

Dear Q&A

For a procurement evaluation process, if the evaluation panel chair is a non-scoring member, does it raise any probity concerns?

Answer

The purpose of having a procurement evaluation panel is to make the process transparent and to attempt to eliminate bias. The panel should be large enough to provide sufficient expertise for thorough consideration of relevant issues without making the process unwieldy. The panel should not be relying on the expertise of one individual to form a conclusion on any given evaluation point. This would normally be achieved by a panel of three to five individuals. There could also be a probity observer (probity advisor or probity auditor), but as an observer they would not participate in discussion, score bid responses or have a vote. The role of the panel chair is to guide the evaluation team through the process and to report the results. The result is usually a consensus outcome – all members would be expected to agree with the result.

The key objective of a procurement evaluation panel is to make a recommendation to a higher authority within the organisation as to which a bid response represents the best value-for-money. In doing so, evaluation panel assessment of responses should be:

- › Undertaken fairly.
- › In compliance with applicable legislation.
- › In a way that can be measured and documented.
- › Able to withstand scrutiny.

Evaluation panels should be selected based on an appropriate spread of skills and experience to effectively evaluate responses against the evaluation criteria. This is a similar principle to the selection of any board or committee. In addition to 'scoring' members, evaluation panels may also include non-scoring members such as technical, legal, risk and financial specialists. Traditionally, the evaluation panel chair would be a scoring member. But do they have to be?

The role and responsibilities of evaluation panel chair will vary depending on the size and complexity of a procurement, and may include:

- › Ensure evaluation panel members understand their role and responsibilities.
- › Facilitate and moderate discussion at evaluation meetings with a view to ensuring each bid response is assessed fairly, transparently and without bias.
- › Ensure assessment complies with applicable legislation and the approved evaluation process.
- › Report to project control groups and steering committees.
- › Sign-off on recommendation reports for shortlisting and contract award.
- › Lead negotiations with shortlisted bid responses.
- › Facilitate feedback to unsuccessful bid responses.

It is essential the evaluation panel chair be appropriately qualified and sufficiently experienced to effectively deliver the requirements of what is effectively a governance role. As an evaluation panel member, it is expected the chair be adequately conversant in the subject matter being assessed. They also need to be objective and unbiased. This should be supported by an adequate conflict of interest process.

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When reviewing the role and responsibilities of the evaluation panel chair, there is nothing to suggest their effectiveness would be diminished by being a non-scoring member (or enhanced by being a scoring member). There is no indication that being a non-scoring member would create a probity issue. It is possible independence of the role could be enhanced by not being directly involved in scoring of responses. When examining the role of board and committee chairs, they are generally not voting members except when required to break a deadlock with a casting vote.

There may be operational reasons behind the use of a non-scoring chair. For example, the size and complexity of the procurement being undertaken, size of the evaluation panel, whether there are evaluation panel sub-committees - these should all be considered on a case-by-case basis.

The evaluation panel could be chaired by a non-scoring member without raising a probity concern, provided the evaluation panel has sufficient subject matter competence to make a thorough and objective evaluation.