



### STANDARD

The receipt, opening, and evaluation of requested documentation from potential suppliers must be carried out by a competent evaluation panel and in accordance with all applicable laws, as well as the principles of impartiality and transparency. Those involved in the process must maintain integrity and professionalism in all aspects of evaluation. All submissions received must be kept secure during the evaluation process<sup>1</sup>. The confidentiality of the submitted documents must also be maintained subject only to applicable freedom of information or public records legislation.

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#### Definition

**Evaluation Process** is the process by which a qualified panel or responsible individual receives, opens and evaluates the requested documentation from potential suppliers. The evaluation process is a complete review of the received proposals based on pre-defined evaluation criteria. The criteria should be comprehensive enough to determine the best value solution for the public body so that a recommendation for award can be made. (See Practice: *Developing Evaluation Criteria*).

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#### Element 1.1: The Evaluation Panel<sup>2</sup>

The evaluation panel must be competent and able to identify the most appropriate outcome, by using the pre-determined evaluation criteria and make a recommendation for award to the contracting authority.

**Preparation and Planning** – Advance planning is important for the timely and proper conduct of the evaluation process. It is recommended that the evaluation panel hold a preparatory/ planning meeting before the requested documentation is received. All members of the evaluation panel should understand:

- The process to be followed including signature of a “no conflict of interest statement”, where applicable
- How criteria and scoring will be applied
- Legislative constraints
- Their responsibilities while serving on the panel
- Timescales for the evaluation process
- The agreement to an evaluation timetable including scheduling meetings of the panel.

**Operation of the Panel** – The way in which the members of the evaluation panel operate (e.g. whether or not they jointly or independently access the submitted documentation) depends on local law and practice. Regardless of the operation method that is chosen, panel members must serve only the public entity's interests to ensure the fairness of the evaluation process, and must never manipulate or unfairly influence other members of the panel.

## Public Procurement Practice

### THE EVALUATION PROCESS *(Cont'd)*

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**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.

In addition:

- The requested documentation must remain unopened and secured in a safe location until the established time for opening such information has been reached.
- Before opening, information concerning the identity and number of submissions received shall be made available only to government employees. Such disclosure shall be only on a “need to know” basis.<sup>3</sup>
- Submissions received after the established deadline may be rejected and returned unopened to the offeror/ proposer who submitted them and a record made of this decision. The offeror/ proposer is allowed to revoke their submission prior to the closing date. Should this occur, the submitted documentation should be returned unopened to the offeror/ proposer.

**Opening** – The opening of the submitted documentation may be public or non-public.<sup>4</sup>

- **Public Opening** – If a public opening method is chosen, the submitted documents should be opened publicly in the presence of authorized individuals at the time and place indicated by the contracting authority.<sup>5</sup>
- **Non-public Opening** – If a non-public opening method is chosen, the submitted documents should be opened in the presence of the evaluation panel members only.

**Compliance** – Once the documentation has been opened it should be checked for compliance with the requirements of the tender.

- **Procedural Compliance Check** – consists of evaluating the submitted documentation for compliance with procedural requirements established by the contracting authority (e.g. submission of the correct number of copies, submission of requested documentation). To avoid mistakes, a checklist of the procedural requirements should be used when evaluating the submitted documentation to ensure legal certainty and reduce the number of non-compliant submissions.
- **Technical and Substantive Compliance Check** – consists of evaluating the submitted documentation for compliance with the specifications and contract conditions and other fundamental substantive requirements (e.g. insurance requirements).

#### Non- Compliance

- **Fundamental Procedural Requirements** – As a general rule, non-compliance with any of the fundamental procedural requirements, specifications, and other technical and substantive requirements may result in the rejection of non-compliant submissions. The evaluation panel should establish (prior to evaluation) which procedural requirements will be classified as substantive so that non-compliant submissions are easily identified. It is against the principle of *impartiality* to accept non-compliant submissions. Reasons for rejecting a submission for non-compliance with specifications or other substantive requirements must be clearly explained, documented in the evaluation report and relayed without delay to the affected offeror/ proposer. The decision to reject a bid may need to be ratified by a qualified lawyer.
- **Non-Fundamental Requirements** – Non-compliance with non-fundamental requirements (e.g. submission of a number of copies that is fewer than the required number of copies) should not constitute a reason for the rejection of the submitted documentation, but should lead to a request for clarification that will rectify the error or omission
- **Requests for Clarification** – can be used for clarification of non-fundamental and fundamental requirements, but it may not be used to bring fundamental requirements into compliance. When a request for clarification is necessary it is important to remember:
  - Requests for clarifications do not imply negotiations.
  - Any request for clarification and its corresponding response must be in writing and provided to all offerors/ proposers, if the clarification is applicable to all offerors/ proposers.
  - The evaluation panel must agree on any request for clarification before it is sent.
  - Any agreed upon request for clarifications must be sent exclusively through the chairperson of the evaluation panel. Individual members of the evaluation panel are not allowed to contact the potential supplier/s directly in order to seek clarifications.
  - The clarification correspondence exchanged must be summarized in detail in the evaluation report, with a clear indication of whether the answers received are satisfactory to the evaluation panel, and if not why not.
  - In supporting the principles of *transparency* the exchanged correspondence must also be added to the evaluation report.
  - Any unrequested information provided in the tender (solicitation) should not be considered by the evaluation panel.

#### Element 1.3: Evaluation<sup>6</sup>

The evaluation panel or responsible individual must make sure that the received documentation is complete and that it complies with all of the requirements set by the contracting authority. The evaluation panel should then apply the previously announced evaluation criteria to evaluate the tenders (*See Practice: Developing Award Criteria*).





## Public Procurement Practice

### THE EVALUATION PROCESS *(Cont'd)*

#### Choosing the Best Offeror/ Proposer

Following the compliance check, submitted documentation from offerors/ proposers should be evaluated against the previously advertised evaluation criteria.

##### ■ Evaluating for lowest price

When evaluating for lowest price all offerors/ proposers must have met the procedural requirements and formalities, as well as the mandatory specifications and any other substantive requirements. Once this has been verified, the evaluation panel should examine the submitted documentation to ensure:

- Prices include all of the price elements in accordance with the requirements set forth in the notification of contract or solicitation documents.
- Arithmetical errors are corrected and recorded.
- Discounts are applied.
- Prices that appear to be abnormally low are appropriately investigated.

##### ■ Evaluating based on pre-announced Award Criteria *(See Practice: Developing Evaluation Criteria)*

When evaluating for criteria other than lowest price, all offerors/ proposers must have met the procedural requirements and formalities, as well as the mandatory substantive requirements. Once this has been verified, the evaluation panel should examine the submitted documentation according to the advertised specific criteria and their relative weightings. If a more detailed evaluation methodology was disclosed in the notice for contract or solicitation documents, then that methodology must be followed. The members of the evaluation panel must:

- Use a consistent approach when scoring against the pre-announced criteria.
- Evaluate the documents on the pre-announced criteria and weightings, sub-criteria and weightings, and/or evaluation methodology.
- Ensure that all costs are included, where requested by the evaluation criteria.
- Correct any arithmetical errors, unless they are substantive to the bid.
- Apply any discounts.
- Appropriately investigate any prices that seem abnormally low.
- Record scores in grids/ matrices and for the purpose of transparency, attach the grids/ matrices to the evaluation report.

#### Element 1.4: Award

##### Meeting of the Evaluation Panel

Once all members of the evaluation panel have completed their independent review of the non-financial criteria, the financial evaluation will usually be conducted by the whole evaluation panel to establish the ranking of the offerors/ proposers and will make a recommendation for award. At this meeting the evaluation panel will:

- Consider the scores and comments allocated by each member of the evaluation panel.
- Request any clarifications from offerors/ proposers or solicit expert advice to recommend how to resolve significant differences. The method chosen to resolve such differences should be agreed to in advance and in line with applicable policies and laws.
- Consider other issues (e.g. abnormally low prices, equally-ranked offerors/ proposers, etc.)
- Make a recommendation for award.

##### Recommendation to Award and Evaluation Report

In accordance with applicable laws, the evaluation panel:

- Will issue the recommendation to award to the contracting authority.
- Will include the recommendation to award within the evaluation report.

The report should be prepared by the chairperson of the evaluation panel with support from panel members. The evaluation report should include:

- Names of the members of the panel
- Description of the contract which is the subject of the evaluation process
- Confirmation of the recommendation of the panel
- Names of unsuccessful offerors/ proposers
- Clear summary of the activities, analysis, and associated results that were carried out by the evaluation panel during the evaluation process
- Clear justification for the recommendation that is being made
- Attachment of all documentation drawn up by the evaluation panel during the performance of its tasks.

### **Award Approval**

Depending on applicable law, the contracting authority will make the final approval for awarding the contract and:

- Verify that the process of evaluation of submitted documentation was conducted properly
- Ensure that the recommendation of award is sound and correct
- Make the final award decision.

### **Award Notice**

Once the award approval has been given, the contracting authority must notify the successful offeror/ proposer in writing that their submission has been accepted for contract award. All other offerors/ proposers must also be notified of the final decision to award.

### **Mandatory Standstill**

Following written notice of award, a mandatory standstill period<sup>8</sup> (3-15 calendar days depending on applicable law and practice) must elapse between the award notification and the signing of the contract. Once the standstill period has passed, the contracting authority may continue with the conclusion of the contract in accordance with the conditions that were set forth in the contract notification/ solicitation documents.

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## **Background**

The evaluation process is a multi-step process that consists of the examination and evaluation of the submitted documentation. Submitted documents are examined for their responsiveness and compliance with requirements set forth by the contracting agency. Evaluation for responsiveness in addition to the evaluation criteria and method specified by the contracting agency will serve as the basis for the subsequent selection of the offer that provides the best value for money for the organization.<sup>9</sup>

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1 Adapted from OECD. (2011). *Brief 9 public procurement: Tender evaluation and contract award*. Retrieved from [www.sigmaweb.org](http://www.sigmaweb.org)

2 Adapted from OECD. (2011). *Ibid.*

3 Adapted from FAR 14.401-a

4 Public or non-public opening is subject to the requirements of the local law.

5 The time, place, and authorized individuals should have been previously set by the contracting authority in the solicitation documents.

(See *Practice: Developing Evaluation Criteria*)

6 Adapted from OECD. (2011). *Op cit.*

7 The Public Contract Regulations 2005 (UK & EU) require public contracting authorities to apply a compulsory waiting period between their decision to award a contract to which the Regulations apply and the date on which the contract is signed. This is commonly called the Standstill Period.

8 A standstill period's purpose and length is dependent upon applicable local law.

9 "Best value for money in the context of evaluation of offers, means that price alone is not always the only criterion factored into an evaluation method. Other

criteria such as quality, availability, time, compliance, cost for maintenance and support, life cycle cost, etc. are part of the equation to determine the best return on investment of the procurement of goods, services or works" (UN, 2006). UN. (2006). *Procurement practitioner's handbook*. Retrieved from: [www.unops.org](http://www.unops.org)

