
Mitigating the Pitfalls of Technical Evaluations

Source Selection: Top 5 Best Practices for Technical Evaluation Boards/Panels

INTRODUCTION

Acquisition professionals [Contracting Officers (CO) as well as Program Managers] across several Government Agencies agree that Technical Evaluation Boards/Panels (TEB/TEPs) issues consistently plague the contract evaluation process. In conjunction with the 2017 Leadership Excellence in Acquisition Program (LEAP), the GreenDots team has developed Best Practices to mitigate the factors affecting TEBs/TEPs.

Issues and concerns impacting the technical evaluation process identified by acquisition professionals include:

- Poor quality of initial technical evaluation documentation
- Technical Evaluation Boards/Panels (TEB/TEPs) members exceeding time planned to complete the source selection evaluation process. Sometimes this is as a result of insufficient time and focus devoted to complete the evaluation process.
- The lack of consistency between the evaluation procedures set-forth in the solicitation and evaluation of proposals

These issues have profound effects on the acquisition process because of their immediate and long- term impact on quality, time and costs. For example, the mediocre draft technical document affects quality, time and costs since multiple revisions will be required to produce technical documentation to a quality standard. Of course time is impacted as the technical and/or contracting team requires additional time to work on each subsequent documentation revision and finally, costs are directly impacted. The required working hours TEBs/TEPs and/or the contracting team spends on each subsequent revision is directly attributed to the particular acquisition and/or other procurement responsibilities. Immediate impacts on the acquisition may result in multiple revisions of technical evaluation documentation thus extending the source selection period.

GAO 2016 STATS: 22.56% OF PROTESTS SUSTAINED

In 2016 the Government Accountability Office (GAO) provided bid protest statistics which shows many more protest were filed in 2016 compared to 2015. The amount of sustained protests (rate of protest wins) in 2015 (12%) nearly doubled to 22.56% in 2016.¹ According to the GAO report, “unreasonable technical evaluation of the bidders, unreasonable evaluation of past performance, unreasonable analysis of cost or price, and a flawed decision in selecting the contract awardee” are the top reasons protests were upheld in 2016. The GAO report provides data regarding the quality of technical evaluations which should have agencies concerned. If agencies do not address these issues facing technical evaluations, the 2016 trend of increased protests may be repeated in 2017. In order to address the issues affecting technical evaluations we need to take a step back and identify the challenges facing Technical Evaluations.

¹ GAO Bid Protest Annual Report to Congress for Fiscal Year 2016, GAO-17-314SP: Dec 15, 2016

Bid Protest Statistics for Fiscal Years 2012-2016

	FY2016	FY2015	FY2014	FY2013	FY2012
Cases Filed ¹	2789 (up 6% ²)	2639 (up 3%)	2561 (up 5%)	2429 (down 2%)	2,475 (up 5%)
Cases Closed ³	2734	2647	2458	2538	2495
Merit (Sustain + Deny) Decisions	616	587	556	509	570
Number of Sustains	139	68	72	87	106
Sustain Rate	22.56%	12%	13%	17%	18.6%
Effectiveness Rate ⁴	46%	45%	43%	43%	42%
ADR ⁵ (cases used)	69	103	96	145	106
ADR Success Rate ⁶	84%	70%	83%	86%	80%
Hearings ⁷	2.51% (27 cases)	3.10% (31 cases)	4.70% (42 cases)	3.36% (31 cases)	6.17% (56 cases)

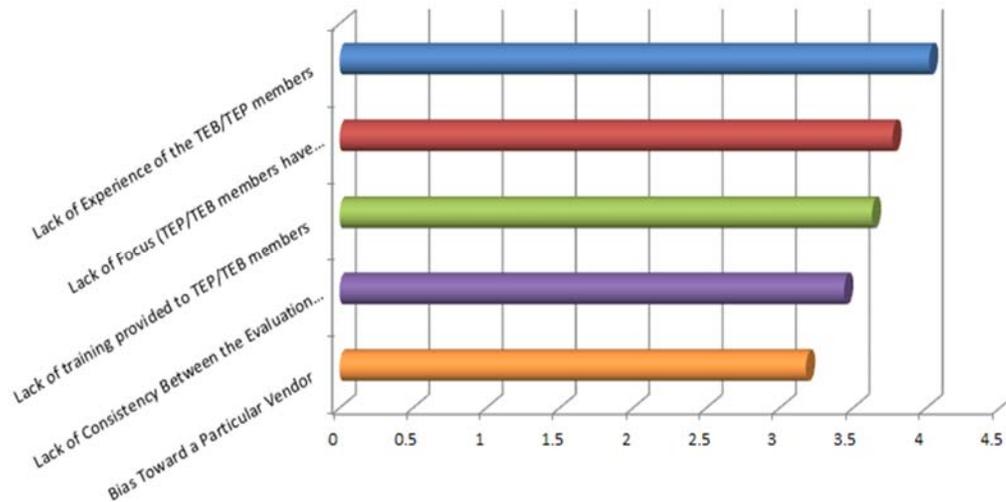
Source: U.S. Government Accountability Office, "GAO Bid Protest Annual Report to Congress for Fiscal Year 2016", December 2016. Retrieved from <https://www.gao.gov/products/GAO-17-314SP>

To better understand the challenges facing Technical Evaluations a survey of federal contracting professionals across six (6) federal government agencies was completed.² The majority of contracting professionals indicated they had experience with more than seven (7) TEBs/TEPs. However, the professionals indicated the experience level of most of their technical evaluators was closer to 1 - 3 TEBs/TEPs.

The intent of the survey was to confirm that the issues being faced by one federal acquisition professional isn't limited to a particular procurement or agency but rather is pervasive on source selections government wide. The survey confirmed the following five (5) challenges plaguing TEBs/TEPs:

1. Lack of experience of the TEB/TEP members.
2. Lack of focus (TEB/TEP members have by competing responsibilities between taking part in evaluations and primary areas of responsibility).
3. Lack of training provided to TEB/TEP members.
4. Lack of consistency between the evaluation procedures contained in the Solicitation and evaluation of proposal.
5. Bias toward a particular vendor.

Top Five Challenges Facing TEBs/TEPs



² Survey methodology: The data was captured via Survey Monkey®. GreenDots team members solicited responses from at least 20 contracting professionals within their respective agencies: GSA, DOL, USCG, VA, HHS/CMS, DOT/FAA.

The majority of survey participants (47%) indicated, in their experience, the number one (1) issue facing technical evaluations is the lack of experience of the TEP/TEB members. Often times TEBs/TEPs are only convened for the procurement of a specific product or service for a particular section of an organization. Therefore, panel members participation on a TEB/TEP, may experience exceptionally long break periods. Similarly, natural organizational attrition occurs. As a result, experience gained from active involvement begins to be forgotten or is lost.

Survey participants identified a lack of focus as the second (2nd) most significant issue affecting TEBs/TEPs. Considering the TEB/TEP members are only convened for a particular requirement, technical evaluation is often an auxiliary duty, which provides for little or no incentives. Dealing with competing priorities, the role of being on a TEB/TEP becomes a burdensome responsibility. Lastly, if a TEB/TEP is assembled with members from varying functional groups schedule conflicts are likely to ensue since TEBs/TEPs are not sequestered; thus resulting in extended timelines for the evaluation and finalizing award.

More than 74% of acquisition professionals surveyed indicated they were not aware of any standardized training for TEBs/TEPs at their organization. Therefore, it's of little surprise that the third (3rd) most significant issue affecting TEBs/TEPs is lack of training. As training budgets continue to get cut, agencies will have to find innovative methods for training technical evaluators.

Time and again GAO protests are sustained as a result of the fourth (4th) most significant factor facing TEBs/TEPs; the lack of consistency between the evaluation procedures contained in the Solicitation and the actual evaluation of proposal. What is the cause of the inconsistency? Can these inconsistencies be mitigated? The 2016 GAO Bid Protest statistics are astounding. To mitigate sustained protests we must consider remedies for reducing this increasing trend in bid protests.

Prejudgment is a basic human need and allows us to make quick decisions. Our evaluation periods are already constrained with short timeframes. Therefore it's only natural our TEBs/TEPs will be biased toward an incumbent who has successfully delivered on a product or service. Bias toward a particular vendor is the fifth (5th) significant issue affecting technical evaluations.

Combating an Inexperienced Team

All too often, TEB/TEP members have little to no experience with the proposal evaluation process. There are a number of techniques to mitigate the challenges of an inexperienced technical team.

1. Appoint at least one evaluation team member with experience to serve as the chairperson of the team.
 - a. An alternative is to assign an experienced evaluator as an advisor to the team.
 - b. Create a pool of skilled evaluators within the program/project management office or contracting office as a resource for assignment to evaluation teams.
2. CO provides acquisition-specific training to the TEB/TEP members prior to the technical evaluation kick-off.
3. Build customized Evaluator checklists for the specific acquisition to assist inexperienced TEB/TEP members. The following sample checklists are provided for reference: 1) "Attachment 2 - Example Tech Eval Doc - Excellent" and; 2) "Attachment 3 - Example Tech Eval Doc - Poor".
4. Build Template evaluation reports customized for the specific acquisition.
5. Early and regular communication with the CO during the evaluation can ensure an

- inexperienced team performs effectively.
- a. An alternative is to have the CO remain during the entirety of the evaluation; thus providing guidance to the team on the evaluation process.
6. Require panel to document evaluation of one offer then obtain CO and legal concurrence to establish a baseline document to serve as a template for remaining offers may reduce excessive rewrites. Provide “Attachment 1 - Tips for Writing Technical Evaluation Documentation”
 7. Assign a technical writer to improve results of an inexperienced team.

Maintaining Focus

The importance of properly identifying and delineating a milestone schedule with agreed upon time frames for the TEB/TEP to complete evaluation and supporting documentation cannot be overstated.

First, the acquisition team should develop a milestone schedule which is appropriate for the requirement which identifies the processes and the associated team members' role/responsibility. Having a proper milestone schedule that is agreed to by all parties within the acquisition team will ensure that all roles and responsibilities of the individuals who make up the TEB/TEP are completed.

Next, the acquisition team should develop a realistic planned schedule for the requirement. Developing the proposed schedule will give the team the opportunity to identify and discuss possible schedule conflicts. Flushing out these schedule conflicts allows the team to develop methods for mitigating schedule overruns and provides a realistic timeframe for award. If board/panel member schedules permit, sequestration of the team, for the duration of the evaluation process, would be ideal.

Third, it is also imperative that Managers or other key stakeholders of TEB/TEP members buy-into the schedule. Manager and other key stakeholder buy-in should reduce distractions of the participating members with other projects/responsibilities while participating on the TEB/TEP.

In general it is in the best interest of the team and the source selection process for each individual TEB/TEP member to understand their deadlines in the evaluation process as well as the responsibilities of their fellow team members in order to hold each other accountable. If the team holds each member accountable for their individual responsibilities in the evaluation process, each team member should be able to successfully fulfill their role in the allowed time, and this will help alleviate the burden of balancing the responsibilities of being a member of the TEB/TEP and competing daily obligations. When milestone schedules and technical evaluation timeframes are efficiently planned, agreed upon by all parties, effectively communicated and executed it will result in an expedited evaluation process. Thus allowing TEB/TEP members to properly prioritize their time for evaluation and documentation against their daily competing responsibilities.

Innovating Training

If time is the greatest money making asset; agencies may be able to save the most by:

1. Providing training to TEB/TEP members so that they will have the knowledge and experience to be conversant with evaluating technical proposals to ensure congruence with the solicitation procedures.
2. Developing and using training documentation and programs such as simulations and

on-the-job training.

- a. Documentation. Develop documentation such as checklists and PowerPoint presentations for source selection to provide guidance to the TEB/TEP. Standards exist for the proper execution of a source selection, which means TEB/TEP members can be trained and provided with checklists to supplement their experiences.
 - b. Simulations are imitation of a situation or a process, similar to how the Department of Defense (DoD) uses simulations of battles, wars, budgeting, and logistics. If simulations can be used for training war fighters in combat, budgeting, and logistics, surely simulations can be used to train board/panel members on source selection.
 - i. Serving on a TEB/TEP is often an auxiliary duty therefore knowledge/experience can be gained by having the team simulate a source selection before kick-off of the actual evaluation of the product/service
 - ii. Simulations should be applicable. For example if the TEB/TEP will be completing evaluation for a service the simulation should not be for a construction project
 - c. On-The-Job Training is a method of training in which an individual is placed into a situation or process and taught the skills needed to address the situation or process
 - i. Inexperienced personnel can serve as an evaluator or shadow an existing source selection in order to gain experience. then earn increasing levels of responsibility, and ultimately chair an evaluation board.
3. Continually updating and restructuring training as needed. Far too often training is static and becomes outdated. Agencies should seek opportunities to keep training current by incorporating lessons learned from previous acquisitions- internal and GAO findings. Also, test and incorporate advancements in methodologies for educating personnel.

Developing Consistency

In order to build a culture of consistency between the solicitation and the evaluation of proposals, early engagement by the board/panel members is recommended on the source selection plan. However, as a result of attrition or changes in workloads board/panel members are not involved at the beginning of the procurement. Therefore, they need to focus on preparing for and maintaining consistency throughout the evaluation process.

Preparing for Consistency

1. The CO should provide the Technical Evaluation Member with a copy of the Source Selection Plan (SSP).
2. Prior to receipt of proposals, each evaluator should become familiar with the requirements in the solicitation.
3. The CO should understand the level of experience with TEB/TEP and provide options for training based on the level of experience of the board/panel members
4. CO sets kickoff meeting with the TEB/TEP to review the following:
 - a. Explain the Conflict of Interest and sign Non-Disclosure Agreements (NDAs)
 - b. Sets grounds rules and expectations
 - i. Explicitly state bias will not be tolerated and removal of board/panel member(s) will be contemplated to maintain the integrity of the acquisition.
 - c. Describes the importance of reading and understanding the solicitation, in

- particular the statement of work (SOW) and evaluation criteria
- d. Inform each evaluator to restrict the review only to the solicitation and the contents of the proposal
- e. Inform each evaluator to watch for and document ambiguities, inconsistencies, errors, and deficiencies
- f. Explain the evaluation process, criteria, and rating scales. See “Attachment 2 – Example Tech Eval Doc – Excellent” for sample ratings scales
- g. The need for evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses that affect the scoring of the proposals

Maintaining consistency during the evaluation

1. The same evaluators should be available throughout the entire evaluation and selection process to ensure continuity and consistency in the treatment of proposals.
 - a. DoD appears to be addressing the rapid turnover of experienced acquisition workforce personnel. Acquisition policy now requires program managers to sign tenure agreements so their tenure corresponds to the next major acquisition milestone review closest to four (4) years. If this policy can be applied to other key members of the source selection teams, especially for complex products and services, it could potentially reduce errors leading to protests.
2. Hold technical evaluation off-site to avoid distractions (sequestration of the team).
3. Evaluators should examine each proposal individually in detail to measure it against the evaluation factors in the solicitation. Evaluators will need to assign a rating and document the basis for the rating (strengths and weaknesses). This is the core of the evaluation process. The following samples are provided for reference to document each offeror’s strengths and weaknesses: 1) “Attachment 2 - Example Tech Eval Doc - Excellent” and; 2) “Attachment 3 - Example Tech Eval Doc - Poor”.
4. During examination of each proposal evaluators should document problems in evaluating a proposal. These could be a result of ambiguous language, unclear meaning, or the offeror’s failure to respond to the solicitation instructions. Evaluators should also identify, in writing, instances in which an offeror has not provided enough information to evaluate the feasibility and merit of its proposed approach. The following samples are provided for reference to document these items: 1) “Attachment 2 - Example Tech Eval Doc - Excellent” and; 2) “Attachment 3 - Example Tech Eval Doc - Poor”.
5. In an effort to maintain consistency, the CO should complete a review of the first evaluation to ensure the evaluation team has reviewed it in accordance to the SSP and the solicitation.
 - a. An alternative is to have the CO remain during the entirety of the evaluation; thus providing guidance to the team on the evaluation process.

Note: There are five key elements for a successful technical evaluation to assist the evaluator in the assessment:

1. Organization
2. Preparation
3. Communication
4. Focus
5. Consolidation of the various elements into a cohesive technical analysis that is useful during negotiations.

Eliminating Vendor Bias

TEB/TEP members are responsible for ensuring a complete, fair, and impartial technical evaluation of all proposals. Documentation to support the contract file is crucial in the event of a debriefing and/or protest. There must be no disclosure of any information during the course of the evaluation to anyone other than those participating in the proposal evaluation/scoring proceedings. Yet far too often evaluations are discussed and proposals are rated (against other proposals) or unfairly rated as a result of biased opinions.

Bias is an inclination or outlook to present or hold a partial perspective, often accompanied by a refusal to consider the possible merits of alternative points of view. Bias in the rating process is often the result of peer pressure, time constraints, cost or personal gain. Lastly Bias is a learned implicitly within cultural contexts. What then can a CO do to uphold the integrity of the acquisition by reducing bias?

For starters, during the kick-off meeting the CO should remind board/panels members of the expectation that as members of the acquisition team they are to conduct evaluation with integrity, fairness and openness. Bias shall not be tolerated. In the event a fair evaluation is not feasible then removal from the board/panel shall be granted.

Next, limit proposal and evaluation discussions with other panel members until all of the initial evaluations/scorings have been completed. However, as a matter of arriving at a consensus evaluation, after completion of their initial evaluations/scorings, panel members are required to discuss their individual evaluations with other panel members. The panel will provide an orderly, impartial, comprehensive and discriminating technical evaluation of each prospective offeror's technical proposal against the solicitation requirements. The TEB/TEP member's assessment stands as the CO supporting documentation for determination of best value therefore, it's imperative these assessments reflect impartiality.

CONCLUSION

As we continue to focus our efforts on process improvement for the technical evaluation process, let us be mindful of identifying challenges early on in the planning stages of the acquisition process. Addressing these challenges early can make a world of a difference between a successful source selection and/or a very costly termination. Best Practices in (TEBs/TEPs) is a reference the procurement community can utilize to mitigate common pitfalls of the source selection process early in the acquisition process.

Best practices enhance agencies processes and improve the overall deliverance of best value products and services to the Government. However, best practices are never final. Instead they should be refined to incorporate innovations and lessons learned. As a result of these continuous improvements the source selection process will deliver on a timely basis best value products and services, while maintaining the public's trust and fulfilling public policy objectives.

Reference Document

GAO Bid Protest Annual Report to Congress for Fiscal Year 2016, GAO-17-314SP: Dec 15, 2016
<https://www.gao.gov/products/GAO-17-314SP>

NITAAC tools and templates, <https://nitaac.nih.gov/resources/tools-and-templates>

Memorandum from Office Of The Under Secretary Of Defense, Acquisition, Technology, And Logistics, Subject: Department of Defense Source Selection Procedures dated April 1, 2016.
www.acq.osd.mil/dpap/policy/policyvault/USA004370-14-DPAP.pdf

Lohfeld, Bob, *Opinion: DOD revamps Source Selection Process*, Washington Technology, May 2, 2016.

Rumbaugh, Marge, *Why Does Government Contract Source Selection Take So Long? All They Have To Do Is Read The Proposals And Award The Contract.*, Contract Management, November 2015.
http://read.nxtbook.com/nema/contractmanagement/november2015/whydoessourceselection_feat.html

Maser, Steven M., *Improving Government Contracting: Lessons from Bid Protests of Department of Defense Source Selections*, Willamette University, IBM Center for The Business of Government, Improving Performance Series, 2012:
<http://www.businessofgovernment.org/sites/default/files/Improving%20Government%20Contracting.pdf>

Preparation Guide for Competitive Source Selection Proposal Evaluation Reports, Naval Air Warfare Center Training Systems Division, July 27, 2010.
<http://www.navair.navy.mil/nawctsd/Resources/Library/Acqguide/perguide.htm>

Rourke, Elaine C., *An Analysis Of The Source Selection Process At Aeronautical Systems Division*, Air Force Institute of Technology, Wright Patterson Air Force Base, Ohio, AFIT/GCM/LSY/89S- 10, September 1989. <http://www.dtic.mil/dtic/tr/fulltext/u2/a216347.pdf>

Best Value Source Selection Process & Technical Evaluation of Proposals,
<http://blog.theodoretatson.com/gao-protest-source-selection-evaluation-technical-proposals/>

Where in Federal Contracting (WIFCON) Comptroller General Excerpts, FAR 15.305 (a)(3):
Technical Evaluation - Documentation, Discussion of GAO cases involving technical evaluations,
<http://www.wifcon.com/pd15305a3doc.htm>. Specific reference to the following cases:

1. ([M7 Aerospace LLC](#) B-411986, B-411986.2: Dec 1, 2015) (pdf)
2. ([Swets Information Services](#), B-410078: Oct 20, 2014) (pdf)
3. ([Custom Pak, Inc.; M-Pak, Inc.](#), B-409308, B-409308.2, B-409308.3, B-409308.4: Mar 4, 2014) (pdf)
4. ([Clark/Foulger-Pratt JV](#), B-406627, B-406627.2, Jul 23, 2012) (pdf)
5. ([Technology Concepts & Design, Inc.](#), B-403949.2; B-403949.3, March 25, 2011) (pdf)
6. ([Government Acquisitions, Inc.](#), B-401048; B-401048.2; B-401048.3, May 4, 2009) (pdf)
7. ([Rosemary Livingston--Agency Tender Official](#), B-401102.2, July 6, 2009) (pdf) See ([Department of the Navy--Request for Modification of Remedy](#), B-401102.3, August 6, 2009) (pdf)
8. ([Panacea Consulting, Inc.](#), B-299307.4; B-299308.4, July 27, 2007) (pdf)
9. ([Midland Supply, Inc.](#), B-298720; B-298720.2, November 29, 2006) (pdf)
10. ([Intercon Associates, Inc.](#), B-298282; B-298282.2, August 10, 2006) (pdf)