



Federal Acquisition Institute

Procurement Innovation Lab Primer Master Video Transcript



Video Description

This video serves as an introduction to the Department of Homeland Security’s Procurement Innovation Lab (PIL) and how it’s working to change the procurement culture in the agency. The eight techniques shared in this video are ways to improve the outcomes of your procurements, with the ultimate goal of helping to change the procurement culture in your agency. This video is a condensed version of what is taught in the full-day PIL Boot Camp intensive workshop. It is recommended that you review the PIL Boot Camp workbook prior to watching this video. You may watch the full video or select a technique from the Table of Contents to only view that section.

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Opening

JOHN ANDRÉ

Hello and thank you for joining today's Acquisition seminar hosted by the Federal Acquisition Institute. Today's seminar entitled "Procurement Innovation Lab Primer" provides an introduction to Procurement Innovation Lab at the Department of Homeland Security, how it's working to change the procurement culture in the agency, and how its work can help change the procurement culture in your agency.

During this seminar, we'll explore techniques to improve the outcomes of your procurements such as: Oral Presentations, Product Demonstrations, Confidence Ratings, Down-Selects, Comparative Evaluations, Selecting Best-Suited Then Negotiating, On-the-Spot Consensus Evaluations, and Streamlined Documentation. However, before we get to these, we need to flip the classroom. By that I mean I need you to do a little work before you watch this presentation. You see, this is actually a condensed version of a one-day all-day intensive workshop called a PIL Boot Camp. Boot Camps share techniques to improve procurement actions with contracting personnel, program managers, and procurement attorneys. Since a PIL Boot Camp is impractical to reproduce here, you need to review the PIL Boot Camp workbook associated with this presentation prior to watching it. Reviewing the workbook will help you get the most out of what you're going to see in here.

Now let's get started. Please give your attention to our guests, Trevor Wagner and John Inman of the Department of Homeland Security's Procurement Innovation Lab.

Introduction

TREVOR WAGNER

Hi! I'm Trevor Wagner.

JOHN INMAN

And I'm John Inman.

TREVOR

We're with the DHS Procurement Innovation Lab...

JOHN

...the PIL...

TREVOR

...set up by our Chief Procurement Officer at the Department of Homeland Security. We're a small team of GS-1102s with the mission of changing our procurement culture in DHS, across all of our components so that our acquisitions can be faster while increasing the likelihood of our selecting the best contractors for the work.

JOHN

We do this by encouraging use of all the flexibilities that the Federal Acquisition Regulation gives us, and dispelling the fears that our culture seems to perpetuate. For example, oral presentations have been allowed by the FAR for many years as an alternative to paper technical proposals, but we find that many in our acquisition community are afraid of oral presentations – we're afraid of accidentally crossing the line into discussions – but we know from our experience that this risk is very small, and very manageable, and that the benefit in terms of speed and quality can far outweigh that small risk for many of our most important acquisitions.

TREVOR

That's right, John. Another example is down-selects. Think about it – instead of receiving thirty complete offers, and completely evaluating all thirty of them, and doing a trade-off among all thirty of them, how about inviting all interested offerors to submit a part of their proposal (such as experience or concept for technical approach), evaluating those submissions from all thirty offerors, and then down-selecting to four of them – and only those four provide the remainder of the proposal, such as the complete technical approach, management approach, and so forth, along with the price proposal? Then, we can do a detailed evaluation on the four, and a tradeoff only amongst those four. This technique also saves both our time and industry's time while helping us select the best contractors for our work.

Introduction

JOHN

We have many techniques such as these, which procurement teams at DHS have tested through their actual acquisitions. These teams asked the PIL to consult with them, to be their coaches, so we know first-hand how well these techniques can work when executed correctly! And because we are trying to change our culture, we want to share these techniques with our entire Homeland Security acquisition community, to socialize them to these ideas and to encourage their independent use of them whenever it makes sense.

TREVOR

So we designed a one-day all-day intensive workshop to share these techniques with contracting personnel, program managers, and procurement attorneys. We call it our PIL Boot Camp.

JOHN

We're here today to talk about the techniques we share in our Boot Camp. You can download the workbook from www.dhs.gov/PIL, P-I-L. We recommend you pause this video and download the workbook now!

TREVOR

We can't duplicate the Boot Camp experience here in this video, but our colleagues at the Office of Federal Procurement Policy and the Federal Acquisition Institute asked us to share what we're doing, and we're happy to do so. So, instead of twenty or thirty minutes on each technique, we can only spend four or five minutes. So hang on – we're going to move quickly. But first, here is a word Mathew Blum, Associate Administrator in the Office of Federal Procurement Policy.

MATHEW BLUM

Hi everybody. I'm Mathew Blum, Associate Administrator for the Office of Federal Procurement Policy. My office is responsible for initiatives that help the workforce get the best value from its procurements. This includes creating a buying culture that embraces innovative acquisition practices. We think of innovation as a core value to a healthy acquisition system – in broad terms, innovative acquisition can include any practice that helps an agency create better results for the customer. During this video, you will hear members of DHS' procurement innovation lab discuss a number of innovative acquisition strategies. In most cases, the strategy will be familiar, but offered with a fresh look that is designed to make the tool more impactful. The benefits of using innovative approaches can be significant, just take a look at the PIL's yearbook of results. I hope what you hear from our DHS peers inspires you to look for better ways of doing business, and I encourage you to share your innovative strategies with your colleagues and to give feedback to DHS, at dhs.gov/PIL.

Introduction

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Technique 1: Oral Presentation

JOHN

Okay, let's start with our first technique, Oral Presentations. Let's say we want a technical proposal covering the offeror's capability, past performance, work plans or approaches, staffing resources, transition plans, or sample tasks. We could ask the offerors to present their technical proposal on paper. Or, we could ask them to present their technical proposals by oral presentation.

TREVOR

That's right. Think about it – we really don't need technical proposals to be submitted on paper for most of our acquisitions. With an oral presentation, especially one that isn't pre-scripted by the offeror, we can have a certainty that the information is coming from the offeror itself, from the company executives and key personnel in the room, rather than from a hired proposal writer.

JOHN

FAR 15.102 provides helpful guidance on oral presentations. Please pause this video so you can read this text for yourself.

[FAR 15.102(a), *Oral Presentations*. Oral presentations by offerors as requested by the Government may substitute for, or augment, written information. Use of oral presentations as a substitute for portions of a proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, and are subject to the same restrictions as written information, regarding timing (see 15.208) and content (see 15.306). Oral presentations provide an opportunity for dialogue among the parties...]

As you can see, paragraph (a) tells us that oral presentations may substitute for written information, and that oral presentations provide an opportunity for dialogue among the parties.

TREVOR

If you're afraid of oral presentations, it is probably because of that word, "dialogue." But you don't need to be afraid of dialogue – after all, it's right in the FAR that dialogue is a part of oral presentations. And the FAR goes a step further, it speaks of interactive dialogue.

JOHN

That's right, Trevor. Sometimes, we do oral presentations as monologues, where the offeror speaks and the Government listens and takes notes. But we can do dialogues, even interactive dialogues, at oral presentations. And if our purpose is to help us select the very best contractor for the work, shouldn't we want to talk with offerors as part of the selection process?

TREVOR

When we coach our procurement teams, we share that there are two broad types of questions we can ask at oral presentations. First, standard questions that we ask of every offeror, and second, individualized questions that arise in one only offeror's oral presentation.

Technique 1: Oral Presentation

JOHN

Let's start with the standard questions. Here are three ways to present standard questions, and we can use one, some, or all of these approaches. First, we can list the questions in the solicitation or otherwise provide them to offerors a few days or weeks before the offerors' scheduled oral presentations. This allows an offeror to carefully consider the questions, and to pre-script and rehearse its answers.

Second, when the offeror shows up for its oral presentation, we give the team a list of questions and ask that they answer these questions. We can allow them a half-hour or an hour to review these questions before the oral presentation begins.

Third, we can interrupt each oral presentation already in progress and ask a standard question or two.

TREVOR

Now for the individualized questions. We can ask individualized questions on-the-spot during an oral presentation, based on information shared by the offeror during their oral presentation. These questions are not meant to challenge the offeror's approach, or to get the offeror to change its approach, but to make sure that we fully understand the offeror's proposed approach or solution. We can ask these questions during the presentation, or hold them all until the end.

JOHN

And this is where we start addressing the fear factor – the fear of accidentally crossing the line into discussions. Our experience shows us that this fear is greatly exaggerated. We've had multiple post-award protests from unsuccessful offerors on our PIL acquisitions alleging that the exchanges at the oral presentations, where we asked individualized questions, constituted discussions. The GAO supported us, and denied the protests, every time.

Here is the pertinent text extracted from one of these decisions.

[Bid Protest Decision GAO-412163.2, Sapient Government Services, Inc.

Sapient also alleges that discussions occurred during the firm's oral presentation... For the reasons explained below, we find that here, discussions did not occur.

As described above, the exchange that Sapient characterizes as discussions occurred entirely within the confines of the three-hour oral presentation session. Sapient has not shown, and it is not clear to us, that anything said during the exchange revised some aspect of the firm's previously-submitted proposal. Further, at the conclusion of the session, Sapient was not permitted to submit anything further to the agency. Thus, following the oral presentation, Sapient was not afforded an opportunity to revise anything that was said during the oral presentation or any part of the firm's previously-submitted proposal. Under these circumstances, we do not consider the exchange to have been discussions; rather, we view it simply as a component of the oral presentation itself. Sapient's claim that the agency engaged in nonmeaningful discussion is denied.]

Technique 1: Oral Presentation

TREVOR

That's a powerful decision – just look at the key words:

Exchange occurred entirely within the confines of the three-hour oral presentation session.

Nothing said during the exchange revised any aspect of the firm's previously-submitted proposal. The offeror was not permitted to submit anything further to the agency.

Not afforded an opportunity to revise anything that was said during the oral presentation or any of the firm's previously-submitted proposal. We do not consider the exchange to have been discussions; rather, we view it simply as a component of the oral presentation itself.

JOHN

Another fear of oral presentations is that without a paper proposal, the Government cannot defend an argument that an offeror did or did not adequately cover some material in an oral presentation.

TREVOR

Our experience shows us that this fear is also greatly exaggerated. We had a GAO post-award protest on exactly that issue. The GAO supported us, and denied the protest. Again, let's look at the GAO's own words.

[Bid Protest Decision GAO-415514, Leidos Innovations Corp.

According to Leidos, DHS misunderstood its approach... Leidos contends that its presentation fully addressed concerns regarding the maintenance of additional platforms, and provided details as to how its solution would be beneficial from a risk-avoidance perspective.

Here, Leidos' arguments reflect disagreement with the agency and do not demonstrate that the assignment of this weakness was unreasonable. Additionally, to the extent that the agency misunderstood Leidos' approach, just as the responsibility for submitting a well-written proposal with adequately-detailed information falls squarely on the offeror, the responsibility for providing thorough, persuasive response to agency questions as part of an oral presentation falls on the offeror.]

JOHN

Let's look at the key words in this decision. According to Leidos, the protestor, DHS misunderstood its approach. Leidos contends that its oral presentation fully addressed and provided details. To the extent the agency misunderstood Leidos' approach, the responsibility for providing a thorough, persuasive response to agency questions as part of an oral presentation falls on the offeror.

TREVOR

So, the fears that seem to stop us from doing oral presentations don't hold up very well, do they?

Technique 1: Oral Presentation

JOHN

No, they don't. There are risks, but those risks are very small and entirely manageable. We do not want that inch of risk stopping us from getting a foot of benefits that can come from an oral presentation. Let's manage the risk – not avoid risk – and when it makes sense, let's do oral presentations instead of paper technical proposals.

TREVOR

Another question that comes up is if the Government is required to record the oral presentation. The short answer is "No." We have to have a record, r-e-c-o-r-d, but the record doesn't have to be a recording. The FAR gives us several examples of possible ways to create that record, such as a video or audio recording, the offeror's presentation slides, Government notes, or even the consensus evaluation report. This is the contracting officer's decision.

JOHN

We've done 45 minutes to all-day oral presentations and everything in-between. We've done acquisitions where part of the technical proposal was submitted on paper and part by oral presentations. You just want to ensure that you reduce paper submissions, not duplicate paper submissions, by use of an oral presentation! Get the information you need to evaluate one way or the other, not both! Knowing this, we've also had teams that have conducted acquisitions where the entire technical proposal was submitted by oral presentation! If you're planning an oral presentation, you have to make it fit your acquisition. Your procurement team – contracting officer, program manager, and attorney – need to talk about it and make it fit. The reduction in paper really does make the evaluation and review processes much faster, and the interactive dialogue gives us much greater confidence that we are selecting the best contractor for the work.

Technique 2: Product Demonstration

TREVOR

Now, let's shift to our second technique, Product or Technical Demonstrations. A product or technical demonstration is a variant of an oral presentation, but instead of simply words or explanations on a whiteboard, the offeror will actually show us something, and maybe we'll even get to touch and feel the product.

JOHN

The same fears that are associated with oral presentations are also in play here, but similarly, they are greatly exaggerated. The benefits of a product or technical demonstration can far outweigh any small risks.

TREVOR

In our all-day Boot Camp, we give real examples of teams that used these techniques. A team at Customs and Border Protection bought density meters using a product demonstration. A density meter works like a stud finder and can detect anomalies in mass, and can find contraband in hidden spaces and so forth (think drugs in car tires). Rather than a paper technical proposal, the solicitation invited offerors to bring in their products, show us how to use them, do some tests while the offeror was still there, and leave them in our possession for a couple of days for more detailed Government-only testing.

JOHN

The team used broad evaluation factors, such as feasibility of use, support of the mission, and so forth.

TREVOR

And those broad evaluation factors in a product demonstration setting allowed the team to learn far more than it would have with a paper technical proposal. For example, the team learned that some products were a little on the large side, and might not be able to be used by the entire workforce with one hand. Some products worked well with right-hand use, but not so well for left-handed use. The team brought in Border Patrol agents to participate in the testing, and they provided insights that the "suits" in D.C. could not have imagined.

JOHN

When we're buying existing products, product demonstrations almost always make sense. But they can make sense for other acquisitions as well. For example, if the contract will require the new design and fielding of a complete system, maybe we can ask for a demonstration of the first increment of the system, or some other functionality or interface.

Technique 2: Product Demonstration

TREVOR

Just as for oral presentations, you have to make a product or technical demonstration fit your acquisition. Again, make sure the product or technical demonstration doesn't duplicate what you get in written submissions, but rather replaces those written submissions! Your procurement team – contracting officer, program manager, and attorney – need to talk about it and make it fit. The reduction in paper really does make the evaluation and review processes much faster, and the interactive dialogue, along with the opportunity to see and touch, give us much greater confidence that we are selecting the best contractor for the work.

Technique 3: Confidence Ratings

JOHN

Okay, moving right along... Technique 3, Confidence Ratings. For most of our acquisitions, we want to be able to select an offeror that provides the best value and who will actually perform and deliver – our selection process should provide us with confidence in the winner.

TREVOR

We want to make our acquisitions faster, and for us to select the very best contractors for the work. We found that the traditional adjectival rating scheme, with five rating tiers and with ratings dependent on the number of strengths and weaknesses, was slowing us down in our evaluation processes and afterwards in our review processes. We wondered if we could make this process work better. We don't want an adjectival ratings approach that ties our hands and takes away our subjectivity – we want to give the highest ratings to the best offerors, as a matter of first impression, without first having to count strengths and weaknesses and then having the rating being a function of that counting exercise.

So instead of counting strengths and weaknesses before assigning a rating, we look at the offeror's holistic approach and focus on our confidence.

JOHN

Now, let's ask our audience a question: How many of you have been involved in an acquisition where the evaluation was finished three weeks ago, and the technical evaluation team has gone back to their day jobs, and yet here we are, three weeks later, still arguing about the ratings and re-writing the evaluation team's report?

TREVOR

And since our real goal is selecting the best contractor for the work, the contractor who will actually provide the best value post-award, shouldn't we actually evaluate what we're looking for and evaluate our confidence that the offeror understands the requirement, proposes a sound approach, and will successfully perform the contract work?

JOHN

Put all of this together, and you have a different adjectival rating scheme – confidence ratings. Three tiers instead of five, so it is simpler, and we can assign ratings in immediate consensus as a matter of evaluation team professional judgment without having the rating driven by counting strengths and weaknesses. It is a very flexible approach.

[High Confidence: The Government has *high confidence* that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract.

Some Confidence: The Government has *some confidence* that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract.

Low Confidence: The Government has *low confidence* that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract.]

Technique 3: Confidence Ratings

TREVOR

Remember that nothing that we share is mandatory. If we share a technique that you like and fits your acquisition, feel free to adopt it and use it. If we share a technique that you don't like or doesn't fit, don't use it. That's what we tell teams we coach – the CO and the procurement team – they make the decisions! We strongly feel that procurement innovation works best when it is voluntary.

JOHN

Many Homeland Security acquisition teams have used this technique, and they really like it. It can make the process faster. Let us show you how.

TREVOR

This technique works with either paper proposals or oral presentations. This technique works in *any* part of the FAR including: open-market, schedule orders, fair opportunities, or simplified. Now, imagine you have just finished reading a paper proposal, and you made a few notes in the margins of the proposal...

JOHN

Or, imagine you have just watched a video or oral presentation, and you made a few notes on a notepad...

TREVOR

You gather with the other evaluators in consensus to arrive at the consensus rating. The team chair or contracting officer asks everyone for their rating on a given Factor, and all three evaluators say "High Confidence." Well, guess what? You have assigned the rating, and it took about ten seconds to do it. Now, you document, preferably using short, bulleted statements, appropriate support for that rating, and you are done with evaluating that offeror for that factor.

JOHN

Or perhaps, as you gather with the other evaluators in consensus to arrive at the consensus rating, and the team chair or contracting officer asks everyone for their rating, two evaluators say "Some Confidence" and one says "High Confidence." Okay, so now you have a discussion, and you come to consensus – maybe "Some Confidence," maybe "High Confidence." So, instead of ten seconds, maybe it takes ten minutes, but you are in consensus and now, you document, preferably using short, bulleted statements support for the rating, and you are done with evaluating that offeror for that factor.

TREVOR

This approach might seem backwards to some of you, rating first and rationale second. But it does make sense, and it is so much cleaner and faster. Rather than documenting everything that every evaluator observed, and talking for hours about those observations, and then trying to come to a consensus rating, it is easier simply to agree on the confidence rating and then to document the rationale for that consensus rating.

Technique 3: Confidence Ratings

JOHN

Some agencies mandate the rating scheme that evaluation teams must use, and some leave it up to contracting officer discretion. If you're in an agency where you have some discretion, we invite you to consider simplifying your evaluation and rating approach with confidence ratings.

TREVOR

Confidence ratings are legal – the GAO has seen them many times.

JOHN

Trevor, we have heard from some of our Homeland Security colleagues that they're uncomfortable with confidence ratings because they are subjective.

TREVOR

Well, of course they're subjective! Even the five-tier traditional rating system is subjective. But subjectivity is okay – nothing in the FAR requires objective assessments of offeror technical proposals. If you can objectively measure performance outcomes like speed, distance, weight, and so forth, that's fine – but for most of our acquisitions, especially our services acquisitions, it is all subjective, and subjective evaluations are okay.

JOHN

That's right. The GAO has repeatedly told us that the professional and subjective judgment of evaluators are fine as a basis for our evaluation findings. And the GAO has repeatedly told us that it will not substitute its subjective opinion for the opinion of the evaluators or selecting official. Confidence ratings may not fit for every acquisition, but if you think it will make your next acquisition a little faster, try it!

Technique 4: Down-Select

TREVOR

In some of our Homeland Security acquisitions, we might receive thirty or fifty or even over a hundred offers. That could mean many, many offerors incurring significant bid and proposal expenses, and it also could mean that we have to do a detailed and complete evaluation of ALL of those offers, and our trade-off has to cover every single offer. But there is a technique that can help make this more manageable and more efficient, both for us and for the contractors. This is Technique 4, Down-Selects.

Think about it – instead of making all prospective contractors, let's say thirty, prepare complete technical and price proposals, and then the Government doing a complete evaluation of all thirty and a tradeoff among thirty, how about inviting all interested firms to submit a part of their proposal (such as experience or concept for technical approach), evaluating those submissions from all thirty offerors, and then down-selecting to four of them – and only those four have to provide the remainder of the proposal, such as the complete technical approach, management approach, and so forth, along with the complete price proposal? Then, we can do a detailed evaluation on the four, instead of the thirty, maybe even with an oral presentation or product demonstration, and a tradeoff among the four, instead of thirty. We have seen technique save time and helps us select the best contractors for our work.

JOHN

This is a very powerful technique. And just to make sure, please understand that we're talking about a down-select, not forming a competitive range. We form a competitive range after we have evaluated offers and in preparation for discussions – but here, we're talking about a down-select to phase the offeror's proposal submission and the Government's evaluation – we evaluate all offers on a few evaluation factors in the first phase, and only the successful offerors from that first phase have to submit the remainder of their proposal for our evaluation. We tell the unsuccessful offerors that there is little to no likelihood of their proposals being selected for award.

TREVOR

And by making the final pool of offers smaller, we are able to dig more deeply in our evaluation, to do our due diligence to make sure we are selecting the best contractor for our work. The key to a down-select is deciding which evaluation factor (one or just a few) to use for the first phase. Generally, we recommend that the first phase evaluation factors should be relatively light, so that prospective offerors can submit quickly and so that we can decide quickly. We have found that prior experience is an excellent first phase evaluation factor – is the offeror already in the business? Has it already mastered the learning curve? Does it already have the right people, facilities, and so forth? Some acquisitions use only prior experience as the only Factor in Phase 1. Other acquisitions might add another factor, such as general concepts or approach. As always, the evaluation factors have to be crafted to fit the acquisition.

Technique 4: Down-Select

JOHN

This is what a timeline might look like. If we have released a draft solicitation, and if the first phase factors are relatively light, maybe we can ask for the first phase proposal to be submitted ten days after solicitation release. Then, maybe it takes us ten days to evaluate them and send notices to the offerors. We might ask for the proposal for the next phase factors to be submitted in three weeks, or thirty days – some reasonable period of time. Or, we might schedule oral presentations with this smaller set of offerors. Remember Technique 1, Oral Presentations? Maybe we don't need a written technical proposal, but the technical proposal can be delivered by oral presentation.

[Timeline of solicitation:

- Day 0: Solicitation Release
- Day 10: Phase One Proposal Submitted
- Day 11-19: Government Evaluation
- Day 20: Notices to Offerors
- Day 45: Phase Two Proposal Submitted
- Day 47-50: Oral Presentations
- Day 51-54: Evaluation and Documentation
- Day 55-59: Reviews
- Day 60: Awards]

TREVOR

Good point, John. Many of these techniques can be used with other techniques for very powerful results. In our practice, we describe two kinds of down-select: firm and advisory. Let's talk firm first.

JOHN

Okay, firm down-selects. In a firm down select, the Government selects the offerors who will proceed to the next phase in a firm manner, like an umpire at a baseball game: You're Out!

There is a time and place for this technique – it doesn't fit every acquisition – so you need to think carefully before using a firm down-select. In a firm down-select, we are excluding the unsuccessful offeror from the remainder of the competition, and the general rule is that an offeror has protest rights when the Government excludes it from the competition. So you have to decide if you can bear the protest risk. If you can, or if protests are not allowed such as fair opportunity considerations under multiple-award contracts under \$10 Million for civilian agencies or \$25 Million for defense, then a firm down-select is the way to go.

TREVOR

The other approach is the advisory down-select. In an advisory down-select, the Government selects the offerors who will or will not proceed to the next phase in an advisory manner. In the advisory down-selects, the first phase evaluation factors are most important, so offerors understand that they have little to no chance of receiving an award if they are not among the most highly rated out of the first phase. For these offerors that we don't recommend proceeding to the next phase, we tell them that! That based on the first phase evaluation factors, their

Technique 4: Down-Select

proposals have little to no chance of being selected for award and we advise them not to participate in the next phase. But, we leave it up to them. Almost always, offerors will accept our advice and walk away. Only in one instance out of a few hundred notices where we told an offeror that has little to no chance of being selected for award has an offeror decided to participate in the next phase. What happened there, John?

JOHN

That team only allowed 3 days in-between Phase 1 and 2, so the offeror already had its Phase 2 proposal completed. It is customary and reasonable to allow two, three, or four weeks to prepare the complete technical and price proposals. You do need to build that time into your milestones, but you will find that this ends up saving time downstream!

TREVOR

Remember, we're only advising them that they have little to no chance of being selected for award and recommending that they not participate in the next phase – we're not excluding them from the competition. And since we're not excluding them, there is no protest right and there is no debriefing right.

JOHN

If you're thinking about doing a down-select in your next acquisition, we generally recommend doing the advisory down-select, as Trevor described. It is advisory, and may cause less concern in your review chains than a firm down-select will.

TREVOR

Your market research should give you an idea of how many offers you will receive. If you know you are going to get a lot of offers, think about a down-select to minimize the bid and proposal costs on industry and to allow us more deeply, more carefully evaluating the complete proposals from fewer offerors. After all, how many offerors do we need to have in the running at the very end to select the best value? For one award, maybe two, three, or four in the final running is best? Or, if you intend to make five awards, maybe it's eight or ten?

You decide for your acquisition. You might include text in your solicitation that the Government intends to invite up to four offerors into the next phase.

[L-9. Advisory Down-Select

(a) The Government will select up to four of the most highly rated offerors for the Phase 1 factors to proceed to Phase 2.

(b) The Government will advise all other offerors that their offers are not among the most highly rated for the Phase 1 factors and that they are unlikely to be viable competitors for the award. Accordingly, the Government will advise these offerors not to participate in Phase 2. However, notwithstanding this advice, these offerors may participate in Phase 2.]

JOHN

We have talked about a down-select between two phases, but you could also do a three-phase acquisition. We've done both two- and three-phase acquisitions in DHS.

Technique 4: Down-Select

TREVOR

And we've seen down-selects where oral presentations were done in the first phase and where they were done in a subsequent phase. You have to decide what fits your acquisition. For example, if you anticipate thirty offers, it might be best to do oral presentations in the second phase, after you have culled the crowd down to four offers. Or, if you only anticipate eight offers, you might do oral presentations in the first phase to help you make a down-select to four.

JOHN

The key is that you have to decide for yourself and your acquisition. Firm or advisory? Your call. Two phases or three? Your call. Which factors in which phase? Your call. Oral presentations or Paper? Your call.

TREVOR

We have talked about this down-select approach with industry. It seems that unanimously, industry supports this technique. No one likes to lose, but if a company is going to lose, it prefers to get the information sooner rather than later. Down-selects can be a win-win – better for industry and better for us.

Technique 5: Comparative Evaluation

JOHN

We're moving right along. Remember, in this video we're only giving you a very brief overview of these techniques.

TREVOR

And when we do webinars for the DHS acquisition community, we'll do an hour and a half on a single technique. So yes, we're moving very fast, but we hope you can see that these techniques really can help make our acquisitions faster and increase our confidence in selecting the best contractor for the work. You may want to look more closely at the PIL Boot Camp workbook, or even actual sample solicitations that have utilized these techniques, to learn more.

JOHN

The four techniques we have already discussed may be used for all four of our standard acquisition methods: simplified acquisitions, source selections, ordering against schedule contracts, and ordering against multiple-award IDIQ contracts. But Technique 5, Comparative Evaluation, really doesn't fit for source selections, so we recommend it only for simplified acquisitions, ordering against schedule contracts, and ordering against multiple-award IDIQ contracts. In Technique 3, Confidence Ratings, we talked about using a three-tier adjectival rating system instead of the five-tier traditional system. Now, let's talk about not using ratings at all. If we don't even assign adjectival ratings, then we won't lose any time in the review process for justifying, defending, and re-writing the ratings.

TREVOR

We've all heard that we're not supposed to compare offers to each other – that's true for a source selection under FAR subpart 15.3, but for this technique, we're not talking about source selections – we're talking about simplified acquisitions, ordering against schedule contracts, and ordering against multiple-award IDIQ contracts.

JOHN

That's right. This technique works best when we have a few non-price evaluation factors and a few offerors, like up to five factors and up to five quoters or offerors. There is no hard number. To walk through one way to approach this technique, let's look at a notional technical evaluation report template. For this sample, you see that we have three non-price evaluation factors, 1, 2, and 3, -and you can see that we have three quoters, A, B, and C. You may press pause if you want to look at this template more closely.

Technique 5: Comparative Evaluation

[Technical Evaluation Report (Notional)]

1. Factor One
 - a. Quote A's noteworthy observations:
 - b. Quote B's noteworthy observations:
 - c. Quote C's noteworthy observations:
 - d. For Factor One, we consider Quote A to be most advantageous because:
2. Factor Two
 - a. Quote A's noteworthy observations:
 - b. Quote B's noteworthy observations:
 - c. Quote C's noteworthy observations:
 - d. For Factor Two, we consider Quote B to be most advantageous because:
3. Factor Three
 - a. Quote A's noteworthy observations:
 - b. Quote B's noteworthy observations:
 - c. Quote C's noteworthy observations:
 - d. For Factor Three, we consider Quote C to be most advantageous because:]

TREVOR

This is just a template. Using this template, the evaluator or evaluation team would start with Factor 1 and write its observations, good and bad, for Quote A with a few bullet points. Then, it would do the same for Quotes B and C. No adjectival ratings are assigned, just the observations that are pertinent for that factor. Then, the evaluation team compares all three quotes for Factor 1 and identifies the quote that is most advantageous to the Government, and explains why. In this sample, let's say that Quote A is most advantageous. Then, the team does the same things for Factors 2 and 3. In this sample, let's say that Quote B is most advantageous for Factor 2, and Quote A for Factor 3. That's it – the technical evaluation report is done.

JOHN

So the technical evaluation report goes to the selecting official who will do the tradeoff to select the best value for the Government. Here's a notional template for a tradeoff decision document, using the sample Trevor just described.

Technique 5: Comparative Evaluation

[Tradeoff Decision Document (Notional)]

I have reviewed the Technical Evaluation Report and I adopt the evaluation team's findings as my own. The check marks in the table below show the quotes that are most advantageous for each factor, along with each quote's price:

	Quote A	Quote B	Quote C
Factor One	✓		
Factor Two		✓	
Factor Three	✓		
Factor Four	\$100	\$95	✓\$80

Key: ✓=most advantageous for that offer.

In my opinion, Quote A provides the best value. Quote A provides greater technical merit than either Quote B or Quote C, and Quote B provides greater technical merit than Quote C. The benefit of Quote A's ___ for Factor One and of ___ for Factor Three exceeds the benefit of Quote B's ___ for Factor Two. The benefit of Quote A merits the higher cost over both Quote B and Quote C.

Or: In my opinion, Quote B provides the best value...

Or: In my opinion, Quote C provides the best value...]

JOHN

Look at the table towards the top of the document – here you can see the three non-price factors, numbered 1, 2, and 3, with the addition of price as factor 4. You can also see the three quotes, A, B, and C. The checkmarks identify which quote is most advantageous for each factor. You can see that Quote A is most advantageous for Factors 1 and 3, and Quote B is most advantageous for factor 2, and Quote C is most advantageous for Factor 4. The selecting official reads the technical evaluation report, and also sees the prices, and he or she makes a tradeoff decision. There are three possible decisions that would be made, and this template shows, in simple terms, a format for any of the three possible decisions. Quote A could be selected as the best value if the selecting official agrees with the evaluation team's assessment and decides that the technical merit of Quote A for Factors 1 and 3 justifies paying the price premium associated with Quote A. Quote B could be selected as the best value if the selecting official decides that the technical merit of Quote B for Factor 2 provides more value than Factors 1 and 3, and/or he or she isn't willing to pay the price premium associated with Quote A. And Quote C could also be selected. It isn't most advantageous for any non-price factor, but it still could be entirely acceptable. If so, and if the selecting official doesn't see all that much technical merit in the other quotes and/or isn't willing to pay the price premium for Quote A or Quote B, then Quote C is the winner. This becomes the tradeoff decision document. You're done.

Technique 5: Comparative Evaluation

TREVOR

This technique can be very powerful and very fast. We don't get hung up on assigning and defending adjectival ratings. We've seen this technique used for schedule orders of many millions of dollars – for example, a DHS team used this approach to award a \$53 Million task order in just 42 days, from the release of the RFQ to award.

JOHN

There are other ways to do comparative evaluation – we shared one way. If a Homeland Security acquisition team wants to use this technique, and they'd like the PIL to support their procurement, we will help them figure out the best approach to fit their acquisition.

Technique 6: Select Best-Suited, Then Negotiate

TREVOR

Now for Technique 6, Select Best-Suited, Then Negotiate.

Like the last technique, Technique 6 doesn't really fit for FAR subpart 15.3 source selections – but it does fit for simplified acquisitions, ordering against schedule contracts, and ordering against multiple-award IDIQ contracts.

[Where this technique applies:

- Yes: Simplified Acquisition (FAR part 13)
- Yes: Ordering Against Schedule Contracts (FAR subpart 8.4)
- Yes: Ordering Against Multiple-Award IDIQ Contracts (FAR 16.505(b))
- No: Source Selections (FAR subpart 15.3)]

You have to be careful using this technique – you still want to make sure your procurement attorney is supportive. There is risk associated with this technique, but we still want to share it with you – you have to make the decision.

JOHN

We share it because we want to fully understand the flexibilities that the FAR already gives us, and we want to be ready to use any tool in the toolbox, so to speak, to best meet whatever acquisition comes our way.

TREVOR

First, remember that the structured approach of exchanges with offerors that is described in FAR subpart 15.3 only applies to source selections – and we're not talking about source selections for this technique – we're talking about the simplified acquisitions, the scheduling orders, and the orders against multiple-award IDIQ contracts. The procedures of FAR subpart 15.3 don't apply outside of 15.3. Instead, the standard that applies is simply one of fairness. As long as we treat offerors or quoters fairly, we have great discretion in the processes we use when describing those evaluation factors outside of 15.3. Let's start with some sample text from a solicitation. Here is the real text that was used in a real acquisition in Homeland Security, called HART. Please press pause if you need time to read the text.

[HART Solicitation Text: 6.3.4. Exchanges with Best-Suited Contractor

Once the government determines the contractor that is the best-suited (i.e., *the apparent successful contractor*), the government reserves the right to *communicate with only that contractor to address any remaining issues*, if necessary, and finalize a task order with that contractor. These issues *may include technical and price.*]

JOHN

HART was a fair opportunity consideration for an order against multiple-award IDIQ contracts, about \$107 Million. The contracting officer put text in the solicitation saying that the Government could select the apparently successful offeror, and then hold exchanges with only that offeror to finalize all the details, including technical and price.

Technique 6: Select Best-Suited, Then Negotiate

TREVOR

And that's what happened. The Government selected the apparently successful offeror, and then held exchanges with only that offeror. After the debriefing, an unsuccessful offeror protested to the GAO. Here's the pertinent text from the GAO decision.

[Bid Protest Decision GAO-415514 Leidos Innovations Corp.

“Based on the evaluation results, the contracting officer (CO) and source selection evaluation board (SSEB) chairperson *made a best-suited contractor determination*, identifying NGSC as the apparent successful offeror. Consistent with the terms of the solicitation, which provided that after the agency had selected the apparent successful offeror, it could engage in communication solely with this contractor to address any remaining issues and to finalize a task order, *the agency held negotiations with NGSC.*”]

As you can see, the text was in the solicitation, and the Government did what the solicitation said it could do. Everything was fair. The key is that FAR 15.3 procedures do not apply to fair opportunity considerations for an order against multiple-award IDIQ contracts – so there is no need to form a competitive range, set a common cut-off for proposal revisions, and so forth. The only requirements are that we follow our own solicitations, which we write, and that we treat offerors fairly. The principle of fairness is important here.

JOHN

Let me share an example of when this technique might fit. We recommend including the text similar to the HART solicitation in all solicitations for simplified acquisitions, orders against schedule contracts, and orders against multiple-award IDIQ contracts. You won't know whether you will use this technique until after you have evaluated your quotes or offers, so including the text in your solicitation saying that you MAY is very important. So let's say you did, and let's say you have three quotes.

[Evaluation Chart – Scenario 1

	Quote A	Quote B	Quote C
Price	\$901,000	\$914,000	\$918,000
Technical Factor 1	High Confidence	Some Confidence	Some Confidence
Technical Factor 2	High Confidence	Low Confidence	High Confidence]

Clearly, in this example, Quote A is the apparently successful offeror. Hands-down, Quote A is the best value. But maybe, let's suppose Quote A's price of \$901K is just a little higher than the purchase request amount of \$900K. With language similar to HART in the solicitation, I can call Quote A and ask if it can drop its price by \$1K without changing anything else – if Quote A says YES, I award Quote A for \$900K. Have I been unfair to the other quoters? No! Everything was fair – Quote A is the best value – I just made the best value even better.

TREVOR

I agree, John – but what if Quote A says “No,” or says it will have to change its technical approach to make that price reduction?

Technique 6: Select Best-Suited, Then Negotiate

JOHN

That's not a problem, Trevor. I still have all sorts of tools in my toolbox. I could go back and get a purchase request amendment to add \$1K, or I could open price negotiations with all three, or maybe even just two, or I could do a solicitation amendment to lower the technical requirement and ask for updated quotes. I could do any of these things if the Quoter says "No." But if the Quoter says "Yes," I can make the award and no one has been treated unfairly. I simply made the best quote even better.

TREVOR

Let me offer another example. Let's look at another acquisition.

[Evaluation Chart – Scenario 2

	Quote A	Quote B	Quote C
Price	\$494,000	\$480,000	\$482,000
Technical Factor 1	Low Confidence	High Confidence	Some Confidence
Technical Factor 2	Some Confidence	High Confidence	High Confidence]

Here, we fairly evaluated based on the evaluation factors, and Quote B is the best value – again, it is clear to see. But let's say that Quote B including an assumption in its proposal, and that the assumption is problematic for us. We aren't in 15.3, so I call Quote B and ask if it can drop its assumption. What are the possible answers? Quote B could say YES, or could say NO, or could say "We can, but it will affect some other aspect of our proposal." We can deal with any of those answers. If Quote B says YES, it can drop the assumption without changing anything else, then we award to Quote B. No one else has been treated unfairly – the best quote was made better. If Quote B says "No," or says "We can, but it will affect some other aspect of our proposal," then the ball is back in our court. We can open negotiations with two or all three quoters, or we can so a solicitation amendment to address the assumption and get revised proposals. But if Quote B says "Yes," we award and we're done. Again, fairness is the important principle – we have to treat the quoters fairly.

JOHN

The Government has the leverage during the negotiation here, as the award has not yet been made. Too often we come to the kick-off meeting and we already have Modification 0001 prepared to address one of the three scenarios – we lose that leverage when the award has been finalized.

Technique 7: On-The-Spot Consensus Evaluation

JOHN

I hope you are all staying up with us – we're moving quickly, I know. We hope you will use our PIL Boot Camp Workbook as a reference if you have additional questions. Now, for Technique 7, On-the-Spot Consensus Evaluations.

Let me start with a question: When we have an evaluation team, it is necessary for each evaluator to produce his or her own evaluation report before the team assembles to arrive at consensus?

The answer? No! Nothing in the FAR requires individual evaluator reports before assembling for consensus. It might be customary, and it might be written into your organization's rules, but nothing in the FAR requires it. The FAR, and the case law that has been developed around the FAR, asks for the evaluation team to share its consensus evaluation findings with the selecting official.

TREVOR

We advise our teams to skip individual evaluator reports and to go straight to consensus. For paper proposals, you can tell the evaluators to read Offer A early in the morning, to make notes in the margins, and to assemble at eleven o'clock for consensus for Offer A, and then to read Offer B in the early afternoon and to assemble at three o'clock for Consensus for Offer B, and so on. Or, for oral presentations, the evaluation team stays in the room after the offeror departs and does the consensus evaluation right there and right then.

JOHN

Sometimes, an evaluation team will work better if there is a facilitator to help keep them on track. As a contracting officer, I have facilitated a number of times. I'm not an evaluator and don't pretend to be one, but I can help speed the process and help ensure a quality product by acting as a facilitator. And sometimes, I'll use a contract specialist as a note-taker with a yellow legal pad. A facilitator and note-taker are not required, but can sometimes be helpful.

TREVOR

By going straight to consensus, and skipping individual evaluator reports, we really can make acquisitions faster and produce higher-quality evaluation reports.

We recommend working backwards, in a way. When a team gathers for an on-the-spot consensus evaluation, we recommend agreeing first on the adjectival rating, especially if you are using confidence ratings. If all three evaluators immediately agree on a HIGH CONFIDENCE rating, for example, well, it took all of five seconds to agree on the rating. If there isn't immediate agreement, then the team talks and works it out.

Then, they document the agreed-upon rating with a few bullet statements. Remember: Rating first, and then rationale.

Technique 7: On-The-Spot Consensus Evaluations

JOHN

We'll talk about documentation next – but for this technique, the first key is to skip individual evaluator reports and to move immediately into consensus after reading a proposal or after watching an oral presentation. The second key is to agree on the rating first, and then to document bullet statement to support the rating.

[Rating: Low Confidence

- Good focus on open communication
- Scrumban explanation was not persuasive, maybe even wrong in parts, and did not give confidence
- A good example of openness: client going into estimating session
- This contract won't lead us, push forward
- Presentation did not provide a complete understanding or feel of confidence
- Automated testing mentioned as part of DevOps as different from Agile, causing concern
- A number of key concepts were not defined, or defined incorrectly
- The presentation did not include discussion about prioritization and business values
- Focus on attacking bottlenecks is an important continuous improvement method, but it is not a substitute for portfolio management

Note: This test is from a real evaluation.]

Technique 8: Streamlined Documentation

TREVOR

Here is a great opportunity to save time – streamlining our documentation. What can we do to save paper and reduce re-writes?

One thing is to skip individual evaluator reports, which we just talked about.

So let's imagine a team meeting in consensus. As they meet in consensus, a note-taker can jot down the points that the evaluators verbalize and agree on. Or, each thought can be put on a sticky note, and the sticky notes organized on a wall. Maybe green sticky notes are strengths or favorable aspects of a proposal, and yellow means marginal, and pink means real problems.

Can you see that this evaluation team has just completed its evaluation? Imagine if they invite their attorney in, and whatever other reviewers there are, to review the wall with all the sticky notes. Everyone can agree on the content of the technical evaluation report while the sticky notes are still on the wall, and before any text has been put to paper. Then, once everyone is happy, anyone can transcribe the wall into a Word document for the evaluation report, with each sticky note becoming a bullet in the report. And since everyone already agreed with all the content, there will be no weeks and weeks or re-writes of the report.

And imagine further that the evaluation team briefs the selecting official in this room, looking at this wall. Isn't this so much better than making him or her read a report?

JOHN

So that is one approach you might try. Another approach is to prepare worksheets for the evaluators to use to take notes on.

Here's a template that evaluators can use for notetaking.

[On-The-Spot Consensus Evaluation Report is where you document your rating (high confidence, some confidence, or low confidence), rationale (raises expectation of success), and other observations (if any) for each factor. Source Selection Information – see FAR 2.101 and FAR 3.104 when completed.]

This template shows three evaluation factors, with adjectival ratings assigned first and at the top of the page, and then space for bullets to support the ratings above. When the team meets in consensus, they can use this same template to document their consensus evaluation.

And let me here answer a common question: Can we document our evaluations with bullets, instead of long narrative essay paragraphs?

Yes!

Nothing in the FAR or its case law requires long narrative essay paragraphs for evaluation or selection report. Yes, you may use brief bullet statements.

Let me prove it to you. Here is a bid protest decision on an acquisition that used brief bullet points in the evaluation report. Please PAUSE and look at the text from this GAO bid protest decision.

Technique 8: Streamlined Documentation

[Bid Protest Decision GAO-412163.2, Sapiant Government Services Inc.

Sapiant's protest challenges the following four findings that the TEC documented for the firm's oral presentation:

- This contractor won't lead us, push forward.
- Presentation did not provide a complete understanding or feeling of confidence.
- A number of key concepts were not defined, or defined incorrectly.
- Focus on [DELETED] is an important continuous improvement method, but not a substitute for portfolio management.

Sapiant claims that these findings are unreasonable, arguing that they allegedly reflect 'too much impression and too little substance.' Similarly, Sapiant argues that the findings were 'so vague and subjective' that they were 'per se inadequate to permit the SSA to make an intelligent and independent best value determination.' We disagree.

First, although Sapiant argues that the findings are 'vague,' each finding references a discrete, identifiable concern that the TEC had about Sapiant's oral presentation. Second, these concerns reasonably relate to the solicitation's evaluation criterion for the oral presentation—namely, the effect an offeror's oral presentation had on the TEC's confidence in the offeror's ability to successfully perform the task order. Finally, the record reflects that before making the source selection decision, the SSA considered the evaluation results under each nonprice factor 'on paper and also in discussions with the [TEC],' and that for Sapiant's oral presentation, the SSA specifically considered 'the TEC's explanation for [Sapiant's] rating.' On this record, we see no merit in Sapiant's challenge to the TEC's evaluation of the firm's oral presentation or the SSA's consideration of the TEC's evaluation findings.]

TREVOR

The four bullets you see at the top are direct quotes from the evaluation report – the evaluation report had eleven brief bullet statements, and the unsuccessful offeror protested these four. The protester said they were unreasonable, too little substance, vague and subjective, and per se inadequate.

But what did the GAO say? "We disagree."

You can read the explanation for yourself, but clearly, you can see that the GAO accepted bullet statements, and brief statements at that! We simply do not need long narrative essay paragraphs.

JOHN

The GAO has repeatedly said that we don't need exhaustive evaluation and selection documentation.

[Bid Protest Decision GAO-416734.2, Amyx Inc.

Our decisions explain that there is *no need for extensive documentation* of every consideration factored into a tradeoff decision, but rather the documentation *need only be sufficient* to establish that the agency was aware of the relative merits and prices of the competing quotations.]

Technique 8: Streamlined Documentation

TREVOR

That's right! Bullet statements are the right answer for evaluation documentation.

JOHN

This seems so simple, doesn't it? Bullet statements instead of long narrative essay paragraphs?

Conclusion

TREVOR

These are most of the techniques that we share in our in-person PIL Boot Camps. Most of these seem so simple, and so common sense, and yet we know from our own experience within DHS and also from our interactions with other agencies that our culture of avoiding all risk gets in the way of these common-sense practices.

We hope you will try some of these techniques in your own acquisitions. You don't need a procurement innovation lab to do these things. Within DHS, we encourage procurement teams to try these techniques, and we are available as coaches if they need us, but we want them to be able to do these on their own.

JOHN

You're right, Trevor, these are simple and common sense. None of these techniques are FAR deviations or anything of that sort; none of these techniques requires agency head approval. The contracting office, him or herself, can decide to use any of these techniques if his or her culture will allow it. The FAR allows it. And that is what the DHS Procurement Innovation Lab is all about – allowing procurement teams and contracting officers to more fully use the flexibility that the FAR already provides but that our culture has taken away from us.

TREVOR

A key aspect to what we do in the PIL is our model of testing and sharing. By testing, we support procurement teams as they use these techniques on real acquisitions. By sharing, we find ways to share those teams' stories. We're telling you our story right now, in this video. Maybe something we share here will resonate with you, but maybe not.

JOHN

And even if not, we believe that sharing and professional dialogue are crucial to us as contracting professionals. We need far more professional dialogue – we might not agree on every practice, and that can be okay – but we all benefit from the dialogue.

TREVOR

So in that light of professional dialogue, we hope this video has been helpful to you. We all want to make sure that contracting and procurement professionals use every tool available to us, every flexibility, to best accomplish the mission – that means faster and with greater confidence that we've selected the best contractor for the work.

JOHN

Thank you for watching this video.

Conclusion

JOHN ANDRÉ

We're glad you've taken the time to watch this presentation about the Procurement Innovation Lab Techniques. If you have any questions about the techniques, please submit them to the Federal Acquisition Institute at contact@fai.gov. Your inquiries will be shared with the DHS PIL team, and they'll respond as quickly as they can. The Federal Acquisition Institute thanks our guests, Trevor Wagner and John Inman, and our special guest, Mathew Blum. And of course FAI thanks you, our viewers, for your time and attention.