

**State Procurement Office
Workshop No. 220
Evaluating Proposals for an RFP for Health and Human Services
HRS Chapter 103F**

Slide 1: Title Page, Evaluating Proposals for RFPs for Health and Human Services (Title Page)

Welcome to the State Procurement Office's Workshop No. SPO 220, Evaluating Proposals for RFPs for Health and Human Services, pursuant to HRS Chapter 103F. This workshop will provide a brief overview of evaluating proposals received in response to a request for proposal.

Slide 2: What Have We Learned About the RFP Process So Far

To refresh your memory, let's summarize what we have learned so far about the RFP process for procuring health and human services.

1. We started with planning which is covered under HAR Chapter 3-142. Remember, planning is an oh so important part of the procurement process.
2. Next we did a request for information, which is covered under HAR Chapter 3-142. Conducting an RFI is mandatory when preparing and developing an RFP.
3. We put together and issued the RFP, covered under HAR Chapter 3-143. We posted the procurement notice on the internet and the request for proposals on the RFP website. We conducted the orientation, which is mandatory and issued addenda, as applicable. The proposal submittal deadline is set, at a minimum, 28 days from the date the procurement notice is first published.

Slide 3: The RFP Process So Far (continued)

Then proposals are submitted. Now what do we do with the proposals and where do we go from here?

Slide 4: The RFP Coordinator

If you are the RFP coordinator, then you continue to take charge and play an active role in the procurement process. As the coordinator, you need to dedicate time to keep on top of the process, being mindful of the timelines and what needs to be done. As needed, have the commitment of your team members. Also, before the proposal submittal deadline, be sure that the evaluators are aware of the time commitment for evaluating proposals received in response to the RFP.

Slide 5: Submission and Receipt of Proposals

As the proposals are being submitted, be sure that your clerical staff are informed about the RFP. The proposals shall be date stamped, and when possible, time-stamped. The staff should also know where proposals should go as it is received and know who to refer questions to.

If there is more than one drop-off site, ensure that each office is aware of what to do if an applicant submits a proposal there. Also, if your agency has offices which are not designated drop-off points, then inform those offices about what to do in case someone tries to drop off a proposal there.

Prior to the proposal submittal deadline, all proposals shall be kept in a secure place and not examined until the submittal deadline.

After the proposals are open, save the proposal envelopes until after awards are made or contracts are executed. The reason for this is if anyone questions when an applicant's proposal was received, you have the evidence at hand.

Slide 6: When the Proposal is Considered Received by the Purchasing Agency

Now when is the proposal considered received by the purchasing agency?

Proposals that are hand delivered are considered received when actually received by the purchasing agency.

Proposals received by United States Postal Service is considered to be received on the date that the proposal is postmarked; however, it shall be actually received by the purchasing agency within 10 days from the postmark date.

Proposals sent by courier service, i.e., FEDEX and UPS, are considered hand deliveries; therefore, are considered received when actually received by the purchasing agency.

Slide 7: Late Proposals

Late proposals are covered under HAR §3-143-603. Proposals received after the set deadline are late and are rejected. You do not want to set precedence by accepting a proposal after the proposal submittal deadline, even if it's 1 minute late. LATE is LATE!

A notice of rejection is sent to the applicant, along with a copy of the time-stamped portion of the proposal package. The purchasing agency shall also include in the notice that the rejected proposal can be retrieved from the purchasing agency within 30 days, at which time it may be discarded in accordance with HAR §3-143-612.

Slide 8: Register of Proposals

Pursuant to HAR §3-143-615, the purchasing agency shall prepare a register of proposals within 10 working days, or a reasonable time after the submittal deadline, and shall be made available to the public. The register shall include the RFP title and number and the name of each applicant submitting a proposal.

Slide 9: Public Inspection of RFP Documents

HAR §3-143-616 states that RFP documents "shall be available for public inspection, to the extent permitted under current law governing information practices, after execution of a contract by all parties."

The procurement file shall include, but is not limited to:

1. The register of proposals;
2. A listing of all known providers that were distributed with copies of the RFP;
3. Names of successful applicants and the dollar amounts requested, as applicable;
4. The basis of which the award(s) were made;
5. Copy of the RFP; and
6. Copy of the proposals submitted.

Slide 10: Confidentiality

Confidentiality is covered under HAR §3-143-403(f) and HAR §3-143-604. All proposals are to be kept confidential and cannot be opened prior to the proposal submittal deadline.

After submittal deadline, before award and execution of contracts, all proposals are to be kept confidential to avoid disclosure of contents to competing applicants.

Slide 11: The Evaluation Process (Title Page)

Now let's look at the evaluation process.

Slide 12: Preliminary Review

After the proposal submittal deadline, a preliminary review of each proposal shall be done, making sure that all the required documents are there. The Proposal Application Checklist can be used for purposes of a preliminary review.

Hopefully, all the applicants are registered on Hawaii Compliance Express, so that you can verify their compliance. If they are not registered on Hawaii Compliance Express and the compliance verification does not accompany the proposal, it is not grounds for rejecting the proposal. Prior to award of a contract, the applicant would have to be in compliance with the Dept. of Taxation, Internal Revenue Service, the Department of Commerce and Consumer Affairs and the Dept. of Labor and Industrial Relations.

Slide 13: Missing Proposal Documents

So what if the proposal is missing some documents?

There are 3 types of omissions:

1. A required document is missing, but by not providing it along with the proposal it would not affect evaluation of the proposal, i.e., table of contents.
2. The provider forgot to include additional information, but the proposal is still responsive to the RFP without, i.e., some budget justification forms. The proposal can still be evaluated, but you may have to minus points for the section missing the information, if it was a proposal submittal requirement and part of the evaluation criteria. You can still evaluate the proposal, but may have to mark the applicant down if the information is a required part of the proposal.
3. A big chunk of the proposal is missing. The omission is so massive, that the proposal is rendered non-responsive. This proposal is one that cannot be evaluated. This does not occur very often.

Slide 14:

So what is a responsive proposal and a responsible applicant?

A responsive proposal would be one that addresses and conforms in all material respects to a purchasing agency's RFP or solicitation for statements of qualifications.

A responsible applicant is an applicant that has the capability in all respects to perform fully the contract requirements.

Slide 15: The Evaluation Committee (Title Page)

Now let's talk a little about the evaluation committee

Slide 16: The Evaluators

HAR §3-143-205(b) covers evaluators. Evaluation of proposals can be done by:

1. The procurement officer alone, or

2. An evaluation committee of reviewers selected by the head of the purchasing agency or the procurement officer. The committee shall consist of a minimum of 2 state employees with sufficient education and training to evaluate the proposals received.

Evaluators shall not have any actual or appearance of conflict of interest.

Documentation of the evaluation team selection shall be included in the procurement file. Be sure that the head of the purchasing agency or the procurement officer approves the selection.

Slide 17: Advisors

Non-state employees cannot be evaluators. They may serve as advisors, but they may not represent or act on behalf of a state agency in any selection/award.

As with evaluators, the advisors shall have no conflict of interest or appearance of a conflict of interest.

Slide 18: Evaluation Committee --- Question

This question pops up every so often, so let's cover it here. "We have an RFP where services are provided on multiple islands. Can we have a different evaluation committee for each island?"

If we refer to HAR §3-143-205(b), it states, "The procurement officer, or an evaluation committee of designated reviewers selected by the head of the purchasing agency or procurement officer shall review and evaluate proposals..."

The rule does not say "committees." It says "an evaluation committee," which means one. Another reason why multiple committees may not be good is that evaluation of proposals is subjective and if one applicant is applying to provide services on all islands, and certain proposal sections are the same for each island, there may be scoring differences, which will be questioned and possibly protested by the applicant. If the services are cultural type differences among islands, but the services are the same, then you might want to consider making the RFPs separate and work in the specific needs of the geographic area.

Slide 19: Selecting Evaluators

The evaluators selected to review proposals should have:

- Knowledge of the service
- Sufficient education & training to evaluate
- Be committed to the procedures required of an evaluator
- Be able to work with other committee members
- No conflict or appearance of conflict of interest

Slide 20: Conflict of Interest

So what is considered a conflict of interest? If you or any team member has any affiliation with any of the applicants, then the member should recuse him/herself from the team for that particular procurement. Conflict of interest could mean:

- Owning or having a financial interest in an applicant
- Having a relative working for one of the applicants
- Having previously worked for any of the applicants
- Current or past member of the board of directors for any of the applicants
- Served or serving as an advisor, consultant, representative to or for any applicant

A conflict of interest could also occur when one evaluation committee member may have undue influence over other evaluators that would prevent impartial provider selection.

Slide 21: Training Evaluators

Next, do you need to train your evaluators? Yes, that would be more than a good idea. All evaluators should be trained even they played an active part in developing the RFP. All evaluators should be trained together. Then all can hear the same thing as far as what the expectations are and any questions and answers that come up. The coordinator would usually be the one to organize and conduct the training. It's a good idea to have an agenda. A sample agenda for your evaluation team orientation is available on the SPO website, spo.hawaii.gov, search key words "Forms and Templates." Topics which you may want to cover are:

- Summary of the RFP process
- Applicants submitting proposals
- Conflicts of interest
- Confidentiality
- The RFP contents
- The evaluation process
- The evaluation criteria
- The evaluation score sheet and statement of findings and decision
- Allow time for questions and answers

Slide 22: Commandments for Evaluators

Even evaluators have commandments for being an evaluator.

1. Evaluators shall be trained and abide by the instructions and rules.
2. There shall be no conflict of interest or appearance of conflict of interest
3. Be familiar with the RFP and ask questions if any part of the RFP is unclear
4. Know the evaluation criteria
5. Evaluate each proposals based solely on the evaluation criteria stated in the RFP and don't compare proposals. Each proposal shall be evaluated solely on its own merits.

Slide 23: Commandments for Evaluators (continued)

6. Proposal contents should be kept confidential and shall not be discussed with co-workers, family or friends, and shall be not be left unsecured --- out in the open.
7. Take notes and provide comments to justify the scores given.
8. Be courteous to other evaluators.

Slide 24: The Evaluation (Title Page)

Ok, let's move on the evaluation process.

Slide 25: Scoring

When it comes to scoring, there are 2 ways that proposals can be evaluated and scored.

1. Evaluators may score individually whereby the scores are tallied and averaged, or
2. Group scoring whereby the committee evaluates and scores as a group

Group scoring has its advantages:

As a group, the evaluators can share and discuss findings and determine the basis for the scores given. Group discussions are also helpful in that one evaluator may have seen something that another may have missed.

Slide 26: Sample Scoring

There are various ways that a proposal can be evaluated to arrive at the bottom line score. Check out various RFPs on the RFP website to find examples. The two RFPs noted on this slide:

<http://hawaii.gov/spo2/health/rfp103f/attachments/rfp8451298948792.pdf> and

<http://hawaii.gov/spo2/health/rfp103f/attachments/rfp8541301522732.pdf> are 2 examples.

Whatever method used to evaluate and score proposals, describe fully how it will be done, so there is no misunderstanding or question as to how the final score was derived.

Slide 27: Evaluation Procedures

When the evaluators are evaluating the proposals, be sure that the evaluations are based solely upon the evaluation criteria and their relative priorities as established in the RFP.

Evaluations, whether done individually or as a group, shall be done in writing.

Numerical scoring shall be accompanied by a written explanation or justification for the scores given.

Then when all proposals are evaluated, the proposals shall be ranked from least to most advantageous based on the evaluation scores.

Slide 28: Correction of Errors After Submittal Deadline

Occasionally, there will be errors within the proposal. Correction of errors after submittal deadline is covered under HAR §3-143-606. Only patent errors are correctable. According to the rules, a patent error is an error that is readily ascertainable by a reasonably knowledgeable person in the field of health and human services. That's a mouthful. What it's basically saying is that a patent error is one which will have no effect on the scoring or evaluation outcome. Examples of patent errors would be arithmetic, typographical, and transposition errors. Omitted signatures or missing table of contents could also be considered patent errors.

A word about arithmetic errors. If an applicant has an extension error, the extension can be corrected. As an example, if the applicant proposes a \$100/bed day for 365 days and enters the total as \$3,650 instead of \$36,500, the total extension can be corrected. As an FYI, the base unit price cannot be changed by the purchasing agency. Using the same example, if the applicant made a mistake and instead of entering \$100/bed day, entered \$1.00/bed day as the unit rate, but has the extension total as \$36,500, then not knowing whether the wrong entry was intentional or unintentional on the part of the applicant, you cannot change the unit rate. In this case, you change the total extension from \$36,500 to \$365, but you can't change the \$1.00 unit rate. If by chance, this applicant is in contention for an award, then call the State Procurement Office for options.

Slide 29:

As an exercise, let's look to see which of these are patent errors.

1. If an applicant omitted submitting the checklist, is that a patent error?

If you said yes, that's correct. The checklist would not affect the evaluation or the outcome of that proposal.

2. If an applicant submits the wrong performance measures and want to submit the correct ones after the proposal submittal deadline, is that a patent error and would you allow the applicant to submit it?

If you think this is a patent error, then you are wrong. In the scenario, the mistake is not a patent error. The performance measures would be something that would be evaluated and scored. In fairness to all other applicants, the applicant would not be able to submit the performance measures after the proposal submittal deadline.

3. What if the applicant did not sign the proposal application? Would that be a patent error?

Yes, that can be a patent error. It would not affect the evaluation or the outcome.

4. Lastly, if an applicant forgot to submit the budget justification for personnel, would that be a patent error?

In this case, it would not be a patent error that can be corrected after the proposal submittal deadline. During the evaluation of that particular section, the proposal would be marked down, as applicable, based on the established criteria.

Hopefully, you now have a better idea of what is and what isn't a patent error.

Slide 30: Discussion with Applicants after Proposal Submittal Deadline

Now let's talk about discussion with applicants after proposal submittal deadline, which is covered under HAR §3-143-403. Discussion with applicants after proposal submittal deadline may be conducted to clarify elements of the RFP or the proposal. As an example, you receive 3 proposals in response to an RFP, but for one particular section, all 3 applicants seemed to have missed the point. You could have a discussion with each of the applicants to clarify their understanding of the section, which could result in requesting for final revised proposals.

If you require discussions with applicants after proposal submittal deadline for clarification purposes, then establish procedures to conduct the discussions. Provide enough time to speak to the applicants. Have a discussion format and the topics which are to be discussed.

Slide 31: Addenda after Submittal Deadline

HAR §3-143-301 discusses addenda after submittal deadline. Addenda issued after proposal submittal deadline are issued for the purposes of clarification, correction, modifications which is not a material change to the RFP, or for final revised proposals.

Slide 32: What is a Material Change?

What is considered to be a material change? Pursuant to HAR §3-143-403(e), material change is any change that would have affected a potential applicant's decision not to apply.

Okay, let's look at some examples. Would these be considered a material change after the proposal submittal deadline?

1. Would increasing the units of service by 50% be a material change:

Yes, it would be a material change because a provider who did not submit a proposal might say, "Had I known that the units of service would be so much, I would have submitted a proposal."

2. What if a purchasing agency wants to add \$100,000 to an existing \$100,000 contract? Would that constitute a material change?

Yes, that would be a material change. Increasing contract funding 100% may have a potential applicant say, "Had I known that it would be a \$200,000 contract, I would have submitted a proposal."

3. What if a purchasing agency wants to change the content of a required monthly report?

In most instances reporting would be incidental to the contract; therefore, it would not be a deciding point as to why a potential applicant would not submit a proposal. However, if the reporting requirements were so stringent and convoluted, that it wasn't worth the potential applicant's time to apply, but now the purchasing agency wants to relax the reporting requirements, the potential applicant might say that initially it might not have been worth their time; however, had they known it would be more relaxed, they would have submitted a proposal. So, depending on how it's structured, this example could go either way.

Slide 33: Final Revised Proposals

Ok, a little bit about final revised proposals which is covered under HAR §3-143-607. Final revised proposals allows responsive and responsible applicants to make a best and final offer or to respond to matters, such as those raised through discussions.

Slide 34: Final Revised Proposals (continued)

The call for final revised proposals is done by way of an addendum, which shall include:

1. Information that the addendum is a request for final revised proposals;
2. The submittal deadline;
3. Procedure for submittal if the procedure is different from submitting the original proposals;
4. Instructions that only the sections amended should be submitted;
5. A statement that if the applicant does not submit a final revised proposal, the last proposal submitted shall be considered to be the final revised proposal.

Slide 35: What Happens if...

Now what happens if:

- Only one proposal is received?
- All proposals received are either not responsive to the RFP or not submitted by a responsible provider?
- No proposals received?

Slide 36: Inadequate Response to an RFP

If you look at HAR §3-143-609, it provides options for treatment of a single proposal, or when no proposals or no useful proposals are received.

First let's talk about treatment of a single proposal. When only 1 proposal is received in response to an RFP, you can:

1. Do a cost analysis to validate the proposal's cost factors including cost or pricing data;
2. Award, if both of the following conditions are met:
 - The proposal is responsive, the terms are reasonable and satisfactory, and
 - Other prospective applicants had a reasonable opportunity to respond
3. Reject the proposal. If the conditions under item 2 are not met then you can either reissue the RFP or cancel altogether.

Slide 37: Treatment of a Single Proposal (continued)

4. Or you can enter into direct negotiations with the applicant, but your purchasing agency needs to do a written determination that:
 - The need for the service continues;
 - The single proposal is not satisfactory and reasonable; and
 - There is no time to reissue a new RFP, or re-soliciting would likely be futile.

Slide 38: No Proposal or No Useful Proposals Received

If you do not receive any proposals or you receive no useful proposals, then you can:

1. Reissue the RFP;
2. Revise the services and reissue the RFP;
3. Cancel the procurement altogether; or
4. Select without competition.

Slide 39: No Proposal or No Useful Proposals Received (continued)

If the option is to select without competition, then the purchasing agency shall do a written determination based on:

1. Competition in the marketplace;
2. The potential cost to resolicit will exceed the benefits; and
3. Any other relevant factors.

Slide 40: Rejection of Proposals

Aside from mandatory rejections, proposal can be rejected for reasons including but not limited to:

- Failure to cooperate or deal in good faith;
- Inadequate accounting system;
- Late proposal submittal;
- Proposal not responsive; and
- Provider not responsible.

Slide 41: Cancelling the RFP after Submittal Deadline and Prior to Award

Now let's say that after the proposal submittal deadline, but before award, the purchasing agency wants to cancel the RFP. Can they? Pursuant to HAR §3-143-613, the RFP can be cancelled for the following reasons:

- Faulty specifications
- Purchasing agency left out major service factors
- No adequate responsive proposals were received
- Reasons to believe that the proposals were not independently arrived at, collusion, or submitted in bad faith
- Lack of funding
- Any other reason determined to be good cause

When an RFP is cancelled after the submittal deadline, but before award, a notice of cancellation shall be sent to all applicants or prospective applicants and shall include the following:

- Identification of the RFP;

- Brief explanation of reason(s) for cancellation;
- When appropriate, a statement that the RFP will be resolicited;
- Other pertinent information, as applicable.

Slide 42: Procurement File Documentation

- If evaluations are done by individual evaluators then the evaluation sheet and comments become part of the procurement file.
- If evaluations are done as group scoring, only the group scores and comments become part of the procurement file. An individual's notes do not become part of the file in group scoring.

Evaluation score sheets and comments are accessible to the public after contracts are executed by all parties.

Slide 43: Procurement File Documentation (continued)

Also included in the procurement file are:

- A listing of all evaluators and any evaluator changes;
- The final evaluation score sheet for each applicant and the basis (comments) for the scores;

Slide 44: Procurement File Documentation (continued)

- Register of proposals
- Record of RFP cancellation and rejection notices, as applicable.

Slide 45: Thank You

And that brings us to the close of Workshop No. SPO 220, Evaluating Proposals for an RFP for Health & Human Services. The next workshop, No. SPO 225, will cover getting from the notice of award to an executed contract for health & human services. Before you exit out of this workshop, a self-certification attendance form will pop up on your screen. Please complete and click on the submit button. Soon after there will be a link for a short survey which we would like you to complete. We appreciate your feedback. If you have any questions regarding what was covered in this session, please call or email me, Corinne Higa at phone number or email address shown on this page.

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