

## **SPO 105 Part 2 – Competitive Sealed Proposals**

Welcome back to part 2 of the RFP training, which is conducted by the State Procurement Office. My name is Donn. So hopefully you were able to print out the PowerPoint presentation. I know there was a call that there was a problem in printing. So if not, it will be available on our website for future. So today we will focus on the evaluation committee, the evaluation criteria, and then the award.

So we saw this slide on Wednesday. But I want to go over it again. Prior to the preparation of the RFP, a determination will be made whether the procurement will be evaluated by the procurement officer or the evaluation committee and the names of the evaluation committee shall be placed and approved in the procurement file. You may use the form SPO 44 which will document the names of the committee members. Just take a quick run-over to the form itself and this is what it looks like. So you would fill out the RFP number and the title and your department. And then you would list here the individual names of the employees that will be participating in the evaluation process. So this is what the form looks like. It was part of the handouts and it is also available at our website.

So the committee members need to be made up of at least three government employees. As you saw on the form itself, you could include five or more if you wanted to. But at minimum, the evaluation committee needs to be made up of at least 3 government employees and if you take a look at the form you would need to describe why this particular individual has the qualifications and expertise to actually sit on the committee. Private consultants may serve. So you can have a non-government employee sit on the eval. committee but again, at minimum, 3 of the committee members need to be government employees. The contract administrator, this is the person that will be managing the contract once it's executed shall serve as a committee member. This person need not be the committee chair, however, they need to be a committee member. And for obvious reasons, this person should be very familiar with the procurement the proposal, which will be the resulting contract as this person will be monitoring managing, and ensuring that the contractor will perform as he had proposed. And then lastly the procurement officer shall serve as the adviser. So in this case if the procurement is being evaluated by the eval. committee then the procurement oversees the procurement. He or she would have delegation, would have training and would be very familiar with the procurement laws to ensure that the procurement is conducted according to all statutes and rules.

So again if the private consultant will be a committee member, they also should have a sufficient knowledge to serve on the committee. They shall serve without compensation. Unless determined by the HOPA. And they shall sign an attestation, which is the SPO form 24. All other committee members should also find the attestation.

So let's continue on with the slides and I can show you the form in a bit here. So by signing the attestation, what it commits the committee member to attest in having no personal business or any other relationship that would influence their decision during the evaluation process. So if for any reason there may be a conflict of interest, that the committee member perhaps may have any association with the potential offeror say that their spouse owns a business that would potentially bid. Then they need to excuse themselves sitting on the eval. committee. The eval. committee member shall also agree not to disclose any information during the evaluation process to any other employee or anyone else of that matter involved in procurement during the procurement process. Everything is confidential until award is made and then lastly, the eval. committee member shall acknowledge that their name will be become public once the contract is award.

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So we can take a look at that form and this is what the attestation form looks like so it would be completed as a government employee or non-government employee. This form is also used for professional services so you would need to check off that you're conducting a procurement for a request for proposals. The individual would print their name here and again as we have discussed the three bulleted items as the committee member that they would be signing their name here in that agreement as their participation in the procurement as a eval. committee member.

So as a committee member as I've mentioned, you would establish these members at the beginning of the procurement process. They would participate in the development of the RFP. They come with the expertise to help write some statement of work, specification and that is part of the reason why they sit on this committee. They will need to be familiar with RFP throughout the procurement process. They would help develop the criteria which ties to the scope of work and then finally when all the proposals come in they would be responsible to score individually as a committee member every proposal that does come in. So no other criteria shall be used and the score sheets that are developed will be made part of the procurement file.

The evaluation committee chairperson has even further responsibilities. This person shall ensure that all the committee members are apprised of any changes made to the RFP. So if an addendum is issued, it is their responsibilities to ensure that the members have a copy as to what the changes are that are published to the potential offerors and public. The eval. committee chair person will conduct all the meetings and be responsible for calculating the points for the evaluation and then compose a summary of scores. So as I've mentioned to you that the contract administrator shall serve as a committee member but not necessarily have to be the chair.

So as the chairperson, they may delegate some of the work. They may split up the work so that there's no duplication of the effort. So an example would be references. It would not be necessary for every committee member to check on a potential offer's reference. So the eval. committee chair may perhaps divvy up some of that work. Again, the eval. committee chair is responsible to ensure that the proposals are reviewed properly and then lastly, conduct any discussions after the initial scoring of the proposals by the committees completed. So basically when it's not practical to have all evaluation committee members, individual evaluate criteria such as a references that I've mentioned to you. To avoid all members performing the same work unnecessarily you may assign work to committee members. So the committee chair would summarize all the scores. The reason for the score summary is to determine priority lists so that the discussions can be held. The chair would normally conduct all the oral discussions with this priority listed offers and then also coordinate any written inquiries and responses to the inquiries. This is for the Q&A. And then lastly, if a non-selected offer request a debriefing, the eval. committee chair normally is the one that would be responsible for that. So that's why it is important that the individual members document on the score sheet and that the eval. committee chair is very familiar with everyone's comments and scores for each proposal.

So how do you put together a committee? So normally it would be made up of people that have specific interest in the procurement. These are the actual end users. These are the people that would be the recipients of contract services sometimes you may go outside of the office that you're procuring for to find others that have specialized work experts in the particular field. Say, financial procurement or other specific needs. So it really would depend on what you're procuring and who is available. Who you can

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tap into because if you have been involved in RFP process, it does take some time and effort and commitment.

So other ways that the eval. committee chair may have committee members assist is that they may assist in just specific parts of the solicitation. If it's a rather large complex procurement made up of different tasks or work type of groups then they may break up into those that have specific expertise in that area. Or even specific to responding to the vendor's questions in that area. Same with the eval. Criteria. So the evaluation criteria is going to explain to the potential offeror how they would be scored and what makes up the total number points. You may attach the score sheet to the RFP. It is not required and you may also indicate what the minimum points are required in order to make the cut list or potentially acceptable or acceptable lists. This is the priority list.

You may also indicate as far as criteria mandatory requirements. These are pass or fail type of requirements. The scored mandatory requirements and then the desirables. So it would be really dependent on how you package your RFP.

So mandatory requirements, these are the criteria that the offeror needs to submit in order to be considered. These are qualification type of information in order to pass or fail the order. In other words, if they don't make the mandatory requirements, they pretty much will be rejected.

So here's an example that I did for procurement for ergonomic chairs. And these are mandatory requirements. So I had a checklist in which the offeror had to provide all of these items in order to be considered for even evaluation. What I was asking for was letter of warranty from the manufacturer, proof of their being in business for five years, testing, certification and those type of things. In order for the dealer to even put in an offer, they have to provide these mandatory requirements for consideration even before submitting their offer.

So the evaluation really ties to the scope of work. Normally in the scope of work you would explain all the requirements in order to fulfill your goal and you need to explain in the solicitation how it will be evaluated how the points will be addressed for the individual criteria and what are the minimum acceptable limits.

So for desirables, the offerors need not to submit, however, they may be awarded extra points for best solutions.

So here's an example of evaluation criteria, for one of the solicitations that I've conducted. If you take a look here, the total points for this procurement is 100. So the proposed approach was equal to 40 points and everything else is 20. So this is the section you would include in your solicitation. And then explain the process. So in this particular procurement, this is for the office of election, they decided that they would have 5 criteria and the initial evaluation of the 5 criteria would result in the priority list. All the offerors that submitted proposals would be scored and they would need to have scored at least 75 points for the 5 criteria and if those that did make the cut list, they were required to then submit or perform an on-site demonstration in which one of the six criteria was evaluated. So again, you can be creative, it's nothing that says you have to straight-forwardly just stick with the criteria that I gave you as an example. It really just ties to your needs your scope of work, your end result, and how you determine and you want to evaluate to select the best contractor to do the work at a fair price.

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So when cost is an evaluation factor, then there is a formula that you have to use. So the proposal with the lowest cost factor must receive the highest available rating and that all the other proposal will be evaluated against that highest scored proposal and I'll show you the formula here.

So for example, if you receive 3 proposals. One of them is \$50,000, one at \$53,000, and one at \$55,000. So lowest priced proposal would receive the highest maximum points allocated for price. So in this case, 20 points. So the lowest price offer would receive the 20 points and all the other offers would be evaluated against that \$50,000 pricing. So obviously, if you do the math here. It's 19 and 18 based on the lowest price offer.

So the score sheet again, this may be published as part of the RFP or not. But you would need to develop something for you eval. committee members. So you would list all the items to be scored, you can group them into sections or even expand on the particular criteria and give smaller weighting within the category itself. What basically this is for the committee members to use to document as they're going through the evaluation.

So this is an example of the procurement conducted for the camping spending commission. As you can see here, background and summary was worth 10 points and they decided to further break down the points as far as how the applicant demonstrated thorough understanding of the investigator process. So maximum of 3 points was given there and another 3 points for how the goals and objectives were in alignment with the service activity. The second sheet wasn't attached but that was worth another 4 points. So again, just an example of what the score sheet would look like. This one was published but you don't have to publish yours in your RFP packet.

Okay, so normally what happens before all the proposals come in is.. Well first of all, you would have to come up with that score sheet. And then the eval. committee should have a meeting to discuss how the proposals will be evaluated. Because everyone should be evaluating the same way. So you need to decide. Do we all start from zero and then start adding points within each of the criteria for proposals that meet or exceed or do we start from maximum points and start subtracting for those proposals that are lacking in the certain criteria and then you want to double check and make sure that the score sheet actually really works. So you might want to do a trial run. So there's nothing to say that you cannot have discussions but initially every committee member would need to score every proposal.

So now that the proposals have come in, let's take a walk through the evaluation process.

So the first thing is to ensure that all the proposals were received by the date and time that you had indicated in your RFP package. Anything that is received late should not be opened and will be returned to the offeror as unacceptable. So we suggest that you have some kind of time stamp or time clock that would stamp each envelop and if any of the proposals are late, you wouldn't even open it. You would just put a letter on it and send it back saying it was received late. So the proposals, unlike the bids, will not be done publicly. So it would be done within the agency's office. And it says by 2 or more officials. Not necessarily the eval. committee members, but as long as it's official government employees that are opening all the proposals and receiving them you need to create a log that indicates who the proposals were received by and then to check all the mandatory requirements. On Wednesday, we've talked about the surety or the bid bond was required then those are the kind of things that you would be checking for. That they submitted all the things that you've said that was mandatory and if anything is missing then it automatically grounds for rejection.

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So this register we've talked about would notate all the proposals received because part of the requirement to the administrative rules after the date is established for receipt of proposals. A register of proposals shall be prepared, which shall include the name of the offeror, number of the modifications received, if any, any description sufficient to identify the good/service or construction item offered. This register shall become open to publicly inspection upon notice of award and the same goes for the proposals. Once the award is made it would be available to the public.

So normally in your proposal your request for proposals, you would be asking for an original copy and additional copies. One for the public inspection file and one for every committee member. So we normally would keep the original in a stored or secured place and then a copy so that we can use that later for the public inspection file and then every committee member should have a copy of every proposal in its entirety for review unless you've decided to divvy up some of the work. Again, as non-voting members and subject matter experts that need to review certain parts. Again, it really just depends on your procurement. But every committee member should have a copy of the proposal so that he/she can mark it up and make notes and complete the score sheet as an individual committee member. The proposals after award can be shredded other than the original and a copy for the inspection file.

Okay so once every committee member has reviewed each proposal, they can start to put their scores down. So normally it takes some time to go through these proposals. You may not be able to put a score on every criteria on your first review. But go ahead and at least complete as best as you can. Keep notes, indicate where something is lacking, or needs clarification but you should be as a eval. committee member able to score and put something in there as a committee reviewer and as a committee member. And then come together as a group to discuss. There's not a problem with doing that. Again, every member should score individually. But after that's completed then there's not a problem with having discussions. And then if there's a preference, perhaps, there is a software preference or any other type preference, then that would be applied to the pricing, which normally the eval. committee chair would calculate. So as you're evaluating as a committee member, you shall only consider the factors, in the RFP, and nothing else. The relative priority to each of the apply to each evaluation factor based on what was noted on the RFP and each committee member shall explain his/her ranking and determination in writing. Again, this is part of the score sheet and will be placed in the procurement file. Because written ranking shall be available for public inspection after the award of the contract. So what would happen is individual scores the eval. committee chair would take all of it, compile it, take a average of the scores, and then make a summary sheet. But the backup of individual score sheets should also be maintained and as I've mentioned the proposals with the lowest cost factor must receive the highest available rating allocated to cost and all the other proposals will have a rating based on that lowest price proposal. So evaluation may not be based on the discrimination to race, religion, color, national, origin, sex, age, marital status, pregnancy, handicap, or political affiliation of the offeror.

So here's a little flow chart as far as making the award. So as you're going through the proposals, the eval. committee would determine whether there is a need for discussion. If there is a need for discussion then the priority list would need to be created. So each of the proposals, if you had a cut off like I've showed you in the example of office of election was 75 points. You would use that or you would need to create a priority list based on whether the offeror's proposal is acceptable or potentially acceptable and that anything else would be unacceptable and not make the priority list. Once that is create then you may hold discussions with the individual offerors for clarification to their proposal and if

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necessary, you may call for a BAFO once the best and finals are received, again the eval. committee will evaluate and score this best and final offers and go ahead and make an award. Sometimes there's no need for discussion and you can go straight to making the award.

So before conducting discussions with any offerors, as I've mentioned the priority list will be generated and determine that each proposal will be acceptable, potentially acceptable, or unacceptable. You may indicate in your RFP that the priority list may be limited to at least 3 of the highest ranked proposals. But it needs to be at least three highest ranked at minimum.

So the discussions are normally held to promote the understanding of the requirements of the priority listed proposals. If it's unclear or maybe something missing or that you couldn't find it in their proposals. So truly that's what the discussions are held. The reason for it to be held. And then provide better understanding to them as to what the State is trying to achieve. So you would normally use the scoresheet for the basis of the discussions.

So anything that is discussed orally through these meetings needs to be put in writing and if during the discussions, there's a need for any substantial clarification or change to RFP then that would be amended by addendum. The addendum will only be distributed, however, to the priority listed offerors. So what we usually do is put together a list of written Q&A. We send it on off to individual offerors as it gives them time to respond before we have the actual in person or over the phone discussion.

And then if a best and final is required, we would issue an addendum through the RFP, which is calling for the best and final. So we would determine what the date and time would be and then describe whether their proposal can be supplemented with the best and final or whether they submit a new proposal all together but they need to be told that if they submit nothing then their initial offer will be BAFO (Best and Final Offer). So BAFOs can be called for only once. Once the BAFOs are received, there are no other discussions. Scoring would take place and then an award will be made. However, if there's a need to request for additional BAFO then anyone above the procurement officer level, so HOPA or CPO may make a determination that an additional BAFO would be required. So that would be documented and be placed in the file.

So the award, once you determine who the highest score is, shall be issued in writing and obviously the evaluation criteria scoring would represent that. The award will be posted for five working days. This allows for the protest period. So what we suggest is that you in addition to issuing the notice of award is to also send a letter out to the non-selected offerors to let them know that they were not selected. Because it starts the clock for the protest period. So for the executive departments, the notice will be placed on the notice's site and awards site.

If for any reason, only one offer is received then the cost of pricing data must be completed. What this does is to ensure that for those procurements exceeding \$100,000 or more that justification that the price is fair. And this would include, the total price includes any aggregate adjustment up or down in excess of \$100,000. So if you receive a sole offer, you would need to explain since there's nothing to compare it to with the other proposals that the price is a fair price. But if the contract is based on multiple offers. For example, price is published in a public price list or catalog then the cost/pricing data is not necessary. It wouldn't hurt to do it but it's not necessary.

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So if you do receive a sole offer then procurement officer need to make a determination in writing. Again, that the price is fair and reasonable and that other prospective offers had opportunity to respond or that there's not enough time for re-solicitation. So this all needs to be documented and placed in the file if there's a sole offer.

The offer may rejected if the price is not fair and reasonable and then you move it into alternative procurement.

If you've determined for whatever reason, at this point, the procurement may be cancelled. As I've mentioned to you, if not the next step, would be alternative procurement.

So alternative procurement requires a CPO's approval. Once it's approved, direct negotiations may be conducted. It has to start with the sole offer first and then any other offer should the negotiation fail with the sole offer.

So what you need to consider if you receive no offers is time constraints, competition, and the market place or whether the additional potential costs of preparing, soliciting, and evaluating another competitive sealed proposal is expected to exceed the benefits if you put out another procurement.

So if you take a look at the SPO form 15, which is available from our website. You would need to explain the reason for selection and length of the contract period. Again, it does require CPO approval and this once approved document shall be placed in the procurement file.

So your contract should contain these items as it listed here. Again, we've talked about register. These are all the proposals that were received. The listing of all vendors to who copies of the RFP were distributed. So these are all the interested parties that came to either pick up or downloaded the RFP as interested vendors and the awardee and the dollar amount, the basis of when the award is made, so this would be a part of your scoresheet or your summary, a copy of the RFP, a copy of the successful offeror's proposal and all the other unsuccessful offeror's proposals and then lastly the executed contract. So these are the main documents that need to be maintained in the contract file for each individual procurement.

And as far as public inspection, we would normally create another file and this is in the case of anyone requesting public access and anything that's marked confidential, however, should not be in this public inspection file.

If however, there are request to inspect these so called "confidential items," there is a process that would need to be conducted through the OIP process. So your department should be familiar with the form that needs to be completed as this is not only pertinent to procurement but any public record that the public is interested in viewing in your department.

Okay so the purpose of the debriefing after the award is made, the non-selected shall have the opportunity to find out why they didn't score as well and it's not intended as a comparison but why they did not score the maximum points. You would give them a copy of their scores and a summary of all the other scores and perhaps give them a little breakdown as to why in the particular area they did not get the maximum points. So this is where your scoresheet comes in and the compilation of all the eval. committee members' comments.

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So in your solicitation, you would need to disclose that the request for debriefing shall be made within 3 working days after you issue the notice of award that you've posted for executive departments on the PNS or wherever else you're placing it for other the departments and the nonselective offeror in the debriefing would only be discussing their own proposal. So as I've mentioned you wouldn't be really doing a comparison that company A got 20 points and I only got 18 so why is that? The discussion normally would go as to you weren't given the maximum 20 points because you were lacking in this particular area and etc.

So the debriefing shall be held by the procurement officer within 7 working days and we would recommend doing the debriefing individually and not as a group. So normally in addition to the procurement officer the eval. committee chair would be there to respond to any inquiries need by the non- would be there to respond to any inquiries made by the non-selected offeror on behalf of the committee.

Protest shall be found within 5 working days following the debriefing. The protest actually also can be filed within 5 working days of the notice of award. There's 2 times actually there's 3 times that a protest can happen. During the procurement process the interested party to protest the spec, and the scope of work anytime up to the proposal due date. After that anything related to the specs or scope of work will not hold up in the DCCA for the specs. The only thing that can be protested once award is made is the award. So once award is made, the protester or the interested party has 5 working days to protest. If there's a debriefing held, then actually that gives the aggrieved another 5 days. So once a protest is received, everything stops. We recommend that you seek your legal counsel and then proceed to respond to the protest but nothing else can continue. So that's why it is important to note that do not try to execute a contract on another contract that's expiring only 5 days after issue of the notice of the award. You need to allow for the protest period. If some of you have been doing procurement you know that once you receive a protest, it takes time to resolve it and you also need time to allow for administrative hearing. So keep in mind the protest period and the administrative hearing process when you try to execute this process.

So to summarize from Wednesday and today, basically you need to determine whether the RFP process is the most appropriate method of procurement for your particular purchase. Form the committee and put together the RFP and criteria. Put the notice out to invite potential offerors and then all the proposals will come in and they will be evaluated. A priority list will be created in order to have discussions if necessary and then a call for BAFO if necessary then the next step would be to do what you did with the initial round, which is to evaluate all the proposals and then determine the awardee and make the award and post it. Conduct debriefing if there's a protest respond to that.

So there were other attachments that were part of the training today. I've shared with you the two forms and then this a little summary for the procedures for debriefing. If it's something that you can refer to if you have any questions. We didn't talk too much the other day about the checklist but we can go over that now but this basically is broken up into the several parts of pre-procurement. So before you even conduct procurement, you're required to get certain approval if you're buying IT equipment then it needs to go through the T-205 process. Any governor approval and then as far as pre-solicitation before you put it out, you also require certain approvals multi-term the attestation that we've talked about the eval. committee, member of qualification and then you're going to release the RFP (request for proposal) and these are the steps that we've just talked about earlier this morning and then the post



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award creating the public inspection file and the contract document itself. What it needs to consist of and then lastly these are your standard forms in executing a contract. What I'd like to do now is take a little break before we get to the Q&A. Let's go ahead and take a 5 minute break and be back at 10 o'clock. Thank you.