

NYS Department of Civil Service/New York State Insurance Fund Debriefing Guidelines

NYS State Finance Law §163(9)(c), as amended by Section 3 of Chapter 137 of the Laws of 2008, requires that:

“A state agency shall, upon request, provide a debriefing to any unsuccessful offerer¹ that responded to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. The opportunity for an unsuccessful offerer to seek a debriefing shall be stated in the solicitation, which shall provide a reasonable time for requesting a debriefing.”

The Procurement Council Guidelines define “Debriefing” as:

The practice whereby, upon the request of a bidder, the state agency advises such bidder of the reasons why its bid was not selected for an award. It is viewed as a learning process for the bidder to be better prepared to participate in future procurements.

In accordance with the law, the Procuring Agencies shall make a Debriefing available to any entity that submitted a proposal or bid in response to a given solicitation (“Offeror”), including the selected Offeror after notice award is made by the Procuring Agencies. All Offerors shall be given written notice of award, via email with hardcopy to follow.

Timeframes associated with requesting/conducting Debriefings:

Debriefing must be requested by Offerors in writing to the designated individual or email address as set forth in the notice of award.

- Pre-Award Debriefings:

Any Offeror, upon request, will be afforded an opportunity for a pre-award Debriefing at least five business days prior to the date by which any protest must be filed. An Offeror’s failure to timely request a pre-award Debriefing shall not cause an extension of the time period within which a protest must be filed. In those cases where the Offeror fails to make a timely request for a pre-award Debriefing, the Procuring Agencies will schedule the Debriefing as soon after the time the request is made as it deems practicable.

- Post-Award Debriefings:

In the case of requests made by an Offeror(s) for a post-award Debriefing, the request must be received by the Procuring Agencies not more than twenty calendar days after final approval of the contract is received or the date the award is posted on OSC’ website at the address set forth below and the Procuring Agencies will schedule the Debriefing as soon after the time the request is made as it deems practicable.

<http://wwe1.osc.state.ny.us/transparency/contracts/contractsearch.cfm>

¹ For purposes of this policy, the terms Offeror, Offerer and Bidder are understood to have same meaning.

NYS Department of Civil Service/New York State Insurance Fund Debriefing Guidelines

How Debriefings shall be conducted by the Procuring Agencies:

A Debriefing may be requested by any unsuccessful Offeror after a contract award is made regarding the reasons that the proposal or bid submitted by the unsuccessful Offeror was not selected for award. While a Debriefing is typically conducted in person, it may be conducted by video conference, over the phone, or through written summaries, if agreed to by the Offeror.

Since Debriefings are intended to make the procurement process open and transparent and to help the vendor community become more viable competitors for New York State goods and services, when conducting a Debriefing, the Procuring Agencies will, at a minimum, discuss the strengths and weaknesses of the Offeror's proposal and provide information as to the relative rating of the Offeror's proposal in each of the major evaluation categories as provided for in the solicitation document. Typically such a debriefing will include information as to the rating of the Offeror's proposal in both the technical and cost components of the evaluation and an identification of any areas in the proposal deemed deficient. The Procuring Agencies will not provide any documents/materials at a Debriefing as their release is subject to NYS FOIL laws.

During a pre-award Debriefing, the Procuring Agencies:

- will limit the discussion to the reasons why the Offeror's proposal/bid was unsuccessful;
- will not provide information concerning any other Offerors' proposals, including the winning proposal; will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws; and
- may, but is not required to, offer general advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities.

During a post-award Debriefing, the Procuring Agencies:

- will provide information as to the reasons why the Offeror's proposal/bid was unsuccessful;
- will provide information concerning the other Offerors' proposals, including the winning proposal, but only in the context of the bid evaluation scoring;
- will not discuss specific details of other Offerors' proposals, including their individual strengths and weakness as such information is subject to NYS FOIL laws
- will not discuss any other aspects of the Procurement Record, including but not limited to the detailed scoring and evaluation criteria as such information is subject to NYS FOIL laws and
- may offer advice and guidance to the Offeror for the Offeror's consideration as regards future bidding opportunities, including those services which were the subject matter of the procurement.

General:

- ✓ The Procuring Agencies will schedule the same amount of time for each Offeror who requests a debriefing.
- ✓ Debriefing will not be scheduled for more than one hour.
- ✓ Debriefings will be held individually with a requesting Offeror.

NYS Department of Civil Service/New York State Insurance Fund Debriefing Guidelines

- ✓ The Procuring Agencies' Designated Agency Contact (i.e., the Procurement Manager) is the sole person authorized to schedule a Debriefing.
- ✓ The Offeror must provide a list of intended attendees prior to the Debriefing, including their titles or relationship to the Offeror and notify the Procuring Agencies if the Offeror is intending to bring legal counsel, so that the Procuring Agencies can notify agency legal counsel.
- ✓ At a minimum at least two agency employees must be present at each Debriefing.
- ✓ Debriefings will not be taped or transcribed by the Procuring Agencies, and Offerors are prohibited from taping the Debriefing.
- ✓ Any discussion of a proposal's strengths and weaknesses will relate to scoring of that bid submission against the RFP requirements, not against a competitor's proposal. The Procuring Agencies will not discuss the relative merits of one Offeror's submission against its competitors as that is not how proposals are evaluated and scored.
- ✓ Requests for copies of documents made by an Offeror at the Debriefing must be handled in accordance with the Procuring Agencies FOIL procedures.

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