



#WTF: Where is the Fairness?

Presentation to CIPMM Regional Workshop -- Montreal
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Office of the Procurement
Ombudsman

Bureau de l'ombudsman
de l'approvisionnement

Canada 



Office of the Procurement Ombudsman

- Government-wide mandate
- Neutral
- Independent
- Created to fill a gap

*...neither a
lobbyist for
suppliers, nor an
apologist for
government*



Mandate



**Alternative
Dispute
Resolution**



**Review of
Complaints**



**Review of
Procurement
Practices**

**Promoting fairness, openness and
transparency in federal procurement**



Did You Know?

- What are the financial limits, if any, for the Ombudsman regarding:
 - Review of complaint for the award of a contract?
 - Review of complaint for the administration of a contract?
 - Alternative Dispute Resolution?
- Which is more common, complaints about goods or services?
- What are the most commonly raised issues to the Office?
- What percentage of findings were in favor of a federal organization in the 6 Reviews of Complaints of 2015-2016?



Procurement

Puzzlers

A call-up for a service contract states proposed resources must have a high school diploma. A supplier proposes a resource and submits their BA and MA.

Should the supplier (and the resource) be considered compliant?



Case Study

Complaint	Complaint regarding the award of a contract for the acquisition of Cybersecurity Audit Services
Issues	Did the Department assessed the proposal according to evaluation criterion?



Case Study

Criterion CTC4

Level of effort (*maximum of 6 points*)

Rating Scale for Criterion CTC4E

Excellent = 6 points	The Bidder's response to this criterion is in depth and the requirement is exceeded. The knowledge, experience or approach demonstrated should ensure highly effective performance on this aspect of the work. Addresses and exceeds all elements as outlined in the SoW.
Unsatisfactory = 2 points	The Bidder's response minimally addresses the criterion. The knowledge, experience or approach demonstrated is insufficient for the effective performance of the work. Addresses some elements as outlined in the SoW.

What do you think?



Case Study

Response from the Department to OPO

Given that the level of effort is deemed insufficient, the Complainant did not receive full marks for this criterion:

- Level of effort is a key contributor to scheduling, start and finish time, etc.
- The evaluators would foresee and anticipated amendment of the order of 50% (to get the contract into the expected range) to have a foreseeable significant impact on the proposed schedule and finish time...

The Department was expecting a level of effort corresponding to a critical threshold that was not explicitly define



The Department used an undisclosed evaluation criteria

According to the Complainant

The Complainant stated:

- The benchmark used by the Department of 55-65 days appears to be an undisclosed evaluation criteria.
- Evaluators must not use criteria or factors not included in the bid solicitation

Departmental Response

- The project authority's knowledge of how much effort this could take does not qualify as a "secret criterion" that would be unanticipated by qualified bidders.
- The Complainant level of effort was scored in light of the evaluator's understanding of a realistic level of effort for such a project (critical threshold, 55 – 65 days).



Findings

- **OPO finds the Complainant's issues have merit. The Department:**
 - Used an undisclosed evaluation factor as it applied a “critical threshold” or range of 55-65 days for level of effort in the re-evaluation of the Complainant's proposal



Things to consider moving forward

- Make sure that the RFP is clear and contained all the necessary details.
- In the pre-solicitation phase, think critically about the outcomes of the chosen criteria.
- Make sure what you're doing gives your department the best value for money.
- You have a responsibility to inform the Program Manager of your doubt
- If you don't feel comfortable with a contracting request, call us, we will try to help.



Questions? Comments





The Office of the Procurement Ombudsman

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we are here to
HELP!