



# Evaluating Negotiated Procurements

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# Our Focus Today -

- Presentation of the two evaluation methodologies:
  - Technically Acceptable Lowest Price (TALP)
  - Numeric Weights (use of numeric scoring) and how price can be evaluated
- Practical Application – “the good, the bad and the ugly” of each methodology, how to identify evaluation factors and some information on how to conduct evaluations.
- And we’ll end with a few words on Best Value.

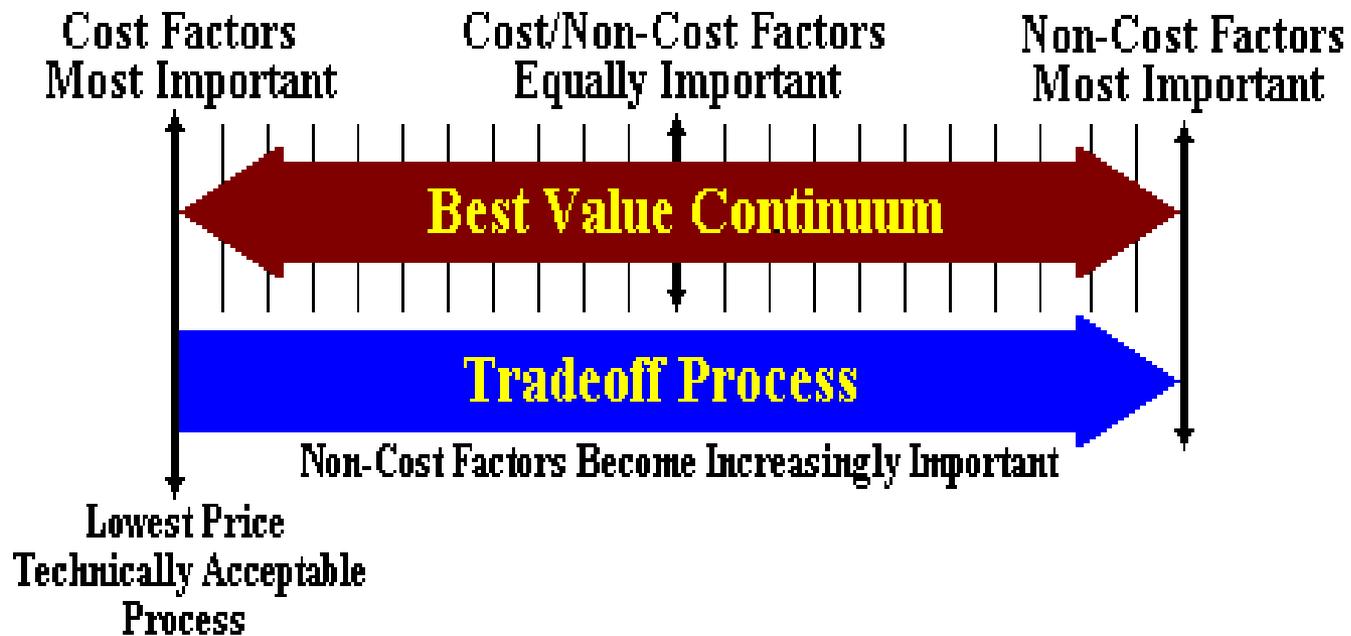
# Before Issuance of the Procurement

- Start with a process that is well documented.
- LA Metro uses a multi-step process to insure that procurements are “ready” to be issued.
  - Acquisition Plan – separate narrative document created for major procurements.
  - Readiness Review – A meeting held for all “formal” procurements, even sealed bids, to insure that the procurement is ready to be issued.
- Following the conference, all attendees will have access to this presentation and some sample forms and documents that I’ve provided.

# How do you start?

- Everyone is responsible for the evaluation process. It is NOT simply the responsibility of Procurement! But, it is also NOT strictly the responsibility of the “User” either!
- Start with the Scope of Work then “add” a huge dose of good common sense!
- Do NOT use evaluation criteria to create a restrictive specification.

# ▪ Best Value/Trade Off Continuum



# What is Technically Acceptable Lowest Price?

- The technically acceptable lowest price (TALP), also known as “lowest price technically acceptable,” is the process where **price** is the most important factor.
- Proposers must demonstrate **absolute compliance** with qualifications listed in the solicitation document. The evaluation “criteria” can be considered “minimum qualifications.”

# What is Technically Acceptable Lowest Price?

- Proposals are not ranked. There is no extra value given to firms for exceeding the minimum qualifications. **There is a “pass/fail” determination.**
- “Discussions” are permitted with proposers to confirm compliance.
- **Once technically acceptable firms are identified, the pricing is opened and award is made to the technically acceptable firm with the lowest evaluated price.**

# When should you use this method?

- TALP is the “sealed bid” of negotiated procurements.
- TALP can be used for Service contracts where:
  - the resulting contract will be a firm fixed price or a fixed unit rate
  - the approach is typically standardized or is prescribed by law or by regulation
  - there may be minor differences in approach but the different approaches will not affect the results
  - The qualifications of the person(s) performing the work are NOT a significant factor in obtaining required results.

# When should you NOT use this method?

- TALP should not be used if the requirements are not clearly defined, or technical or past performance considerations must play a dominant role in source selection.
- TALP should not be used in procurements where the relative differences between approaches or staff qualifications can affect the results.

# How Does TALP Work?

- Procurement and Project Staff work jointly to identify the procurement methodology. The “user” must understand how this methodology will work!
- A reasonable number of evaluation criteria must be jointly developed with the user. (Depending on the scope of work, there should be **at least 5 or more key criteria.**)
- Each criteria must be very clear and unambiguous.

# How Does TALP Work?

- A reviewer must be able to determine if a proposal is compliant using a “pass / fail” system.
- Be sure that the selection process is clearly described in the solicitation document and that each of the evaluation criteria are clearly listed.
- Finally, explain the how the award will be made in the “Basis of Award” section of the solicitation.

# Handling of Pricing

- Pricing proposals should be submitted in separate sealed envelopes that are **not** opened.
- Evaluators determine which firms have submitted “technically acceptable” proposals. **The evaluators are not provided any pricing information until after the evaluation is completed.**
- Once the technically acceptable proposals are identified, award is made to the acceptable proposer having the lowest price.

# What do you do?

- The Criteria:
  - Each proposed Bus Inspector shall have a minimum of two years experience performing heavy-duty transit bus inspection. Each proposed Bus Inspector shall also have three (3) years' experience in vehicle maintenance or other related activities.
- Proposer A has an inspector with over two years of military bus inspection experience and over three (3) years experience in vehicle maintenance. How does this get scored?

# What do you do?

- Proposals from Firm A and Firm B meet all of your requirements. Firm A has an “adequate” Project Manager but the firm has significantly more experience than Firm B. Firm B has “adequate” experience and their Project Manager’s experience exceeds all requirements.
- Firm A submits a price of \$185,000 and Firm B submits a price of \$177,000.  
Who get the award and why?

# TALP Summary

## The Good, the Bad and the Ugly -

- The “good” -
  - TALP is a “faster” method of procurement.
  - Proposals must be compliant or they are “non-responsive”.
  - There is more objectivity because of explicit compliance with the evaluation criteria.
  - There is less potential for protests.
  - “Discussions” can be held to verify or validate compliance.

# TALP Summary

## The Good, the Bad and the Ugly -

- The “bad” -
  - There is NO extra credit for exceeding the minimum requirements. Thus a “superior” firm is considered the same as firm that is “adequate.”
- The “ugly” –
  - TALP doesn’t always work as expected. Performance may or may not be acceptable!

## Practical Experiences – The “Good”

- Artic Bus Inspection Services (2004) – TALP worked well for bus inspection of advanced vehicle design with innovative technical applications. The technical acceptability requirements could be clearly defined. End result was positive. The same methodology was recently used for two new bus inspection services contacts in 2008.
- Pest Control - (2008) – Originally, procurement was conducted using numeric weights. Recently, new procurement was conducted as TALP because there was no need to conduct negotiations, etc. to obtain the required services.

# Practical Experiences – The “Bad”

- Elevator/Escalator Consulting – (2003 and 2008) – TALP was initially used to procure consulting services to provide oversight of the elevator/escalator maintenance contract. According to the Contract Administrator, the selected firm performed the required services. For the new contract, Project Management wanted a more aggressive approach to providing oversight. Thus numeric weights were used. However, price was valued at 50% of the total to insure that Metro did not “overpay” for the services.

## Practical Experiences – and the “Ugly”

- Security Guards – (2005 and 2008) – TALP was initially used to procure security guard services. The services require a licenses, etc. and the TALP process worked well. However, Metro subsequently found that the firm’s performance was not acceptable. There were lots of complaints. Staff determined that there was a need to look closer at qualifications of the proposed security personnel. As a result, the latest contract was done using numeric weights and included past performance.

## Guidance on Using this Methodology

- Solicitation document must clearly list the technical acceptability requirements.
- Proposers must meet minimum requirements, but exceeding requirements is NOT required or requested. This MUST be made clear to proposers.
- **Do not use this approach when there will be quantifiable differences in the quality or value of the goods or services being procured.**

# What is Numerical Weights Scoring?

- Also known as “explicit factors,” it is a quantitative approach of assigning numeric scores to technical and cost proposals.
- The evaluations **must** include narrative statements that outline strengths, weaknesses and deficiencies of each proposal.
- The source selection decision is mathematically derived with award being recommended to the firm with the highest score.

# When should you use this method?

- It can be used for Service contracts where:
  - the approach is not typically standardized or prescribed by law or by regulation
  - there may be differences in the technical approach that could affect the results
  - The qualifications of the person(s) performing the work are a significant factor in obtaining required results.
- There could be any “type” of resulting contract
  - fixed price or a “cost” contract.

# When should you NOT use this method?

- Unless there are state and/or local statutes that stipulate how certain items are to be procured, this method can be used for **almost anything**.
  - Los Angeles only got statutory authority to negotiate bus purchases in 2000. And that statute contains a requirement for an authorizing resolution. It also requires that there must be a justification for the use of this type of procurement methodology.

## FTA Guidance from Circular 4220.1F

- Chapter IV, Procedural Guidance for Open Market Procurements is a “key chapter.”
- Under Procurement Procedures for Competitive Proposals, there is a definition for “Best Value” which states in part...If permitted under its State or local law, the recipient may award the contract to the offeror whose proposal provides the greatest value to the recipient. To do so, the recipient’s solicitation must inform potential offerors that the award will be made on a “best value” basis and identify what factors will form the basis for award. (See Appendix for the full definition)

# FTA Guidance from Circular 4220.1F

- In that same chapter, you find the following on Evaluations:
- EVALUATIONS. The following standards apply:
  - General. When evaluating bids or proposals submitted, FTA expects the recipient to consider all evaluation factors specified in its solicitation documents, and evaluate the bids or offers **only on the evaluation factors included in those solicitation documents**. The recipient may not modify its evaluation factors after bids or proposals have been submitted without re-opening the solicitation.

# How does it work?

- Procurement and Project Staff work jointly to identify the procurement methodology. The “user” must understand how this methodology will work!
- The two groups typically will jointly develop the evaluation criteria. At a minimum, the criteria or “factors” are identified at the highest level – “qualifications of the staff”.
- There are typically “sub-factors” developed for each “factor” – “Project Manager must have adequate experience performing...”

# How does it work?

- The primary evaluation criteria are then assigned numerical weights. For example:
  - Technical Approach - Assigned Weight - 30%
  - Qualifications of Firm – Assigned Weight – 10%
  - Qualification of Staff – Assigned Weight 10%
  - Past Performance - Assigned Weight - 10%
  - Price – Assigned Weight - 40%
- **This information must be disclosed in the solicitation document OR the criteria must be listed in descending order of importance.**

# How Does it Work?

- **QUALIFICATIONS OF THE FIRM 10%**
  - Demonstrated recent experience with similar projects and knowledge of the service area(s) proposed
  - Demonstrated experience with the performance standards established in the statement of work (for example, vehicle maintenance, on-time performance, vehicle cleanliness, safety, etc.)
  - Demonstrated experience providing bus contract services to State, Municipal, Federal government and/or commercial clients

# How does it work?

- Some agencies also list all of the “sub-factors” for each evaluation criteria.
- An internal evaluation form is created for the evaluators to use to score proposals. This form will list each of the sub-factor.
- Some agencies will develop “weights” for each sub-factor. Those weights **may or may not** be disclosed to the evaluators.
- Other agencies provide guidance to the evaluators on how to “score” each sub-factor.

# How does it work?

- Points   Rating   Basis of Rating
- 10   Excellent   Indicates excellent conformance with stated requirements in terms of competence, analytical work, efficient use of resources. Shows excellent use of the attributes within proposed team structure.
- 8   Good   Indicates good conformance with stated requirements in terms of competence, analytical work and efficient use of resources. It also shows good use of those attributes within proposed team structure.

(The entire list is in the handout documents!)

# Handling of Pricing

- Many agencies “normalize” pricing.
- The first step is to evaluate pricing regarding price realism. Proposals may be evaluated to determine whether offered prices are realistic in relation to the work to be performed, reflect a clear understanding of the requirements and are consistent with other portions of the proposal.
- Is the offer a “buy in” and the firm either doesn’t understand the work or expects to “make up the differences in changes?”

# Handling of Pricing

- If cost data is submitted, determine whether the costs are allocable, allowable, reasonable and certifiable.
- If it is determined that the proposed price meets the criteria of being allocable, allowable, reasonable and certifiable and pricing is to be “normalized”, the price score will be calculated in the following manner:

# Handling of Pricing

- Proposer Price Score =  
Lowest\_Price Proposed X Proposer's  
Price Points / Proposer's Cost
- Proposer A - Lowest Price = \$10,000  
 $\$10,000 \times 40 / \$10,000$   
Price score is 40
- Proposer B - \$15,000  
 $\$10,000 \times 40 / \$15,000$   
Price score is 26.6

# What do you do?

- Assume there are four voting evaluators and the preliminary evaluation is done. Scores are:
  - Proposer A - 355
  - Proposer B – 345
  - Proposer C – 387
  - Proposer D – 377
  - Proposer E – 275
- Which firms do you include in a “competitive range” and why?

# What do you do?

- Assume there are four voting evaluators and the preliminary evaluation is done. Scores are:
  - Proposer A – 3550
  - Proposer B – 3450
  - Proposer C – 3870
  - Proposer D – 3770
  - Proposer E – 2750
- Which firms do you include in a “competitive range” and why?

# What do you do?

- Assume there are four evaluators and the preliminary evaluation is done. Scores are:
  - Proposer A – 3550 – price = \$510,000
  - Proposer B – 3450 – price = \$490,500
  - Proposer C – 3870 – price = \$575,000
  - Proposer D – 3770 – price = \$515,000
  - Proposer E – 2750 – price = \$705,000
- Which firms do you include in a “competitive range” and why?

# What do you do?

- Assume the following 4 firms were included in the competitive range. Negotiations have been completed and the best and final offers (BAFOs) have been received. Revised scores are:
  - Proposer A – 3530 – price = \$500,000
  - Proposer B – 3640 – price = \$495,500
  - Proposer C – 3770 – price = \$540,000
  - Proposer D – 3760 – price = \$512,000
- Which firm is recommended for contract award and why?

# Numerical Weights Summary

## The Good, the Bad and the Ugly

- The “good”

- This approach is “known” throughout the industry and is widely used. Proposers are “familiar” with the methodology.
- This approach is designed to result in a consensus of all voting members of the Source Selection Committee. Otherwise, the scoring can become “skewed.”
- Because the approach appears “quantitative”, it may be considered more objective than other methods.

# Numerical Weights Summary

## The Good, the Bad and the Ugly

- The “bad” and the “ugly”
  - Use of Numerical weights gives evaluators a false sense of objectivity.
  - Unless the evaluators provide detailed explanations justifying the scoring, the evaluators may not be able to fully explain Numerical score differences, thereby increasing the chances of a protest.
  - The evaluators may reach a consensus without thoroughly understand the strengths and weaknesses of each proposal.

## Practical Experiences – The “Good”

- Contracted Bus Services (2008) –The use of “numeric weights” provided a method of complying with new State labor code requiring agencies to give a 10% score for “compliance” with the labor code. (This code affects CA agencies that contract out service.)

## Practical Experiences – The “Bad”

- Contracted Bus Services (2008) – The Source Selection Committee scored proposals and proceed to recommend an award. BUT, the Committee never reached a consensus on scoring. One Evaluator skewed their rating of one proposal. The difference in total scores between the top rated firm and the second rated firm was “12 points.” **This was on a scale of 4000 points.** The price difference was “significant” with the higher rated firm having the higher price. The process “worked” as award was recommended and made to the highest rated firm.

# Practical Experiences – The “Ugly”

- Contracted Bus Services (2008) – At the end of the process, the Committee learned that the Project Manager proposed by one proposer was the **current** Project Manager for the Evaluator who skewed their rating. It was never determined if the skewed rating was due to the person’s real evaluation of the proposal OR because that person did not wish to “lose” it’s Project Manager!

# Summary



- All methodologies have “pros” and “cons.”
- Procurement staff have an obligation to both the individual agency and to potential proposers to conduct a fair and open process.
- Have a plan and then “work” the plan!

An aerial night photograph of Los Angeles, California. The city is densely packed with lights, and the downtown skyline is visible in the distance. A major highway in the foreground shows long, curved light trails from cars, indicating a long exposure. The overall scene is a vibrant, illuminated urban landscape.

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# FTA Requirements for Competitive Proposals – 4220.1f – Ch. VI, ¶ d(2)(f).

- Best Value:

If permitted under its State or local law, the recipient may award the contract to the offeror whose proposal provides the greatest value to the recipient. To do so, the recipient's solicitation must inform potential offerors that the award will be made on a "best value" basis and identify what factors will form the basis for award. The evaluation factors for a specific procurement should reflect the subject matter and the elements that are most important to the recipient. Those evaluation factors may include, but need not be limited to, technical design, technical approach,

# Appendix - FTA Requirements for Competitive Proposals – 4220.1f – Chapter VI – Procedural Guidance for Open Market Procurements

## Best Value continued.

length of delivery schedules, quality of proposed personnel, past performance, and management plan. The recipient should base its determination of which proposal represents the “best value” on an analysis of the tradeoff of qualitative technical factors and price or cost factors. Apart from the statutory requirement that the contract must support the recipient’s public transportation project consistent with applicable Federal laws and regulations, FTA does not require any specific factors or analytic process.