

14 FAH-2 H-420 TECHNICAL EVALUATION FOR COMPETITIVELY NEGOTIATED ACQUISITIONS

*(CT:COR-1; 12-20-2005)
(Office of Origin: A/OPE)*

14 FAH-2 H-421 TECHNICAL EVALUATION RESPONSIBILITIES

(CT:COR-1; 12-20-2005)

- a. Acquisition policy requires that any competitively negotiated acquisition have, as a part of the procurement request package, a plan for evaluating the proposals and ranking the prospective offerors. (See 14 FAH-2 H-365 for detailed information on developing the evaluation plan.)
- b. The purpose of the technical evaluation is to select those offerors whose proposals offer the best composite blend of performance, schedules, and quality of work.

14 FAH-2 H-421.1 Contracting Officer's Representative (COR) Responsibilities

(CT:COR-1; 12-20-2005)

The contracting officer's representative (COR) is responsible for recommending, to the contracting officer, prospective technical evaluation panel members who are technically competent to identify the strengths and weaknesses of the various proposals. In most instances, the COR is appointed as the chairperson of the technical evaluation panel. If the requirements office is a contracting office (e.g., the Office of Acquisitions Management (A/LM/AQM)), special care is needed to assure proper contract administration and internal controls. In these situations, the contracting officer may perform all contract administration responsibilities, or may appoint an individual who is independent of the project.

14 FAH-2 H-421.2 Contracting Officer Responsibilities

(CT:COR-1; 12-20-2005)

The contracting officer is responsible for assuring that the technical evaluation is appropriately conducted. The contracting officer appoints the members of the technical evaluation panel in writing.

14 FAH-2 H-421.3 Technical Evaluation Panel Responsibilities

(CT:COR-1; 12-20-2005)

The technical evaluation panel (TEP) is responsible for evaluating the original proposals; making recommendations to the chairperson regarding clarifications and deficiencies; reviewing final proposal revisions; and, if required, assisting the contracting officer during discussions and negotiations.

14 FAH-2 H-422 SELECTION OF THE TECHNICAL EVALUATION PANEL (TEP)

(CT:COR-1; 12-20-2005)

- a. The technical evaluation panel (TEP) and its chairperson should be designated early in the acquisition process so that they may provide input into the performance work statement and the technical evaluation plan. The contracting officer selects the TEP members based upon the recommendation of the contracting officer's representative (COR). To the extent possible, to ensure consistency, the same panel members should be available throughout the evaluation and selection process.
- b. The TEP generally consists of from three to five members of whom one, usually the COR, is designated as the chairperson. All should have technical qualifications or personal characteristics suited to the technical evaluation task.

14 FAH-2 H-423 BRIEFING THE TECHNICAL EVALUATION PANEL (TEP)

(CT:COR-1; 12-20-2005)

The contracting officer is responsible for ensuring that the technical evaluation panel (TEP) is briefed on the procedures for conducting the

evaluation. However, either the contracting officer, program official, or chairperson may conduct the briefing. Matters that should be addressed include:

- (1) Solicitation documents review;
- (2) Standards of conduct and conflicts of interest, potential and real;
- (3) Security requirements and other administrative matters;
- (4) Date for submission of evaluation reports;
- (5) Handling classified material, protected information, and information concerning technical evaluation panel (TEP) activities;
- (6) Explanation of procedure for evaluating proposals; and
- (7) Explanation of time commitment involved.

14 FAH-2 H-423.1 Solicitation Documents Review

(CT:COR-1; 12-20-2005)

The technical evaluation panel (TEP) members should review the acquisition objectives; the request for proposal, including the performance work statement and technical evaluation criteria; and the technical evaluation plan before evaluating the proposals. It is imperative that evaluators adhere to the evaluation criteria and relative weights **as stated in the Request for Proposals (RFP)** when evaluating the proposals.

14 FAH-2 H-423.2 Standards of Conduct and Conflicts of Interest, Potential and Real

(CT:COR-1; 12-20-2005)

Technical evaluation panel (TEP) members should have no real or apparent conflicts of interest relating to the proposal being evaluated. They are responsible for disqualifying themselves from all participation if such a conflict exists. Panel members are prohibited from making any contact with an offeror unless such contact is approved by the contracting officer.

14 FAH-2 H-423.3 Security Requirements and Other Administrative Matters

(CT:COR-1; 12-20-2005)

The chairperson, technical evaluation panel (TEP), coordinates the evaluation and briefs the panel on administrative and logistical arrangements.

14 FAH-2 H-423.4 Date for Submission of Evaluation Reports

(CT:COR-1; 12-20-2005)

The date by which the technical evaluation panel (TEP) should complete its evaluation, and submit to the contracting officer a summary evaluation report with attached individual reports. The chairperson must inform the contracting officer if this date cannot be met. Proper planning for the acquisition will allow time to be allocated for proposal evaluation.

14 FAH-2 H-423.5 Handling Classified Material, Protected Information, and Information Concerning Technical Evaluation Panel (TEP) Activities

(CT:COR-1; 12-20-2005)

- a. The contracting officer and the chairperson are responsible for ensuring that all evaluators are aware of security procedures regarding the handling of classified material, if any aspect of the acquisition involves classified information.
- b. Because of the sensitive nature of all negotiated acquisitions, personnel involved in the evaluation process must maintain confidentiality. Technical evaluation panel (TEP) members must not disclose information concerning the acquisition to any person not directly involved in the evaluation process.
- c. In a competitive acquisition, the winning proposal is based on advantage to the U.S. Government, either of price or technical excellence. Offerors submit information regarding proposed price or technical approach in confidence. Offerors submit such information with the understanding that it will not be disclosed.
- d. The Freedom of Information Act (FOIA) specifies how and when agencies must make their records available upon public request. Contracting officers may receive requests for records that may be exempted from mandatory public disclosure because of classified information, trade secrets, and confidential commercial or financial information. All requests for information under FOIA should be referred to the Office of Information Resources Management Programs and Services (A/RPS/IPS), SA-2, Department of State, Washington, DC 20522-6001 Re: Freedom of Information Act Requests.
- e. All TEP members must understand that the unauthorized disclosure of certain business information submitted to the U.S. Government in confidence constitutes an offense with civil and criminal penalties.

- f. Precautions for safeguarding the contents of proposals include:
- (1) Ensuring that proposals are not left unattended unless secured under lock and key;
 - (2) Avoiding casual conversation regarding content of the proposals both during and after the evaluation;
 - (3) Ensuring that, when evaluators are working, no unauthorized personnel enter the evaluation area;
 - (4) Ensuring that notes are not left lying about and that drafts of reports are destroyed so that fragments are not found in the trash; and
 - (5) Ensuring that no photocopying of any solicitation materials is allowed.

14 FAH-2 H-423.6 Explanation of Procedure for Evaluating Proposals

(CT:COR-1; 12-20-2005)

The steps to be followed in performing the technical evaluation are outlined in the briefing.

14 FAH-2 H-423.7 Explanation of Time Commitment Involved

(CT:COR-1; 12-20-2005)

It must be clearly emphasized that it is essential that technical evaluation panel (TEP) members devote the necessary time and effort to attend meetings, read proposals, and properly document the TEP's activities. Any individual problems that surface should be dealt with at the outset. If an individual member cannot devote the necessary time and no relief from conflicting responsibilities is possible, the chairperson should request that the member be replaced. Persons and supervisors accepting in and concurring in an appointment to a TEP should be aware that during its life, a member's first responsibility is to the TEP's activities.

14 FAH-2 H-424 PERFORMING THE TECHNICAL EVALUATION

(CT:COR-1; 12-20-2005)

- a. The following provides a brief synopsis of the evaluation process. The steps will be discussed in more detail in subsequent sections.

- b. Upon receipt of the proposals, the contracting officer requests that the technical evaluation panel (TEP) convene to evaluate the proposals. The TEP meets at the call of the chairperson. The TEP should establish a schedule for its deliberations, including meeting dates that support the contracting officer's planned date for completion of the technical evaluation.
- c. The chairperson receives only the technical proposals (i.e., all price information removed) from the contracting officer and distributes them to the TEP.
- d. The TEP reviews and evaluates the technical proposals in accordance with the evaluation criteria set forth in the Request for Proposals (RFP) and the evaluation plan.
- e. The contracting officer retains the cost/price proposals and assesses them, with assistance as needed, from contracting, legal, and audit personnel. (No cost information is provided to the technical evaluators until their technical evaluation is complete.)
- f. Upon receipt of the TEP's initial report, the contracting officer determines the competitive range (if award is not made on the initial proposals) by selecting those proposals that are the most highly rated.
- g. The contracting officer, with the assistance of the TEP, conducts written or oral discussions/negotiations with those offerors in the competitive range. The offerors are provided an opportunity to submit "final proposal revisions," i.e., revised proposals.
- h. The TEP evaluates the final proposal revisions and revises its findings, as appropriate. Based on the TEP's findings, the contracting officer selects for award the offeror whose proposal offers the greatest value to the U.S. Government, cost or price, technical, and other factors considered.
- i. The contracting officer must notify all unsuccessful offerors of the final award of the contract. They may request in writing a formal debriefing, i.e., an explanation of why they did not receive the contract award.

14 FAH-2 H-424.1 Rating the Proposals

(CT:COR-1; 12-20-2005)

- a. The chairperson, technical evaluation panel (TEP), distributes the technical evaluation plan and sets of evaluation sheets (if not already included in the plan) (see 14 FAH-2 Exhibit H-365A and 14 FAH-2 Exhibit H-365B for sample evaluation plans) that provide space for the individual evaluators to rate each criterion for each proposal.
- b. The TEP must evaluate the proposals using the criteria and relative importance **set forth in the Request for Proposals (RFP)** and

incorporated into the technical evaluation plan. (Any deviation from the RFP criteria will necessitate a formal amendment to the RFP informing all parties of the change.)

- c. The TEP must follow the methodology for rating the proposals included in the technical evaluation plan in order to ensure impartiality and objectivity in the conduct of the evaluation. A key fact to remember is that proposals must be evaluated against the solicitation requirements and evaluation criteria, **not against each other**.
- d. Each TEP member must independently review, evaluate, and rate each proposal. TEP members should make professional value judgments in accordance with the guidance provided in the evaluation plan.
- e. When using numerical weights, they should be used for ranking purposes only, not for determining acceptability. The TEP should first assess technical merit in terms of qualitative, adjectival ratings, each supported by a narrative description and later converted to numerical values.
- f. Each TEP member must document his or her rating for each proposal in writing, and sign and date the evaluation plan or rating sheet. This documentation may be hand written, but must be legible.

14 FAH-2 H-424.2 Narrative Comments

(CT:COR-1; 12-20-2005)

- a. The technical evaluation panel (TEP) must advise the contracting officer of the strengths and weaknesses of the technical proposals. These data are an essential element of the TEP's initial technical evaluation report to the contracting officer.
- b. Each evaluator must provide narrative comments supporting the rating, for each evaluation criterion, on each proposal. TEP members must take special care to properly justify in writing any extremely high or extremely low ratings assigned.
- c. As the TEP member rates each proposal, he or she should prepare the narrative explanation for the ratings while the rationale is clearly in mind. At the moment a TEP member concludes that a proposal feature merits a particular rating, he or she usually has in mind the basis for that rating, but the rationale must be remembered later in the evaluation process, perhaps several days or weeks later, and after reading and evaluating a number of other proposals. Failure to document the basis for the rating makes intelligent discussion of the proposals by the TEP next to impossible. Without it, the TEP will require a significant amount of time to reconstruct the reasoning underlying the recommendations contained in the TEP reports. That is wasteful and prolongs the selection decision.
- d. In the narrative, provide strong, clear, **substantive** comments that

support the determination of acceptability or nonacceptability and explain the specific strengths and weaknesses of each proposal in comparison to the solicitation.

- e. The chairperson should ensure that the comments prepared by each TEP member fully relate to and support the assigned rating. Toward this end, he or she may discuss the comments with the individual evaluators.
- f. Unsuccessful offerors, upon their written request, will later have to be debriefed and furnished the basis for the selection decision and contract award. Debriefing information must include the U.S. Government's evaluation of the significant weak or deficient factors in the proposal. Thus, the narrative explanation of proposal deficiencies is essential for the contracting officer to provide debriefings.

14 FAH-2 H-424.2-1 Identifying Ambiguities

(CT:COR-1; 12-20-2005)

- a. Technical evaluation panel (TEP) members should not presume the meaning of any part of a proposal that is not clear on its own terms. The TEP chairperson should identify items requiring clarification or interpretation to the contracting officer.
- b. It is the responsibility of the contracting officer to address inquiries to offerors regarding needed clarification. The inquiry (not request) must limit the offeror's response to the clarification requested, and make clear that substantive revisions which would constitute a new proposal are not desired and will not be evaluated.

14 FAH-2 H-424.2-2 Insufficient Documentation of Technical Approach

(CT:COR-1; 12-20-2005)

In some instances, a proposal may lack sufficient information to permit an assessment of its technical feasibility. The needed information should be identified in writing by the evaluator. As in the case of ambiguous language, and for the same reasons, technical evaluation panel (TEP) members should not seek additional information from offerors but should bring the matter to the attention of the contracting officer.

14 FAH-2 H-424.2-3 Identifying Deficiencies and Unacceptable Proposals

(CT:COR-1; 12-20-2005)

- a. Any aspect of a proposal which does not fulfill the minimum requirements of the solicitation is called a "deficiency" and a proposal that is "deficient"

is, by definition, "unacceptable." (This does not mean, however, that the deficiency cannot be remedied and that the proposal cannot be made "acceptable.")

- b. A determination of nonacceptability must be based on the minimum requirements set forth in the Request for Proposals (RFP). These requirements may relate to either the technical qualifications of the offeror or the technical adequacy of what is being proposed.
- c. For each deficiency, the technical evaluation panel (TEP) member should provide an explanation of why the minimum requirement was not met and an opinion, with supporting rationale, as to whether the deficiency can be remedied by the offeror or whether remedying the deficiency would entail so substantial a revision as to amount to allowing the submission of a second proposal.

14 FAH-2 H-424.3 Reaching a Consensus

(CT:COR-1; 12-20-2005)

- a. The technical evaluation panel (TEP) is encouraged to meet at least once after all members have completed rating all proposals. TEP members should be encouraged to discuss the proposals with each other. It is permissible for TEP members to change their ratings of one or more proposals if this discussion reveals information the TEP member has missed in evaluating the proposal.
- b. TEP members must reach and support a consensus, concerning the technical merit, strengths, and weaknesses of each proposal. As a result of discussions leading to a consensus, no TEP member should be pressured to change a rating or comment, but any TEP member is free to change any initial ratings or comments he or she has assigned.
- c. After each TEP member has evaluated the proposals, under the chairperson's leadership they will collectively develop a consensus reflecting the varying viewpoints and contributions of the TEP members.
- d. As a part of the initial technical evaluation report, the TEP provides the contracting officer with both the consensus ratings and narrative explanation for each rating. In exceptional cases, where the TEP is unable to reach agreement, the initial technical evaluation report should include both the majority conclusion and the dissenting view(s), each with supporting rationale.

14 FAH-2 H-424.4 Initial Technical Evaluation Report

(CT:COR-1; 12-20-2005)

- a. The initial technical evaluation report must be prepared and signed by all voting technical evaluation panel (TEP) members for submission to the contracting officer. The report includes a narrative evaluation which specifies the strengths and weaknesses of each proposal and any reservations or qualifications which may affect source selection, negotiation, or award. Two sample formats are shown at 14 FAH-2 Exhibit H-424.4A (for the tradeoff process) and 14 FAH-2 Exhibit H-424.4B (for the lowest price technically acceptable (LPTA) process).
- b. The initial technical evaluation report includes a technical ranking of all proposals, listed in descending order of technical merit (when using the tradeoff process); and, an assessment of the proposals as being either technically acceptable, capable of being made acceptable, or unacceptable.
- c. For any proposals determined to be unacceptable, the report must clearly indicate the reasons and should specify whether the proposals could be made acceptable through the submission of clarifying information by the offeror.
- d. The initial technical evaluation report provides a basis for the contracting officer to develop a plan for the negotiations with the offerors, and for making the selection of the winning offer. The contracting officer will incorporate the initial technical evaluation report's major points in the memorandum of negotiations and may refer to the report in debriefing unsuccessful offerors.

14 FAH-2 H-424.5 Comptroller General Decisions Relating to Technical Evaluation

(CT:COR-1; 12-20-2005)

The Comptroller General of the United States, Government Accountability Office (GAO), has statutory authority to consider pre- and post-award protests by firms interested in acquiring U.S. Government contracts. The following is an informal list of some important precedents derived from Comptroller General decisions:

- (1) Technical evaluation panel (TEP) members shall not apply a pre-determined cut-off score in evaluating proposals as to acceptability;
- (2) A proposal must fully comply with all mandatory requirements of an Request for Proposals (RFP) to be in an acceptable range to receive

- further consideration by the TEP;
- (3) The U.S. Government must evaluate each proposal on its own merits using the criteria stated in the RFP, and not in comparison or contrast with any other proposal. The rating official must record the evaluation, in writing, and, as necessary, provide comments as to acceptability or nonacceptability;
 - (4) Each member of the TEP must evaluate all proposals. Proposals may not be divided among the members; if ten (10) proposals are received, each member must evaluate each of the ten, independently and without reference to other proposals;
 - (5) It is improper to reject, without discussions, a proposal because the offeror fails to meet a known design criterion, if the criterion was not stated in the RFP;
 - (6) Several decisions have held that use of a point rating system for the evaluation of proposals is permissible. However, purely quantitative ratings are not, by themselves, an adequate basis to eliminate an offer from further consideration;
 - (7) The TEP must document the selection process. Protests have been lost due to a lack of "evidence of reasonable basis" for a selection. The TEP needs to explain what information caused the point score to be assigned for the proposal; and
 - (8) Where the record reflects the evaluation followed the solicitation's criteria, GAO usually will deny the protest, absent a showing of fraud or abuse on the part of the U.S. Government.

14 FAH-2 H-425 REVIEWING COST/PRICE PROPOSALS

(CT:COR-1; 12-20-2005)

- a. The contracting officer is responsible for evaluating the business aspects of an offeror's proposal. The contracting officer retains the cost/price proposals and evaluates them, with assistance as needed, from contracting, legal, and audit personnel. (No cost information is provided to the technical evaluators until their technical evaluation is complete.)
- b. Each business proposal requires some form of price or cost analysis to determine whether:
 - (1) The price or cost is reasonable;
 - (2) The offeror understands the work; and
 - (3) The offeror is able to perform the contract.

14 FAH-2 H-426 DETERMINING THE COMPETITIVE RANGE

(CT:COR-1; 12-20-2005)

- a. Determining the competitive range means determining, based upon evaluation of initial proposals, the offerors with whom negotiations/discussions will be held in anticipation of the award of a contract, if award cannot be made on the basis of initial offers.
- b. The contracting officer determines the competitive range on the basis of cost or price and other factors that were stated in the solicitation. The competitive range consists of the most highly rated proposals. The contracting officer may further reduce the competitive range for purposes of efficiency. This occurs when the contracting officer determines that the number of most highly rated proposals that might otherwise be included in the competitive range exceeds the number at which the U.S. Government can conduct an efficient competition.
- c. The U.S. Government does not conduct discussions/negotiations with an offeror whose proposal is not in the competitive range.

14 FAH-2 H-427 THROUGH H-429 UNASSIGNED

14 FAH-2 EXHIBIT H-424.4A FORMAT FOR AN INITIAL TECHNICAL EVALUATION REPORT – TRADEOFF PROCESS

(CT:COR-1; 12-20-2005)

MEMORANDUM FOR: **[Contracting Officer]**

FROM: **[Name]**, Chair, Technical Evaluation Panel (TEP)

SUBJECT: Initial Technical Evaluation of Offers Submitted under Request for Proposals (RFP) **[number]**

Attached for your review are the results of the TEP's initial evaluation of the technical proposals submitted under the subject RFP.

I. Basis for Evaluation

All technical proposals provided to the TEP were evaluated against the evaluation criteria published in Section M of the RFP. Each panel member independently read and evaluated each proposal in accordance with the approved evaluation plan and RFP.

II. Ranking of Proposals

The TEP, as a whole, reviewed the individual members' findings and determined the consensus ratings and technical acceptability of each proposal as shown below:

Name of Offeror	Consensus Rating¹	Acceptability²

[Add more blocks as necessary.]

¹ Excellent, Good, Fair, Poor, Unacceptable

² A = technically acceptable; C = technically unacceptable, but capable of being made acceptable through discussions; U = technically unacceptable

III. Analysis of Proposals

[For each proposal, describe the facts which were significant in arriving at its rating and technical acceptability. Describe the principal deficiencies, weaknesses and strengths that contributed to this assessment. This analysis may be done on a factor-by-factor basis.]

IV. Concurrence of TEP Members:

_____ Signature	_____ Date
_____ Signature	_____ Date
_____ Signature	_____ Date

[Adjust as necessary.]

Attachments

[Rating sheets, committee and/or advisor reports, reference checks documentation, specific items for clarification, and concerns and questions to be addressed in discussions and negotiations.]

14 FAH-2 EXHIBIT H-424.4B FORMAT FOR AN INITIAL TECHNICAL EVALUATION REPORT – LOWEST-PRICE TECHNICALLY ACCEPTABLE (LPTA) PROCESS

(CT:COR-1; 12-20-2005)

MEMORANDUM FOR: [**Contracting Officer**]

FROM: [**Name**], Chair, Technical Evaluation Panel (TEP)

SUBJECT: Initial Technical Evaluation of Offers Submitted under Request for Proposals (RFP) [**number**]

Attached for your review are the results of the TEP's initial evaluation of the technical proposals submitted under the subject RFP.

I. Basis for Evaluation

All technical proposals provided to the TEP were evaluated against the evaluation factors for award published in Section M of the RFP. Each panel member independently read and evaluated each proposal in accordance with the approved evaluation plan and RFP. The TEP, as a whole, determined the technical acceptability of each proposal.

II. Technical Acceptability of Proposals

The following is a summary listing of the technical acceptability of each proposal:

Name of Offeror	Acceptability³

[Add more blocks as necessary.]

³ A = technically acceptable; C = technically unacceptable, but capable of being made acceptable through discussions; U = technically unacceptable

III. Analysis of Proposals

[For each proposal, describe the facts which were significant in determining its technical acceptability. Describe the principal deficiencies, weaknesses and strengths that contributed to this assessment. This analysis may be done on a factor-by-factor basis.]

IV. Concurrence of TEP Members:

Signature

Date

Signature

Date

Signature

Date

[Adjust as necessary.]

Attachments

[Rating sheets, committee and/or advisor reports, reference checks documentation, specific items for clarification, and concerns and questions to be addressed in discussions and negotiations.]