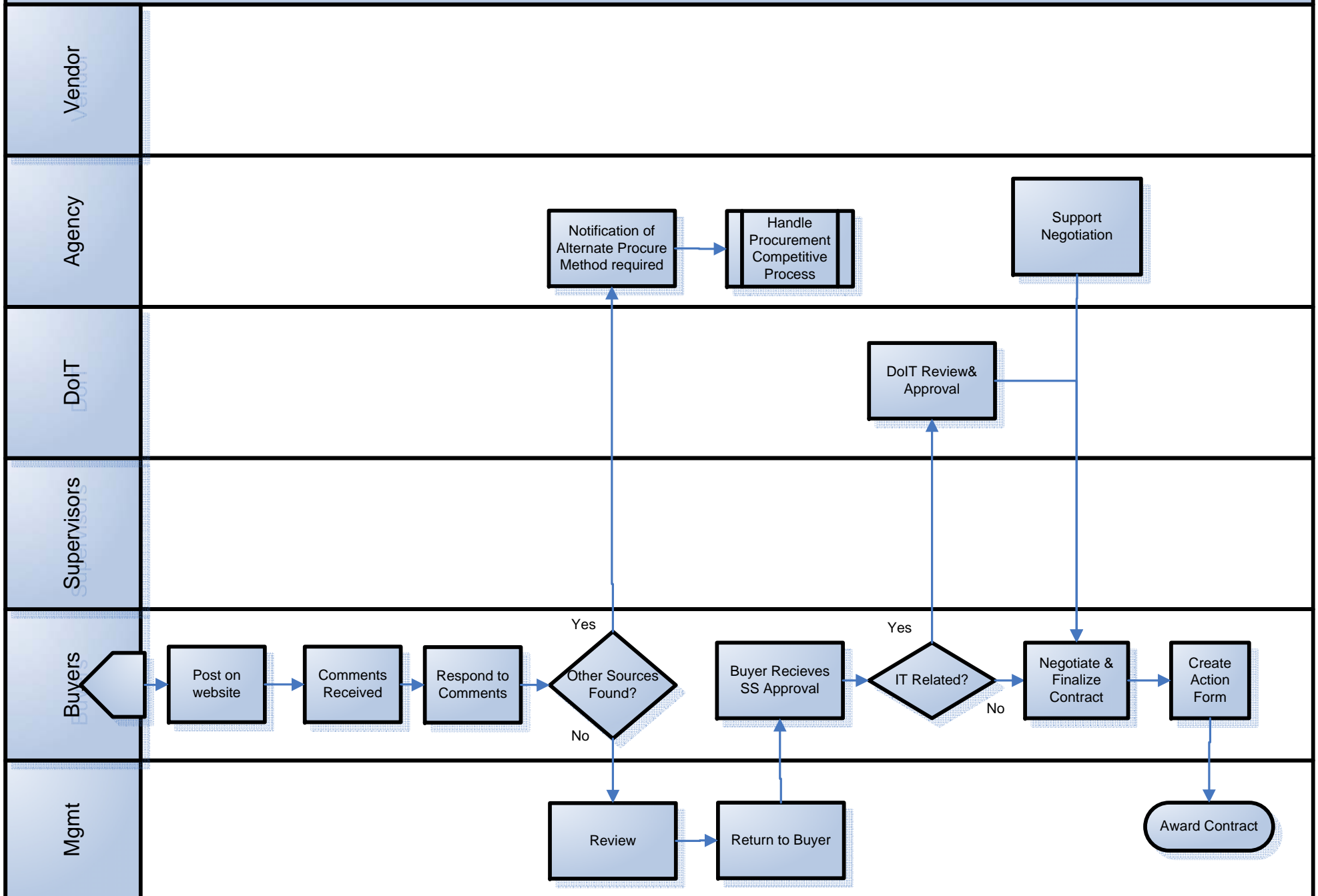
### ***Step-by-Step Process***

See enclosed graph.

Sole Source Page 1







## **Appendix E- General Services Agreements (GSA) Process/Requirements**

### ***Requirements:***

- Letter from Agency
- Letter from Vendor agreeing to extend the Terms, Conditions, and Pricing of their GSA # GS-XX-XXXX to the State of New Mexico
- Requisition
- Quote from Vendor if applicable
- Copy of Vendors GSA Contract for file
- Approval/Concurrence from DOIT if IT related

### ***SPD Action***

- Review documents for completeness.
- Create letter to GSA vendor for agreement of terms & conditions and Industrial Funding Fee. Get signoff by vendor.
- Create Action Form and give to Associate.
- Review and determine contract type.
- Type contracts, price agreement or PO
- Buyer reviews and initials
- Management Signs
- Copy mailed to procurer.
- Create file
- Post awarded contract to the web site.
- Load into SHARE

### ***Step-by-Step Process***

See enclosed graph.

# GSA Page 1

