

## FOIA Meetings Webinar Transcript

**00:00 --> 00:07.50**

Perfect. Well, let me start with sharing the screen so everybody can validate that you're in the right spot. Hopefully you are.

**00:08.12 --> 00:15.62**

Today we are gonna be talking about Freedom of Information Act as it's pertaining to procurement and public meetings.

**00:16.88 --> 00:24.00**

So I would be remiss if I did not... Well, first of all, let me. Introduce myself.

**00:24.38 --> 32.50**

My name is Stacy Adams. I'm the Director of Statewide Sourcing for the state of South Carolina. I appreciate you guys taking the time to be with us today.

**32.12 --> 38.12**

So we've got a great group and we'll have more people joining in, I'm sure.

**00:38.75 --> 00:48.75**

As we go through the day if you have any questions certainly feel free to ask those. We'll also have a question and answer period as we get to the end as well.

**00:49.380 --> 01:07.50**

And we are recording today. So, both this presentation, the slide deck, as well as the recording of the same will be made available on our website, so you will always have that to go back and refer to as you choose to, and/or share with your coworkers that maybe didn't have an opportunity to participate.

**01:08.12 --> 01:26.25**

But I do want to say that many of you guys in your feedback had responded that you were looking forward to learning more about how to respond to FOIA document requests, and not necessarily as it pertains to conducting meetings and compliance with FOIA meeting rules.

**01:26.88 --> 01:46.37**

So based on those, I want to tell you about another on-demand webinar that's already out there that we did in October. Kimber put together a great session on there. That will tell you about how to respond to FOIA document request, what happens if you don't respond properly, what your time frames are.

**01:46.88 --> 02:01.75**

everything you need to know about that FOIA document process is out there again free on demand you can view the webinar you can check out the transcript as you see here and or review the slides.

**02:01.80 --> 02:07.67**

So we're going to cover some of that, today, but only as it pertains to public meetings.

**02:08.05 --> 02:20.49**

So you may wanna go back and review that other webinar to also glean. But fear not, we will, still give you a lot of helpful information today I'm sure.

**02:20.49 --> 02:35.01**

Especially if you do best value bids or RFPs you're gonna need to know what we cover today, but feel free to know that there is a second part of this that you will probably, if you have not already seen, that you'll want to revisit and take a look.

**02:36.23 --> 02:42.58**

Now that being said, let's dive in and talk about what we are talking about, right?

**02:42.59 --> 02:50.03**

So chapter 4, title 30 is still the foundation for FOIA meeting rules as well as the document requests.

**02:50.75 --> 03:05.90**

FOIA meeting rules apply to any meeting of a public body, including advisory committees. So you might be asking yourself. "Hmm. What's a public body or an advisory group?" Well, I got the answer for you.

**03:06.73 --> 03:22.30**

So this is a whole lot of words. I put the definition so you can refer back. But if you are a state board, a commission, an agency, an authority, any public or governmental body or political subdivision of the state.

**03:22.34 --> 03:35.26**

That includes counties, municipalities, townships, school districts, special purpose districts, or anyone that's truly supported it whole or in part by public funds or expends public dollars.

**03:36.25 --> 03:45.06**

Whether that be again, including committees, subcommittees or advisory committees, then these rules apply to you.

**03:45.33--> 03:53.29**

So if you can find yourself anywhere in this definition, everything we're gonna talk about today applies to you.

**03:53.68 --> 04:02.64**

So hopefully, you will find this helpful. So let's talk about though this is a public body. Let's talk about advisory groups.

**04:03.57 --> 04:16.65**

The South Carolina Supreme Court determined in the ruling that you'll see here on the slide that RFP evaluation committees are considered an advisory group and should thus follow all FOIA meeting rules.

**04:17.11 --> 04:31.98**

So if you're doing an RFP evaluation panel meeting, these rules are gonna apply. But there's some other advisory groups that you might also want to consider as well. This isn't an all-inclusive list, but this is a few.

**04:31.99 --> 04:44.11**

So if you form a committee to evaluate bid samples, these meeting rules apply. If you're doing a best value bid and you have your evaluation panel meeting, these rules apply.

**04:44.74 --> 05:00.22**

If you are evaluating submittals in a request for qualifications as a committee, these rules apply. So advisory groups and committees associated with public bodies all have to follow these rules.

**05:01.03 --> 05:13.15**

But let's talk about who makes up the committee or the advisory group. Well, neither FOIA nor the procurement code actually requires that you have multiple evaluators.

**05:13.77 --> 05:21.69**

Likewise, the laws don't require that the evaluations...Evaluators function collectively as a panel or as a body.

**05:22.03 --> 05:35.38**

They could respond individually and independently. Instead, the responsible procurement officer may seek advice from various individuals without conducting a meeting at all.

**05:35.45 --> 05:48.78**

I can phone a friend. I can send an email. I can have a one-on-one. I can have those one-on-one conversations to include even panel charging meetings without having to post a meeting notice.

**05:49.27 --> 05:56.75**

Now, honestly, we usually don't do this because it's easier to plan for everybody to really meet at one time in one place.

**05:57.04 --> 06:06.56**

But if you have a member that can't attend for some reason and you need to meet with them one-on-one, you don't have to post a meeting notice for that one-on-one meeting.

**06:06.66 --> 06:21.48**

I think that's important to really point out. But as they like to say, who has time to have 40,000 different one on one meetings? And the intent is not to have one-on-one meetings to circumvent the act as well.

**06:21.52 --> 06:33.93**

So, but I did wanna make sure that you knew. Did you have some options in that? But it's also important that you know. How do I know if a meeting is required at all?

**06:33.97 --> 06:47.17**

So if the evaluators meet to discuss proposals as part of the evaluation, the procurement officer should treat the evaluators as an advisory body that is subject to the FOIA meeting rules.

**06:47.63 --> 06:56.67**

And anytime you have a quorum, or in other words, a majority of the evaluators that are going to be present, that constitutes a meeting.

**06:56.99 --> 07:12.27**

And a meeting includes whether it's over the phone via teleconference, whether it's what we're doing here on Zoom, Teams, Webex. If it's an in-person meeting. if you decide we're all just gonna go to a coffee shop, right?

**07:12.34 --> 07:19.58**

It does not matter. That constitutes...any time there is a quorum or a majority of the evaluators present, that is a meeting.

**07:19.67 --> 07:28.16**

And there's certain rules that you have to follow when you're gonna have a meeting of the evaluators. So let's talk about [what] some of those are.

**07:29.04 --> 07:40.64**

So you're having a meeting. What do you do? Right. When do you, the first thing you've got to post a notice and when you post that notice is as early as practical.

**07:40.65 --> 07:46.72**

Okay, so the rule is as soon as you know you're gonna have a meeting, go ahead and post that notice.

**07:46. 76 --> 08:04.46**

But it can be no later than 24 h before the meeting, okay. And if the meeting happens to conclude or end or break or adjourn for any reason, you're gonna need to post a separate notice for any subsequent meeting.

**08:05.39 --> 08:16.31**

Now a new notice is not required if the meeting is a simple continuation of a meeting that began at the same location on the same day or on the preceding business day.

**08:16.88 --> 08:27.94**

In other words, if you, take a break for lunch or you recess for the evening or the weekend you do not have to post a new meeting notice.

**08:28.25 --> 08:36.86**

Nope, but notice requirements do apply regardless of whether the entire meeting takes place in executive session or not, so that's important to note.

**08:39.98 --> 08:44.70**

And if you're not sure about what that looks like, we're going to be taking a deeper dive into the steps you take as you go throughout the meeting.

**08:44.93 --> 09:02.93**

So when you post, you have to post a notice and when as soon as possible no less than 24 hr before the meeting. And if you end up breaking for any reason, and there's going to be a period of time between when you meet initially and that next meeting, you've got to post that again.

**09:03.52 --> 09:13.28**

So where you post it? In a publicly accessible location at the office of the procurement officer responsible for the solicitation.

**09:13.72 --> 09:21.14**

So it used to be back in the day we had a cork board, if you could imagine, in the hallway where we would post those notice.

**09:21.37 --> 09:31.80**

Well, technology is a beautiful thing and so no we no longer have to necessarily do that. We actually have our centralized web page that is established for this purpose.

**09:31.88 --> 09:38.19**

So when we are having a meeting, we have those notices that we put in one centralized place.

**09:38.28 --> 09:43.98**

And that's what most of you likely have. But that is something that you wanna, strive for.

**09:44.19 --> 09:54.47**

So long as you communicate that this is where we're always gonna post our notices and how, and you make it publicly available, then that's the key part of that.

**09:55.62 --> 10:11.86**

And what you post is at a minimum: the solicitation name and number, the date, time, and place of the meeting, the date and the location, where you're posting the notice, and you also wanna provide an agenda.

**10:11.93 --> 10:20.17**

You only have to identify those overall topics. You don't have to get real far down in the weeds, but just those overall topics.

**10:20.37 --> 10:39.65**

So with that, we've kinda covered what an advisory body is. We've covered what's required if or what a meeting is and what's required if you have a meeting and posting notice. Does anyone have any questions at this point on what we've covered?

**10:41.61 --> 10:44.45**

If so, you can raise your hand.

**10:45.93 --> 10:46.91**

Or speak out.

**10:51.78 --> 11:01.04**

Alright, so far so good. So I wanted to give you guys an example. Okay, so this is an example of one that we've had on our website.

**11:01.80 --> 11:08.84**

Where you will note here you have a meeting, a meeting of a request for proposal evaluation panel.

**11:08.10 --> 11:16.16**

You have the project name, the solicitation number. You have the date and time that you're going to be meeting.

**11:16.67 --> 11:23.63**

Now this one is an example of one where we're actually meeting via Teams rather than in person.

**11:23.91 --> 11:38.95**

And so, in this case Ashley says, "if you are interested in intending, if you are Joe public, and you want to attend then this is how you're gonna reach out and request the information to be able to log in and participate in this meeting."

**11:39.60 --> 11:46.64**

Again, your agenda is very basic. I'm gonna have regular session, which is an open meeting, an overview of the process.

**11:46.95 --> 11:52.19**

I'm gonna go into executive session. We're going to distribute responses and close the meeting.

**11:52.35 --> 12:09.06**

You have her information, and then this was posted on this date at this location. So this is, again, I'm gonna provide you examples throughout the session that we have today. But one size doesn't fit all. So you have to kind of tweak it.

**12:09.09 --> 12:18.81**

So maybe. This is one that I pulled out of our guidance document. That this is the meeting for an RFP evaluation panel.

**12:18.89 --> 12:24.35**

You would put your description, your number, here's where we're meeting. This is where we're meeting.

**12:24.52 --> 12:32.00**

These are the things that we're gonna cover. And this was, where I posted. Now this is the example of a scoring meeting.

**12:32.13 --> 12:43.46**

The first one was a charging meeting where we're giving them instructions and then we're gonna send them off to evaluate. And then this one is the one where we're actually going to evaluate.

**12:44.26 --> 12:58.42**

Now what you may have noticed already, and we will talk more about, is the difference between being a regular session and executive session. And that's going to be an important step to the process that we're gonna talk about a little bit more.

**12:59.19 --> 13:09.19**

But you're having a meeting, you've decided you've got to have a meeting. You've posted your agenda and your notice that a meeting is happening. So what else do you need to do?

**13:09.38 --> 13:13.57**

Now I had a little fun with this slide and saying that you gotta have meeting minutes.

**13:14.12 --> 13:24.56**

But I'm not just talking about the minutes on the clock. I'm talking about you have to write down and make a written record that you've had a meeting.

**13:24.59 --> 13:33.19**

So FOIA does require that all public bodies keep written minutes of all their public meetings. What does all mean?

**13:33.80 --> 13:39.20**

All right? So if you have a public meeting, you have to have minutes from that meeting..

**13:39.72 --> 13:53.80**

Now, I will tell you that executive session, because that's not a part of public meetings, you don't have to have your minutes doesn't have to include the details from that executive session part. Okay.

**13:53.92 --> 13:58.48**

And I'm gonna give you some examples of what that's gonna look like as we go throughout today.

**13:58.78 --> 14:08.06**

But some of the things that you got, you must have as far as contents to it. You've got to have the date, the time, and the place that you met.

**14:09.13 --> 14:21.25**

You need to note the presence or the absence of members of the public body. So those evaluators that were there, if you had evaluators that were absent, you need to note that as well.

**14:21.29 --> 14:32.27**

And then you have to include the substance of the matters that you're talking about. Anything that's decided, action taken, anything that's happening, you've got to note that in your minutes as well.

**14:32.78 --> 14:41.62**

And then if there's something that a member of the public asks that you include or make a note of, you should also include that as well.

**14:41.82 --> 14:55.05**

Now I've went ahead and put the reference that you see there to the FOIA rules which is section 30-4-80 sub E and 90 sub A.

**14:55.30 --> 15:02.70**

Are the areas that you really need to look at there if you wanna take a deeper dive, but again, I'm gonna give you some templates.

**15:02.89 --> 15:13.27**

But what that says is anyone asked to be notified as well of an upcoming meeting. The procurement officer should send them some sort of notification.

**15:13.35 --> 15:20.47**

Whether that's a letter, an email, a phone call, a link that references the posting onto your website.

**15:21.28 --> 15:30.10**



That needs to be communicated at the time the notice is posted. We're gonna be looking again at some sample meeting minutes a bit later.

**15:31.03 --> 15:39.67**

Which will help you with the various types of meetings and how to document those. But the key thing I want you to remember is that you have to take minutes.

**15:40.08 --> 15:47.12**

And then, if asked for in a FOIA request, you have to be prepared to release those minutes.

**15:47.65 --> 15:53.61**

Now, as a practical matter, meeting minutes do not need to be approved by the evaluators.

**15:53.95 --> 16:02.19**

As a responsible procurement officer always attends any meetings of the evaluators, the procurement officer should keep the minutes.

**16:03.51 --> 16:12.31**

Now when you release those in response to a FOIA is only after posting the award or the notice of intent to award.

**16:12.74 --> 16:19.54**

Before then, that is still considered hush hush. We don't share that. Until after award.

**16:19.63 --> 16:35.55**

And what you would release is just the minutes as they stand. However, should you include anything in your minutes as it pertains to any given offers proposal, you would need to redact the minutes prior to release.

**16:35.96 --> 16:45.60**

Now oftentimes and what you'll see in the samples that we give you, we don't go into those details of individual offers in our minutes.

**16:45.89 --> 16:55.97**

And you'll see that where that makes sense. But if you do, you want to make sure that you do not, disclose something that you should not at any given time.

**16:57.46 --> 17:16.23**

So let's talk about the meeting itself. So for the next few slides, I'm gonna talk to you through a 2 step process as if you were doing an RFP evaluation panel meeting or a best value bid evaluation panel meeting.

**17:16.34 --> 17:24.58**

Okay. So the first step is going to cover the charging. The evaluators are charging the evaluators and distributing the proposals.

**17:24.80 --> 17:33.32**

The second step is gonna be for the meeting for the evaluators to discuss their proposals and submit their score sheets.

**17:33.46 --> 17:44.60**

Now that being said, provided you're using score sheets and not a variation in the process with an RFP, but assuming that you're doing score sheets, that's what we're gonna talk about here.

**17:44.68 --> 17:49.26**

But we're gonna start with step one on charging the panel.

**17:50.17 --> 17:58.41**

So again, I'm not just gonna tell you the things. I'm gonna give you the reference back to regulation or the FOIA Act so that you know where to find it.

**17:58.76 --> 18:18.80**

But regulation 19-45-2010 subparagraph D tells us that state personnel with access to proposal information *shall not disclose* either the number of offers or their identity except as otherwise required by law.

**18:19.72 --> 18:35.84**

So it's important to note that as you're conducting your panel charging meeting, you're taking actions to truly avoid disclosing either the identity or the number of offers prior to going into executive session.

**18:36.11 --> 18:49.43**

You know, I know a lot of us have gone paperless, and so we're not going around with the big old 3 ring binders that we used to carry and we used to have to transfer boxes to an evaluation panel meeting where we were charging everybody.

**18:49.87 --> 19:08.62**

And but in the event that you still receive paper you need to make sure that you have it in... Carry it in such a way whether that be boxes, bags, whatever, that do not disclose the identity of who an offer may be.

**19:08.79 --> 19:18.79**

It doesn't have anyone's name on the boxes. Their branding is not visible anywhere. Again, you can't tell if you have 1, 5, or 15.

**19:19.91 --> 19:33.55**

And it's important that you do that because if you disclose that, then you give away information that in law we're supposed to be keeping, close to chest until we're finished with that evaluation process.

**19:33.86 --> 19:43.94**

So again, making sure that there's no identifying marks. You're not disclosing how many you have just really protect that and be mindful of that.

**19:44.00 --> 19:48.91**

If you have papers with names on it, make sure that they're out of everyone's site.

**19:49.21 --> 20:02.73**

You know, it's like when you're in grade school and you're cheating on your neighbor's paper and you're looking over at trying to see, you want to make sure that you're not disclosing any information as part of this process when you're having these meetings.

**20:03.60 --> 20:10.08**

Again, you're gonna convene the meeting in public. Do not identify your evaluators by last name.

**20:10.70 --> 20:19.94**

You want to provide the panel with general instructions regarding the evaluation process and that includes their confidentiality obligations.

**20:20.16 --> 20:33.12**

Again, I give you the reg reference there so you can go back to that. But it's really stressing to them the importance of not disclosing information outside of the functions of the evaluation panel.

**20:33.92 --> 20:42.60**

And do not, distribute proposals here. You can distribute any non-identifying forms, instruction forms.

**20:42.82 --> 20:53.66**

Blank, score sheets if you want to, but you're not going to give out the proposals or the forms identifying offers when you're in public session.

**20:53.95 --> 21:11.99**

Again, none of those materials include the number identity and identity of the offers. If you're providing blank score sheets, that's fine, you can go ahead and distribute that in the public session, but if they identify any offer, you have to hold those until you go into executive session.

**21:12.13 --> 21:25.36**

And after evaluators have signed their non-disclosure forms. If you're planning again to provide those paper offers, make sure that you contain them in such a way that you're not disclosing that information.

**21:25.38 --> 21:32.94**

Does anybody have any questions so far on our initial charging the panel instructions?

**21:38.60 --> 21:39.91**

Scroll one through looking.

**21:43.65 --> 21:53.09**

All right, so once you've done everything that you can do in public session. You're gonna go into executive session.

**21:53.21 --> 22:02.65**

Now I can't stress this enough. It is important to know exactly who is in attendance at the meeting.

**22:02.80 --> 22:19.08**

Don't assume everyone in the room is an evaluator. Also in the world of virtual meetings the way that we have today, it's also important that you ask and verify that no one else is in the room with your evaluators.

**22:19.38 --> 22:33.56**

You as a procurement officer have to maintain the confidentiality that has to exist within this process. So again, this step is super, super, super important.

**22:34.02 --> 22:46.51**

So again, going into executive session. Make the motion. Once the motion is approved by the majority, you're gonna announce, consider this your script, okay.

**22:46.56 --> 22:56.48**

And I know sometimes you may feel silly if you're sitting in a room and no one else from the public is there. It's just your evaluators.

**22:56.57 --> 23:05.04**

You still need to go through this process, and we'll talk about why, but you've got to announce, "the panel is going into executive session.

**23:05.48 --> 23:18.32**

The matters to be discussed are incident to a proposed contractual arrangement. The panel will discuss proposals received in response to the solicitation. Insert that solicitation name and number.

**23:18.86 --> 23:26.28**

Then adjourn to review the proposals individually. The panel may adjourn without leading executive session."

**23:26.36 --> 23:38.76**

Then you're going to excuse the public. So any supplier, any reporter, anybody that happened to follow along with an evaluator that is not an evaluator that's a part of this process.

**23:38.98 --> 23:47.18**

Then needs to be excused and asked to leave the room. The only ones that should be left in that room are the evaluators.

**23:47.49 --> 24:55.33**

Or the subject matter experts that are a part of this process and the procurement officer. No one else should be in that room.

**23:56.26 --> 24:05.04**

Again, this step is important and should be done at every public charging meeting, even if no one from the public is present.

**24:05.14 --> 24:11.26**

This is going to prevent that late attendee if you will from being able to interrupt and join the meeting late.

**24:11.59 --> 24:29.83**

And also let me just say making this a habit is also a good practice for when that reporter, or that supplier, or that lobbyist, or that citizen is actually in that room and you've got to know how to properly safeguard the integrity of the process.

**24:30.07 --> 24:36.07**

And to be able to get to executive session the way that you should in accordance with the FOIA Act.

**24:36.57 --> 24:44.77**

Integrity of this process is paramount. You're also generating minutes that are gonna state that this step was followed.

**24:44.85 --> 24:56.01**

And if you don't go through this process and you put that in your minutes that you followed this, you're falsifying your records and you have bigger issues than just following FOIA laws, I'm just saying.

**24:56.35 --> 25:03.83**

So the integrity of the process is paramount. So make sure that you follow through this. Every time.

**25:05.41 --> 25:11.97**

Now you've done that and your public has left the meeting and now you're in executive session.

**25:12.28 --> 25:22.88**

So everyone needs to sign the non-disclosure agreement. If someone will not sign that non-disclosure agreement, you cannot move forward.

**25:23.39 --> 25:33.47**

You're gonna have to either ask them if they have an issue with that, they're too gonna have to leave the meeting, and you may have to meet with them one-on-one.

**25:33.91 --> 25:48.19**

Because the part...everything that you do from this part is disclosing information about those offers. And if they can't attest to the fact that they're not going to treat that as they should by keeping that close to chest

**25:48.46 --> 25:56.74**

And in compliance with the rules that we have in procurement to keep that confidential then that you need to excuse them as well.

**25:57.16 --> 26:03.00**

So step number one after you get into executive session, you've got to get that nondisclosure agreement.

**26:03.77 --> 26:15.05**

And don't move forward until you have it. Once you have that from all your evaluators or subject matter experts that are in attendance, you can announce the names of the offers.

**26:16.46 --> 26:19.78**

You can then distribute and explain the conflict of interest forms.

**26:19.86 --> 26:29.90**

That's the easy word for it, but you will see it on our website and you'll see it represented as the procurement integrity representations and restrictions form.

**26:31.38 --> 26:45.21**

So, evaluators have to sign that form certifying that no conflict of interest exists between themselves and any of those suppliers that responded to the solicitation.

**26:45.97 --> 26:56.54**

Once they have signed that and saying "no, I have no conflict of interest," you've conducted, you know, any discussion that you need to around that. They've signed that.

**26:56.88 --> 27:09.48**

Then you can distribute proposals, okay. And once you've done that then the meeting can be adjourned. You don't have to call the public back in. You don't have to do anything like that.

**27:09.58 --> 27:21.70**

You can just adjourn and dismiss the evaluators. But again, if someone will not sign either form, they cannot get a copy of the offer.

**27:22.09 --> 27:29.89**

And potentially may not be able to serve as an evaluator. You have to proceed with care if someone expresses an issue.

**27:30.23 --> 27:37.07**

You may, again, have to excuse them from the meeting and set up a follow up meeting, one-on-one meeting with them in a later time.

**27:37.58 --> 27:46.14**

The signed form is your protection for being the guardian of the procurement process. Without it the entire project is at risk.

**27:46.53 --> 27:57.61**

So we have given you sample of those forms as well on our website. That - feel free if you're not a state agency, you know, use them. Modify them to meet your need.

**27:57.70 --> 28:06.21**

If you're a state agency, you're probably familiar with those, but I included the link to both of those forms on this slide so that you can get there.

**28:06.96 --> 28:12.100**

But now you've had your panel charging meetings. So I told you we were gonna have to document it.

**28:13.16 --> 28:21.72**

So here's a sample of what the minutes may look like from a panel charging meeting. So again, this is taken from our guidance document.

**28:21.84 --> 28:26.28**

So that's why some of the dates are a little bit older, but the format remains the same.

**28:26.69 --> 28:34.72**

So we had a panel charging meeting. Here was the date. Here was the time. Here was the solicitation description, the solicitation number.

**28:35.00 --> 00:28:40.94**

Again, when we met, and where. How we the date. Who were the panel members in attendance?

**28:41.14 --> 00:28:53.06**

If you had some that were absent, you would also note that there. The meeting was called to order by, insert your name as the procurement officer, and your title and that you're responsible for the procurement.

**28:54.26 --> 29:01.80**

You let everybody know that you distribute evaluation packages to each panel member. The package included the following.

**29:01.88 --> 29:11.16**

So anything that you were giving them, whether it was in the public session or in the executive session you wanna have what you have there.

**29:11.32 --> 29:24.11**

You gave them the instructions. You told them what was happening. You gave them the nondisclosure and explained it. A motion was made to go into executive session who seconded all in favor.

**29:24.34 --> 29:35.86**

Everyone attended or signed the non-disclosure agreements. Then went through the procurement integrity representation and restriction certification, explain the obligations.

**29:36.27 --> 29:46.03**

Then distributed copies. Motion was made up to executive session, all in favor, and then you go, right?

**29:46.33 --> 29:58.61**

Being no further business, the next meeting will be at. The purpose will be for. The panel members were instructed to contact the procurement officer with any questions.

**29:58.93 --> 30:06.65**

This last sentence is important. No one from the public attended the meeting or if they did you need to note that as well.

**30:07.68 --> 30:18.76**

And then also your information about when and where you posted your panel charging meeting. Any question on panel charging?

**30:20.24 --> 30:26.00**

From beginning to end of that part of the process before we go into step 2.

**30:31.74 --> 30:41.67**

Easy peasy, lemon squeezy, then we'll keep going. So we've hit step 2, which is gonna sound much like parts of step one.

**30:42.79 --> 30:50.75**



For the scoring meeting, you're gonna convene that meeting in public. You're not gonna identify your evaluators by last name.

**30:51.09 --> 30:59.09**

You're gonna still provide the panel with general instructions regarding the evaluation process and what you're gonna be doing within that day.

**30:59.62 --> 31:06.78**

Then you're going to make a motion to go into executive session, get your second. Have the motion carry once it's approved.

**31:07.10 --> 31:17.98**

Then again, here's your script. It's a little it's similar but a little different than what your script was for a panel charging meetings. So now you're scoring.

**31:18.36 --> 31:23.19**

So you're gonna announce. "The panel is going into executive session.

**31:23.56 --> 31:35.48**

The matters to be discussed are incident to a proposed contractual arrangement. The panel will discuss proposals received in response to the solicitation, include the solicitation name and number.

**31:35.66 --> 31:46.73**

The panel will at conclusion of their discussion return to public session." Super important again. So this is going to be different. And this is a key thing that differs from charging.

**31:46.77 --> 31:55.81**

You may just go straight to leaving at the end of the panel charging meeting, but you're not going to be able to do that with the scoring.

**31:56.10 --> 32:01.56**

And we'll talk about some of the actions and why you have to come back into public secession.

**32:03.23 --> 32:08.59**

So once you've got your motion and it's carried, you're gonna again excuse the public.

**32:10.66 --> 32:22.10**

So, then you're gonna talk through it. Okay. You're gonna conduct your discussion. You're gonna talk about the individual offers, whether you're doing consensus scoring, whether you're doing your score sheets, whatever the case may be.

**32:22.66 --> 32:30.62**

Once your discussions are complete. Each of your panel members should complete their score sheets or you should complete your consensus course sheet.

**32:30.83 --> 32:41.76**

Resolve any questions they have. Okay, so once you go out of the executive session, there's not gonna be, "oh, well, what about," or additional discussion?

**32:42.20 --> 32:49.64**

All discussion needs to happen in executive session. But you're not gonna sign those score sheets at that time.

**32:50.31 --> 32:59.92**

No action, and this is important to note, no action can be taken in executive session except to either adjourn or return to public session.

**33:00.03 --> 33:04.72**

So you can't score, you can't vote. You can't poll in executive session, okay.

**33:04.90 --> 33:16.14**

You can get everything ready but you're not going to execute. You're going to discuss it and then once you're back in public session then you can sign it, okay. So that's super important to note.

**33:16.27 --> 33:26.51**

So you can't take those type of actions in executive sessions. So you're gonna get all the way up to where you're ready to put ink to paper and sign your autograph.

**33:26.86 --> 33:39.22**

And then you're gonna, take a different action to come back into public session. So once those 4 sheets are complete, once all discussion has been had, everybody agrees, "okay, we're good.

**33:39.26 --> 33:51.22**

We don't need to talk about anything else. Then you're gonna vote to return to public session and then you're gonna allow public attendance if there's anybody there waiting to join. Back in, to be a part of that public session.

**33:51.48 --> 34:02.16**

Okay. They will be able to come back in. But once you're in that public session, you're gonna ask the evaluators to sign their score sheets and submit them to you.

**34:02.46 --> 34:06.98**

Then you're gonna adjourn the meeting. Again, this is not the time for further discussion.

**34:07.12 --> 34:15.34**

You sign, you collect, you adjourn, you leave. It's just that simple on there. So

**34:17.47 --> 34:23.27**

Yes, I hopped on chat. Yes, you're gonna get this PowerPoint after this session. So yes.

**34:25.27 --> 34:33.09**

But again, this is not the time for discussion. Sign collect, adjourn and leave. Now some other helpful tips that I put on here that you need to know.

**34:33.53 --> 34:48.09**

An open roll call or other oral action by the evaluators is not required. You do not announce or discuss any information that appeared in an offeror's proposal in public session.

**34:48.34 --> 34:58.58**

You do not announce evaluators' score or the ranking of offers in public session. Generally, you don't even tally the scores at that time.

**34:58.86 --> 35:11.10**

You can take that back to your office and do it there. You really, once you've done that, you've had your meeting, you've collected that, get on out of dodge as they say, okay?

**35:12.73 --> 35:27.85**

So here's some example of minutes. Now this one I think is especially helpful. Because what I have found is people are tempted to try to document the discussion that happened in executive session about the various offers.

**35:28.24 --> 35:36.26**

You do not need to do that for your meeting minutes. Again, you're gonna capture this is our selection panel.

**35:36.49 --> 35:41.00**

This is our date and time. Where we met, when we met, for this given project.

**35:53.030 --> 35:43.32**

This was who was in attendance. Where we met, when we met for this given project, this was who was in attendance.

**35:43.39 --> 35:51.87**

Again, if somebody was absent, if you had somebody from the public, you would note that. Call to order by the procurement officer.

**35:52.23 --> 35:58.51**

Open the meeting, gave a brief overview of the process. Motion was made to go into executive session.

**35:58.74 --> 36:07.39**

We announced we're going in all matters discussed. There's your script part, right? No one from the public attended the meeting or if they did you would note it.

**36:08.26 --> 36:21.94**

Evaluation and scoring was conducted. A motion was made to exit executive session. Seconded by, came back into public session, signed score sheets, turned them in, the end.

**36:22.12 --> 36:27.36**

And by the way, this is where we posted the notice and the agenda, for the meeting.

**36:27.58 --> 36:37.26**

Okay. There were no requests from media outlets or any other organizations to be notified. If you had somebody that wanted to be notified, you would need to note that here.

**36:39.56 --> 36:43.87**

So do you have any questions about panel scoring meetings?

**36:51.62 --> 37:15.222**

Then I'm gonna go to a more broad, question. Or any questions or any concerns that you have around how to conduct public meetings in accordance with FOIA meeting rules.

**37:05.64 --> 37:17.78**

Anything that we didn't cover today or something that you are dying to know because this is the you turn to get to make sure that your questions are answered.

**37:23.63 --> 37:32.76**

I see a question. So what if you do demonstrations? You have an RFP process and you're doing demonstrations.

**37:33.08 --> 37:39.30**

Does anybody want to take a stab based on what we've talked about or what you've learned at this point to answer that part.

**37:39.34 --> 37:49.22**

What do you do if you're going through an RFP evaluation, you've done your technical scoring, maybe you have or haven't done your cost scoring yet, but you need to do demos.

**37:49.29 --> 38:01.09**

How do you handle that? Do you publish a notice or not? Do you do it in conjunction with your technical scoring or not? How do you do that?

**38:07.58 --> 38:08.58**

Don't be shy.

**38:18.04 --> 38:31.265**

[Kimber Craig] Those are public meetings as well.

**38:21.07 --> 00:38:29.11**

[Stacy Adams] Very good answer! Thank you, Kimber! I was bound determined to wait somebody to say that is a public meeting.

**38:29.34 --> 38:42.49**

You have evaluators coming together to meet and to go through that. It's an advisory group. It's an advisory meeting. You have to advertise those as well.

**38:49.68 --> 39:04.08**

Now the challenge is, and I'm gonna push you to think even further on this, so unlike other areas where you're in executive sessions so that other suppliers don't show up or the public doesn't show up.

**39:04.35 --> 39:12.15**

What do you do in that situation? Do you handle it any differently to make sure that you're not disclosing the identity?

**39:12.49 --> 39:18.33**

Of the supplier that you're doing a demo with. What do you do differently?

**39:30.85 --> 39:37.85**

Nothing? That's, yeah, you still handle it the same. There's some safeguard things that you can do that you probably wanna do.

**39:38.23 --> 39:48.67**

Don't have back-to-back meetings in the same place if you're having them in person. So that they bump into each other. You want to avoid that, but you schedule them out with some difference in time,

**39:49.04 --> 39:53.06**

Potentially difference from location so that they don't run into each other in time, potentially difference from location so that they don't run into each other.

**39:53.44 --> 40:01.16**

You're still gonna have to handle the process the way that you would to make sure that you're maintaining the integrity of that.

**40:01.44 --> 40:11.86**

So that someone that should not be a part of that demo is not a part of that demo. It should still be limited to your subject matter experts, your evaluation panel.

**40:12.06 --> 40:14.86**

And then of course the supplier that you've been invited in.

**40:17.92 --> 40:25.53**

Now a question in the chat is, well, what do you do if you have an evaluation panel member disclose a potential conflict during charging.

**40:26.13 --> 40:36.84**

The easiest thing to do in that situation if you don't feel like you're ready or have enough information to make a ruling of is this really a conflict or not.

**40:37.34 --> 40:48.59**

Then go ahead and excuse them and have a one-on-one meeting with them to really determine. Don't feel like you have to make a decision and you end up making the wrong one in that moment.

**40:48.93 --> 41:03.24**

If they disclose a potential conflict, then go ahead and err on the side of caution. Unless you can fully resolve it to where all parties, you are 100% confident that there is no conflict, then go ahead and excuse them,

**41:03.26 --> 41:14.06**

Gather the information you need to determine. Is it really a conflict or not? And then you can move forward and if you need to go forward with the charging, charging them separate, then you can do that.

**41:14.31 --> 41:23.79**

But I always say, Shanon, err on this side of caution. Because you can't unring the bell once you've given out that information and once you've disclose the identity.

**41:25.91 --> 41:37.20**

As far as having SMEs attend one-on-one meetings, only if they haven't need to be there, and if they're involved in the evaluation process.

**41:37.60 --> 41:51.56**

Anyone that is there at any time has to have gone through the charging process and will sign the appropriate form saying that they don't have a conflict of interest and they're going to maintain the confidentiality of the process.

**41:52.69 --> 42:07.77**

So again, if there is a need for them to be there, they can be, but otherwise they don't have to be. So if I had, I'm gonna say Shannon, if you were on my evaluation panel and you got sick.

**42:08.26 --> 42:21.86**

And so I had the meeting scheduled. I can go ahead and meet with everyone else and charge them, and then come back and meet with you as a one-on-one to go through that when you're, you know, feeling better.

**42:22.17 --> 42:29.53**

No one else has to attend that. When it's pertained to charging meetings, scoring meetings are a different thing.

**42:30.10 --> 42:37.77**

Scoring meetings, everybody needs to be present. At that meeting, at that same time so that you can have that discussion

**42:38.43 --> 43:50.76**

amongst the group. Unless again if you're doing this where everyone is doing individual evaluations and you're not meeting as a group to have conversation or discussions.

**42:50.83 --> 43:00.88**

You're just doing it individually, then that's different. But the rules that, and remember I pointed out, this is if you're meeting as a group and you're having discussion about it,

**43:01.23 --> 43:06.89**

then these rules would apply and everyone that's a part of the process would have to be there for that scoring meeting.

**43:12.00 --> 43:17.52**

What other questions do you have or follow on to anything that we might have just went through?

**43:27.15 --> 43:33.59**

Kimber, do you have anything else to add that I might have missed or that we might wanna expand on?

**43:34.99 --> 00:43:37.76**

[Kimber Craig] I do not. I think you've covered everything.

**43:40.04 --> 43:49.58**

[Stacy Adams] Super sweet. So I will give you a resource, okay. That you can have in your hands. So if you go back

**43:50.05 --> 44:03.35**

and you're like, man, I'd like to read a little bit more. We do have a FOIA meeting guide guidance document on how to comply with FOIA in conducting meetings of advisory, evaluation, and selection committees.

**44:04.00 --> 44:12.40**

The link to that document you'll see on the screen but if you go to our home page, select legal, and under general information legal

**44:12.73 --> 44:26.44**

You will see down here FOIA guides. You will find both the FOIA document guide, which was from the other session that I mentioned at the beginning of this one regarding how to release documents.

**44:27.54 --> 44:32.18**

And then the FOIA meeting guide for the information that we talked about today.

**44:33.11 --> 44:43.36**

So make sure that you go. That will give you again additional reference points and we'll give you examples of all of the samples that we went over today.

**44:43.39 --> 44:52.20**

You will find the attachments and forms to this handy dandy whoops document that is blurred that you can't see when I hold it up, that is blurred that you can't see when I hold it up.

**44:52.28 --> 44:58.91**

But anyway, trust me, to go that link, it will be there for you to use. Now with that

**45:07.494 --> 45:07.52**

I'm gonna again open it up to any additional questions that you might have on this topic.

**45:08.01 --> 45:23.09**

And I will assure you, you will have this this recording of this webinar the slides the transcript will all be uploaded to our website. I will let Kristi speak to the timeline or the time frame of when that may be.

**45:23.50 --> 45:36.20**

But it will be made available to you so that again you can access it at any time. You can access that FOIA meeting guide today. It's already out there. So feel free to do that. But any additional questions that anyone has?

**45:36.97 --> 45:40.18**

[Ellicia Howard] Stacy, did you see the one in the last one in the chat?

**45:43.36 --> 45:47.56**

[Ellicia and Stacy together] Can you go over demo meetings with SME's?

**45:50.43 --> 46:01.79**

If they are a part of the evaluation process, SME's should be at the demo. And so if they are a part of the process, they should be there as a part of the process.

**46:02.24 --> 46:09.66**



Are you talking about maybe bringing somebody in after the fact or someone that's not a part of the full evaluation process, Margaret?

**46:14.92 --> 46:44.55**

Okay, so if you have an after the fact person that is involved, again as the keeper of the process and the integrity of the process, as a procurement officer, you have to determine do they have a legitimate need to know? Are they a part of the process? And if you determine that yes they need to know then you're still gonna have to go through the getting them to sign the forms and briefing them on keeping the integrity of the process.

**46:44.88 --> 46:58.60**

And then once they have done that, then certainly you could share what information is necessary for them to be able to contribute to the process. Ideally though, you know who they're going to be up front and they've been brought along throughout.

**46:59.06 --> 47:04.62**

But again, just make sure that those people that you're sharing information are on the need to know basis.

**47:05.04 --> 47:10.72**

They're adding value to the process. They should be a part. Not just that they're Nosy Rosie's, right,

**47:11.07 --> 47:17.35**

that they just wanna know. But they're actually being asked to contribute and to provide some input in some way.

**47:17.55--> 47:24.16**

And if so, take them through the process the way you would, any other evaluator and share and document that information.

**47:24.79 --> 47:34.41**

Make sure that you add them to your notes as well. That you went through charging and you have their forms as well.

**47:34.69 --> 47:40.49**

for your records. So that way you are protected in the event that somebody does a FOIA request

**47:40.54 --> 00:47:58.450**

and says "well, why did John Smith need to know? He wasn't on these minutes." Your still covered that you have those documents and you took him through the process. I hope that answers Margaret?

**48:00.50 --> 48:10.80**

Okay. Anybody have anything else? If not, I'm gonna turn it back over to Kristi who can give you some next steps or any additional information.

**48:16.63 --> 48:23.59**

[Kristi Sligh] Helps if I, excuse me, helps if I unmute. All right, so. Next steps.

**48:24.46 --> 48:35.86**

We're going to get the timeline to get or the. Stuff together. It takes a little while because of the transcript and then we've got a post it to our webinar, er website.

**48:36.21 --> 48:43.41**

If you do not know that there are webinars out on the website, you can do that, or you can go out.

**48:43.45 --> 48:56.61**

If you go to our website, which is [procurement.sc.gov](https://procurement.sc.gov), Then go to training materials up at the top bar and drop it down. There's one for websites. Or excuse me, webinars.

**48:57.45 --> 49:03.33**

And that will have all of the back webinars that we have done.

**49:04.05 --> 49:11.64**

There's also some training materials available on our website as well. And that is a different button.

**49:17.119 --> 49:20.19**

But if you, again, if you just go to that like training, block on our website, there's some, there's some information there that can get you there.

**49:22.21 --> 49:28.23**

Otherwise, you know, we have the upcoming webinar on risk management that Kimber will be doing next month.

**49:31.543 --> 49:40.16**

So keep an eye on that registration is still open. If you haven't registered for that one, go ahead and it because it looks great and we will see you in the future.

Thank you all so much.

**49:42.34 --> 49:42.92**

[Audience member] Thank you.