

## DHHS POLICIES AND PROCEDURES

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Section VII: Office of Procurement and Contracting Services (Office of Procurement, Contracts and Grants; Business Systems and Training)

Title: Vendor Post-Award Debriefings

Approved by:

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### Purpose

The Department of Health and Human Services (DHHS) encourages vendors to obtain feedback through a post-award debriefing. Debriefings are important for several reasons, but primarily because they help vendors improve their competitive performance for future procurements. A post-award debriefing is a meeting after contract award with OPCG personnel requested by an offeror who was eliminated from the competition or otherwise unsuccessful in contract award. Successful offerors may also request post-award debriefings.

Debriefings afford an opportunity for unsuccessful vendors to understand how their proposals were evaluated. Information learned through the debriefing process can be used by vendors (both unsuccessful and successful vendors) to improve future proposals. By providing a post-award debriefing, DHHS intends to:

- Assure vendors that DHHS recognizes each vendor's investment and resources in preparing and submitting a proposal;
- Provide assurance that their submission was treated fairly;
- Maintain a fair, ethical and transparent process;
- Demonstrate the vendor's proposal was evaluated in accordance with the evaluation process and criteria;
- Better prepare the vendor for future opportunities, which, in turn, strengthens the public sector supply base; and,
- Support the growth and development of small businesses by providing information that can be used to improve future proposal submissions.

### Definitions and Acronyms

*Debriefing* – The practice whereby, upon the request of a vendor, DHHS advises such bidder of reasons (not necessarily comprehensive or exhaustive) 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.

*DHHS* – Department of Health and Human Services or Department; State agency responsible for managing the delivery of health- and human-related services for all North Carolinians.

*OPCG* – Office of Procurement, Contracts, and Grants; entity responsible for oversight and control of acquisition services for DHHS.

## **Policy**

Debriefings are regarded as good practice and accepted at DHHS as an integral part of a quality approach to procurement, one firmly based on continuous improvement principles and closely linked with establishing sound communications throughout.

Although providing a debriefing is not a requirement, DHHS will demonstrate its commitment to quality in the procurement process by:

- Including in each solicitation a statement informing vendors of their debriefing privilege and providing information on how to request a debriefing, provided however, that the failure to include such statement is not a reason to upset the award to the winning vendor; and
- Holding a timely debriefing meeting:
  - Vendor must submit a written request for a debriefing within three (3) working days after posting the public notice of award;
  - Unless good cause exists for delay or as otherwise mutually agreed by the requesting vendor and OPCG, the debriefing should occur within seven (7) business days after receipt of the vendor request; and,
  - At the sole discretion of OPCG, the debriefing meeting may be held in-person or by electronic means (i.e., WebEx, Teams, Zoom, conference call, etc.) or by some combination thereof.

## **Applicability and Non-Waiver**

This policy applies to any Vendor who is interested in understanding how to improve future proposal submissions. Except as provided herein, this Policy shall apply to every procurement of goods or services made with public funds irrespective of their source, including state and federal assistance monies.

This Policy shall not apply to 1) grants or 2) non-competitive awards between the Department, including its Divisions or other subdivisions, and other governmental entities. Neither this Policy nor anything contained herein shall be applicable to the Division of Health Benefits (DHB). DHB is expressly excluded from the policies and procedures contained herein while operating under Alternative Procedures, but it may choose to follow them.

Neither the debriefing meeting nor information provided during or related in any way to that meeting shall constitute a waiver of any rights, claims, or defenses that OPCG, DHHS, or any of DHHS' Divisions, agents or employees may have should the vendor file a protest or any legal action whatsoever.

Since the debriefing meeting comes *after* the award to the successful vendor, violations of this policy are not material to that award and may not be used as grounds in a protest to upset the award to the successful vendor.

Unless otherwise provided by law, this Policy applies to contracts awarded after the effective date.

## About the Debriefing

Debriefings are intended to be informal, verbal and educational. A vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. Should the vendor choose to have legal representation present, the vendor must notify OPCG and identify its attorney(s) when it submits its request. OPCG shall be afforded sufficient time to schedule and/or suspend and reschedule the debriefing at a time when a representative of DHHS' Legal Counsel can be present. Vendor is further informed that:

- Procurement information is a public record to the extent provided in NCGS §132-6, and shall be available to the public as provided in such statute. No documents will be provided by the OPCG during the debriefing. Rather, a vendor who requests a debriefing meeting may wish to make a separate public records request for the procurement documents that it seeks, provided however, that any delay in receiving such records shall not constitute grounds to delay the debriefing meeting;
- OPCG does not conduct pre-award vendor debriefings. Procurement information deemed appropriate for release shall only be available *after* the contract is awarded;
- OPCG does not provide subcontractors with separate debriefings. With the prime contractor's consent, subcontractors may attend debriefings provided to their prime contractors;
- OPCG may respond as practicable to Debriefing requests, but the failure to respond shall not be grounds for a formal protest; and,
- Debriefing requests made under this Policy shall not extend the time period to submit a protest. Further, nothing regarding the debriefing meeting or debriefing process shall extend the deadline to submit a protest.

### Information Provided

At a minimum, the debriefing will provide the following, as available:

1. OPCG's evaluation of significant weaknesses or deficiencies in the vendor's bid or proposal, if applicable;
2. The overall evaluated cost or price, and technical rating, if applicable, of the successful vendor(s) and the debriefed vendor;
3. The overall ranking of all vendors, when any ranking was developed by the agency during the selection process;
4. A summary of the rationale for award, which is for general informational purposes only and may not contain each and every single reason or justification for the award; and,
5. Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.

### Information NOT Provided

The debriefing process is specific to the individual offeror and that offeror's proposal. The debriefing shall not include point-by-point comparisons of the debriefed vendor's bid or proposal with those of other offering vendors. A debriefing does not offer the following:

1. Content of other offeror's proposals;
2. Comparison, scoring, or ranking of other offeror's proposals;
3. A debate of the solicitation process and outcome;
4. Discovery of documents, discussions, thoughts or notes in the evaluation process;

5. Information prohibited from release by the North Carolina Public Records Act. Specifically, Confidential information regarding other offerors that may compromise trade secrets, references, names, etc.;
6. Commercial and financial information that is privileged or confidential, to include an offering vendor's cost, breakdowns, profit, indirect cost rates, and similar information as identified by the offering vendor claiming the privileged or confidential information;
7. The names of individuals providing reference information about any vendor's past performance; and/or,
8. The defenses that OPCG, DHHS, and its Divisions, agents and employees may raise should the vendor protest the award decision. All such defenses are reserved.

### **How to Request a Debriefing**

Within three (3) business days of posting of the contract award, a vendor, successful or unsuccessful, may request a post-award vendor debriefing in writing and delivered to the Office of Procurement, Contracts and Grants (OPCG) via electronic submission to [Debriefings@dhhs.nc.gov](mailto:Debriefings@dhhs.nc.gov). Verbal or telephone requests cannot be accepted for post-award debriefings.

The request should include the name and contact information of the requester including email address and phone number, and a list of attendees with name and role (i.e., contract specialist, President, negotiator, etc.).