

STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

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TO: ALL CONTRACT USER GROUP MEMBERS

FROM: Government Support Services
Contracting Unit

SUBJECT: User Group Guide

You have been identified to represent your Agency as a User Group Committee Member to develop, evaluate, and/or assist in the negotiation of a statewide central contract, in accordance with Title 29, Chapter 69, §6912 of the Delaware Code.

Thank you for accepting this responsibility. Your participation seeks to create a contract that best meets the needs of all end users. As a User Group member, your responsibilities may include one or several of the following:

- Develop the Scope of Work
- Evaluate Proposals
- Approve Application of Agency Policy
- Recommend Award
- Identify Future Needs
- Weigh in on extension considerations

Included, please find the user group member agreement, responsibilities overview, and detailed User Group Procedures Guide.

A State Contract Procurement Officer will provide additional details pertaining to the specific project you will be involved with. Please take some time to review the included information to best understand this important responsibility. Thank you for taking part in this important process.



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Responsibilities Overview



USER GROUP GUIDE

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USER GROUP INTRODUCTION

You have volunteered or been selected to serve on a User Group for a formal solicitation occurring as directed the Delaware Code, Title 29, Chapter 69 – State Procurement. The User Group and its functions are an essential part of the RFP procurement process.

There are 5 key roles of a User Group Member during a bid process.

- Develop the Scope of Work
- Evaluate Proposals
- Approve Application of Agency Policy
- Recommend Award
- Identify Future Needs

WHO SERVES ON THE USER GROUP?

The procurement officer responsible for the procurement determines the number and makeup of the User Group. It has to have at least three members that are state employees or public officials but there is no restriction on the total number of members that can participate as long as none of them have a conflict of interest. For most procurements a three to five members are adequate, and unless the bid is an agency specific procurement, several different and affected agencies should be asked to participate.

Sometimes the procurement officer will include a mixture of members from multiple departments in order to secure as much subject matter expertise as possible. While a User Group could even include experts from outside Delaware, those members would need to be approved by the Director of Government Support Services.

An agency's failure or unwillingness to participate in a User Group **WILL NOT** alleviate an agency from the need to use a Government Support Services (GSS) mandatory use contract.

SUBJECT MATTER EXPERT USER GROUP MEMBER

You are one of several evaluators on the User Group. Your duty is to assist in developing the solicitation statement of work, apply judgment in awarding points to the proposals (scoring) for the purpose of ranking them, recommend award, and provide feedback after contract award for future improvements. In scoring proposals you can consider only the evaluation criteria published in the RFP and the content of the proposal. The User Group's combined evaluation points, taken together with the cost scoring, will determine the final rankings that the procurement officer will use to complete the award process.

a. DEVELOP SCOPE OF WORK

The Scope of work is the heart of the solicitation. It is a narrative description of what materials and/or services that are being sought in the solicitation. The scope of work is intended to promote a competitive process. As such, the scope of work cannot be brand or supplier specific. Past experience has shown a more thorough statement of work produces a more effective contract.

b. EVALUATE PROPOSALS

Requests for Proposals (RFP) have criteria scoring developed by the User Group members. This scoring criteria is used by each user group member to evaluate the proposals received.

c. APPROVE APPLICATION OF AGENCY POLICY

Solicitations often request goods and/or services that are dependent upon compliance with Agency Policies. These policies may be specific to a particular Agency or be applicable statewide. Members of the Agencies that own the policies are the ones to ensure compliance at the time of solicitation and in the resulting contract.

d. RECOMMEND AWARD

User Group members review collective scoring results and recommend the vendor or vendors to enter into negotiations for contract award.

e. IDENTIFY FUTURE NEEDS

After contract award, evaluation of contract performance is needed to ensure the state has indeed procured what is needed and at the best value. Over time, needs change, and it is the User Group members that should identify changes and how a future solicitation can evolve to improve.

POLICY COMPLIANCE USER GROUP MEMBERS

Specific User Group members hold a responsibility for assisting with solicitation development and contract negotiations where Agency specific policies are applied. **The individual in your Agency responsible for this action must have decision making authority or shall be responsible for obtaining necessary internal approval(s) before providing the official Agency position(s).** It may be a different individual just for this action, and may also involve members from more than one agency if the solicitation considers policies responsible to multiple agencies. These special members must be identified at the time the User Group is formed.

a. APPROVE APPLICATION OF AGENCY POLICY

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b. PARTICIPATE IN CONTRACT NEGOTIATIONS

Negotiation of specific contract terms may be related to Agency Policies. Performing in this role, you would be responsible for coordinating with GSS to ensure your Agency Policies are fully incorporated into the resulting contract.

HOW MUCH TIME IS REQUIRED?

The exact time for the User Group's work will depend on the complexity of the procurement, how many proposals are received, the number and impact of bidder exceptions, and any unanticipated legal issues.

The more complex the State's needs are, the more robust individual proposals will be. Proposal evaluations must be accomplished in a limited time period. In most cases 29 DE Code dictates the number of days within which an award determination must be made. Evaluating proposals requires that you arrange your schedule to allow focused consideration of content to ensure the resultant contract will be one that best meets the needs of all. The overall time required can range from moderate to extensive dependent on complexity and number of proposals received.

You may be expected to attend an Evaluation Committee 'kick-off' meeting prior to beginning your evaluations. If required, this meeting should be no longer than an hour in length, not including travel.

WHERE WILL WE MEET?

If a preliminary meeting is required to discuss the solicitation process, it will be scheduled and conducted at a location selected by the procurement officer.

THE PROCUREMENT OFFICER'S ROLE

The procurement officer has the overall responsibility for all matters involving the procurement. The procurement officer function as the chairperson of the User Group and will guide the User Group members through their duties. The procurement officer is responsible for scoring the criteria associated with price and vendor references, but otherwise, will NOT score the proposals; other than to tally aggregate User Group scores.

The procurement officer is bound to follow the procedures laid out in the RFP and is limited to the evaluation topics and considerations that were published in the RFP. Neither the procurement officer nor the User Group members are allowed to deviate from the procedures and evaluation requirements of the RFP.

NUMERICAL SCORING SYSTEMS

Most RFPs are scored using a numerical scoring system. As a member of the evaluation committee you will assign point value to each evaluation criteria using the scoring sheet provided by the procurement officer. You are required to provide a brief written explanation of each score. If the procurement officer sees scores that appear unusual, the procurement officer may ask the evaluator to explain the score(s), or reconsider if an error seems apparent. As an evaluator you should always have a reasonable, rational, and consistent basis for your scores. The scores and supporting comments are what allow the procurement officer to respond to debriefing requests in an informative manner. In the event a bidder should protest the award, the scores and comments allow the State to appropriately defend the award rationale.

The scoring sheets will become part of the contract file and as such, they are also subject to the Freedom of Information Act (FOIA). At all times, your comments, written evaluations and any materials submitted for inclusion in the contract file should be professional in nature and suitable for public display and disclosure.

NON-NUMERICAL SCORING SYSTEMS

Sometimes the evaluation criteria can be too difficult to categorize into specific questions or is too subjective to use a numerical rating system; making it necessary to use a non-numerical scoring system. This type of evaluation requires you to provide written documentation about how you came to your conclusions and how you ranked each proposal. Your explanation must be rational and consistently applied from proposal to proposal.

Your explanation must be to the satisfaction of the procurement officer. The procurement officer will not tell you how to exercise your independent judgment, but will make sure your written description of how you ranked the proposals is rational, understandable, consistent with your ratings, and is not in conflict with the terms or requirements of the RFP. The procurement officer will not write or re-write your explanation on your behalf; it must be in your own words.

INCOMPLETE EVALUATIONS

Scoring **MUST BE COMPLETE** with scores and comments that justify the scoring provided. The failure of an Evaluation Committee member to turn in complete evaluations may force the procurement officer to eliminate all that committee member's scores from the process.

All reasonable efforts will be made by the procurement officer to keep each Evaluation Committee member's evaluation compliant with RFP review procedures and thereby keep all individual scores in consideration. If an Evaluation Committee member violates or will not adhere to the identified rules, that committee member's scores will be removed from consideration for the sanctity of the entire process. If the procurement officer is forced to remove an evaluation committee member scores from the process the Agency represented by that committee member will still be required to adhere to the award selection.

INDEPENDENT JUDGMENT

Each Evaluation Committee member shall exercise independent judgment and proposal evaluations must be completed independently.

What does that mean? In part it means that your Agency has entrusted you with the responsibility of applying your unique perspective to the evaluation of proposals. As such your evaluation should be free of influence from other evaluation committee members or other staff within your Agency. To allow someone else to influence your evaluations would be a violation of the trust in your expertise.

Once individual evaluations are completed. The procurement officer will tally all the scores and engage the evaluation committee as a whole in determining a final recommendation for award.

Beyond putting the State in a position of being able attest that no one individual had the opportunity to inappropriately impact the scoring of the entire evaluation committee, this approach ensures a balanced review of the proposal. Resultant of unique educational or job experience each member of the evaluation committee will assess a proposal based on their subject matter expertise. A section of a proposal that might raise a red flag for one evaluator might not have the same import to another evaluator.

Attempts by anyone, including colleagues, subordinates, and superiors, to influence you to improperly favor or disfavor a particular proposal, such as awarding or withholding points in a manner that might affect the outcome of the committee results, must be reported to the procurement officer immediately.

KEEP MATERIALS CONFIDENTIAL

At all times, User Group members and the designated procurement officer shall keep all materials, evaluations, recommended award structure, etc. confidential. Any communication occurring outside of the user group will be through the designated procurement officer. Examples of such communications include, but are not limited to, seeking clarification on a section of a proposal, soliciting best and final offers, or soliciting guidance from Authority Agencies on points of negotiation. Further, this disclosure is limited to the course of normal business, and shall not be amended to provide status updates to vendors on timing, status and/or potential award, until it is appropriate to do so.

OUTSIDE INPUT

You have already been instructed to keep your judgment and scoring independent. It is important to remember that your scores need to be based on the vendor's proposal. This means that you may have to

ignore other input, such as, but not limited to the following:

- Prior knowledge of vendor;
- Public perception of vendor and/or the vendor's abilities;
- Information from vendor website;
- Information available from service ranking sites or services.

EVAUATION GUIDANCE

Following are the steps to completing a proposal evaluation.

Steps

1. Review Request for Proposal and contract requirements/specifications, along with any applicable addendums.
2. Review each vendor proposal to determine whether the vendor meets the minimum requirements based on the specifications and so you can establish a baseline for comparison.
3. Score each proposal using evaluation criteria elements. Do not score the pricing or reference elements.
4. The designated procurement officer will check references to avoid a conflict of interest, appearance of preference and keep the Evaluation Committee members tasked with and focused on the proposal review.
5. Comments are required for all scores. Example: you gave the vendor eight (8) points out of (10) points for an element, state why you took two (2) points away. Be straight forward in your comments. If the proposal fails to address an element completely that is contained in the criteria, then zero points might be appropriate. If the proposal fails to address any portion of a single element, then you might want to deduct points for that sub-element.
6. Each member of the Evaluation Committee **MUST** evaluate and score each of the proposals independently, not as a group.
7. All evaluation sheets **MUST** be completed in ink. OR, if typed in an electronic spreadsheet; must be printed and signed by the evaluator. If the evaluator plans to forward electronically, the evaluator **MUST** submit the scoring and evaluation file(s) from their individual state or business unit email.

(If an individual does not have an individual business unit email, they **MUST** print and sign for submission.)
8. All evaluation sheets **MUST** be signed by the evaluator or directly attributable to the evaluator. You should never let someone else score in your name.
9. Your completed evaluations are due back by the date provided by the contract officer. The tentative timelines from receipt of all evaluations from committee members to Best & Final offers and contract award is estimated to take seven to ten work days.

10. **REMEMBER:** All information during an RFP evaluation is confidential, including but not limited to vendor proposals, evaluation scores, recommendations, etc. Failure to keep this information protected can jeopardize an entire bid process and create an environment for litigation.

WHAT ABOUT THE COST PROPOSAL

The procurement officer scores the cost proposal. In most cases cost or cost scores will not be revealed to the User Group until after the Evaluation Committee has completed scoring of the technical components of the proposals. In general this is done to avoid the possibility of price influencing the scoring of non-cost criteria.

PROTESTS, APPEALS, AND LAWSUITS

Protests, Appeals, and Lawsuits are a part of procurement life. It is part of the reason for structuring the user group and proposal evaluation processes as we do. It is possible that a protest, appeal, or lawsuit could be associated with a procurement for which you serve as an evaluator. Such actions may or may not center on your activities as an evaluator, but generally they do not.

Most actions are related to procedural issues and involve the procurement officer, but could include separate internal legal or department review(s). However, it is not uncommon for a protester to review the scoring of individual evaluators. That is why it is essential that you work hard to score the proposals in a consistent, explainable and business appropriate manner.

COMMUNICATING WITH OFFERORS

It is not appropriate for a member of user group or evaluation committee to have direct communication with any of the proposing vendors outside of the formal in-session communications arranged by the procurement officer. Any attempt by one of the vendors to have direct or indirect communication with you outside of a User Group meeting should be avoided and reported to the procurement officer immediately.

NON-DISCRIMINATION

Procurement decisions and evaluations **SHALL NOT** be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the vendor.

By [Executive Order 44](#), the State has fostered an inclusionary vendor and procurement process that encourages diversity participation and Government Support Services frequently outreaches to diverse vendor groups to further this initiative.

ETHICAL CONSIDERATIONS

This document is not intended to advise you with regard to the statutory ethics considerations. If you are in doubt about your ability to act ethically on this User Group because of a conflict of interest or an ethical concern, you should immediately notify the procurement officer.

Your awareness of a potentially ethical conflict may not arise until you are well into the evaluation process. Even so, you should immediately notify the procurement officer. In limited circumstances, you may be excused from the User Group either at your own request or the request of the procurement officer. The procurement officer will avoid even the appearance of impropriety in the evaluation process, so there is non-personal stigma attached to either excusing yourself or being excused by the procurement officer.

On the other hand, if you stay throughout the process either knowing or suspecting you have an ethical conflict in participating, you could be jeopardizing an important state project and the hundreds of hours of time invested in it by both the state and the vendor(s).

The consequences of “sticking it out” could very well result in adverse publicity, personal embarrassment, embarrassment to the Governor’s administration, possible court action, or worse. It is far better to disclose problems at the earliest possible time, and allow the opportunity to make any adjustments to keep the process fair to all competitors.

NON-CONFLICT OF INTEREST FORM

Once the proposals have been received and it is clear which companies are involved in the RFP, the procurement officer and each member of the proposal Evaluation Committee must sign a “Non-Conflict of Interest” form. This form must be signed before any User Group member, including the procurement officer, begins their evaluation of the proposals. The signed forms will be collected and must be maintained in the procurement file. The form and other procurement documents are available at GSS’ Contracting web site: mymarketplace.delaware.gov/

PROCUREMENT CODE CONSIDERATIONS

The Delaware Procurement Code is found in [Delaware Code Title 29, Chapter 69](#). You are not required to read or know it in order to participate in this User Group. The procurement officer will be your guide through this process and is responsible for seeing that the Code and its regulations are followed precisely.

PENALTIES

The state spends hundreds of millions of dollars per year through the procurement process. The procurement process is one of the main ways money is transferred from the government to private hands. With that much money involved, it is not surprising that the government wants to minimize any possibility for corruption.

Violations and penalties for failure to adhere to the Procurement Code can be found by reviewing Title 29, Chapter 69; [§ 6903 Violations and penalties](#).

REPLACING USER GROUP MEMBERS

It is important for you as an evaluator to review your commitment to follow through on this duty. No one’s best interests are served, and an important procurement might be crippled, if you are not sure you can complete your assignment on the User Group. Please carefully consider what you have read in this guide and let the procurement officer know if you have any reservations before you start.

The procurement officer is empowered to replace any User Group member or reconstitute the User Group in any way the procurement officer deems appropriate. Any member may request to be replaced at any time, which can be granted or denied by the procurement officer.

TIMELINESS AND ATTENDANCE FOR USER GROUP DELIBERATIONS

User Group work is short-term, highly focused, and extremely important. It is critical the User Group members dedicate themselves to the process and allocate the time to provide the input as necessary.

Ultimately, the resulting contract award and service(s) to the state will be affected by the success of the User Group, its evaluations and final vendor selection.