



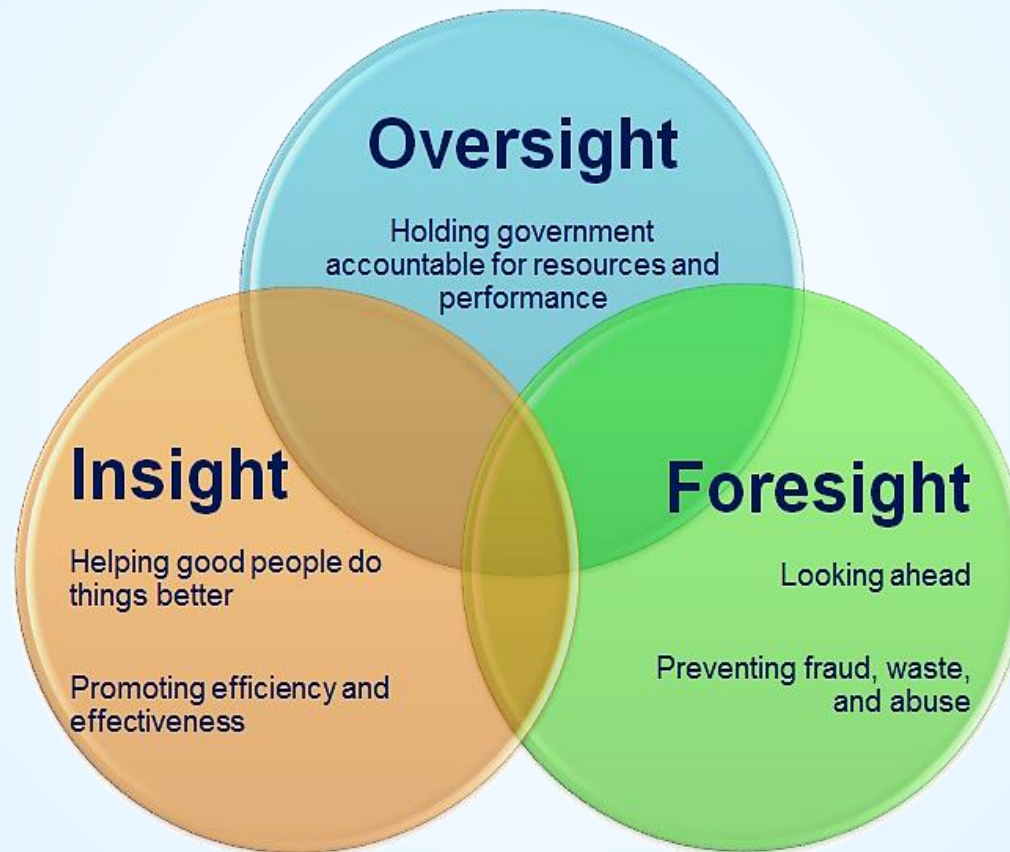
## **FAPPO Virtual Workshop**

# **Palm Beach County Office of Inspector General Lessons Learned**

**Tony Montero  
November 17, 2023**



## Office of Inspector General



***“Enhancing Public Trust in Government”***

# Procurement Fraud



The role of Contract Oversight & Evaluations is to:

Find....

- **Waste of public funds & resources**
- **Administrative errors**
- **Code violations**
- **Kickbacks & bribes**
- **Conflicts of interest**
- **Fraudulent companies, orders, & invoices**
- **Bid collusion & bid rigging**
- **Delivery fraud**
- **Labor/materials mischarges**
- **False statements/claims**

and more...

in all of this....



# Learning Objectives



- **Identify “Red Flags” in procurement.**
- **Understand risks in construction contracting.**
- **Recognize potential issues in RFP evaluations.**

# Procurement Fraud



## Common Definitions

**Bid collusion** – Competitors conspire to rotate bid winnings, prices are inflated, and the “losers” are used as subcontractors by the winners.

**Bid rigging** – Vendors and/or public officials predetermine the bid award winner through collusion, restrictive specifications, restrictive vendor qualifications, and manipulating evaluation scores.

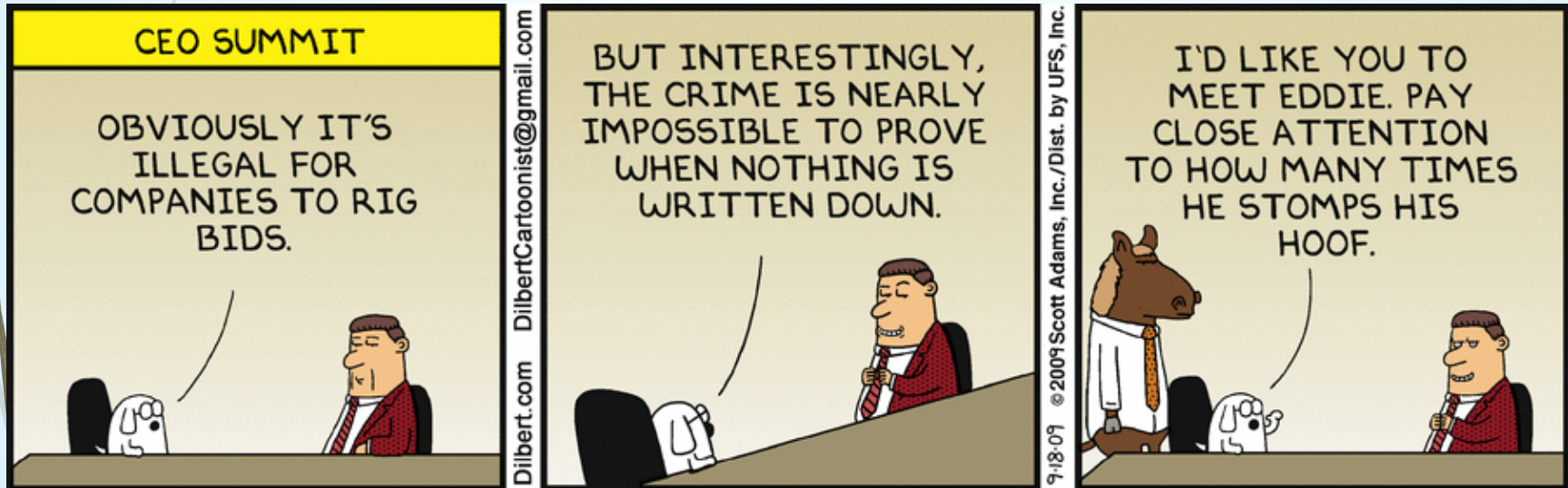
**Unbalanced bids** – Vendors manipulate line item prices to skew the evaluation results, or to make the contract more profitable by inflating frequently purchased line items.



# Procurement Fraud



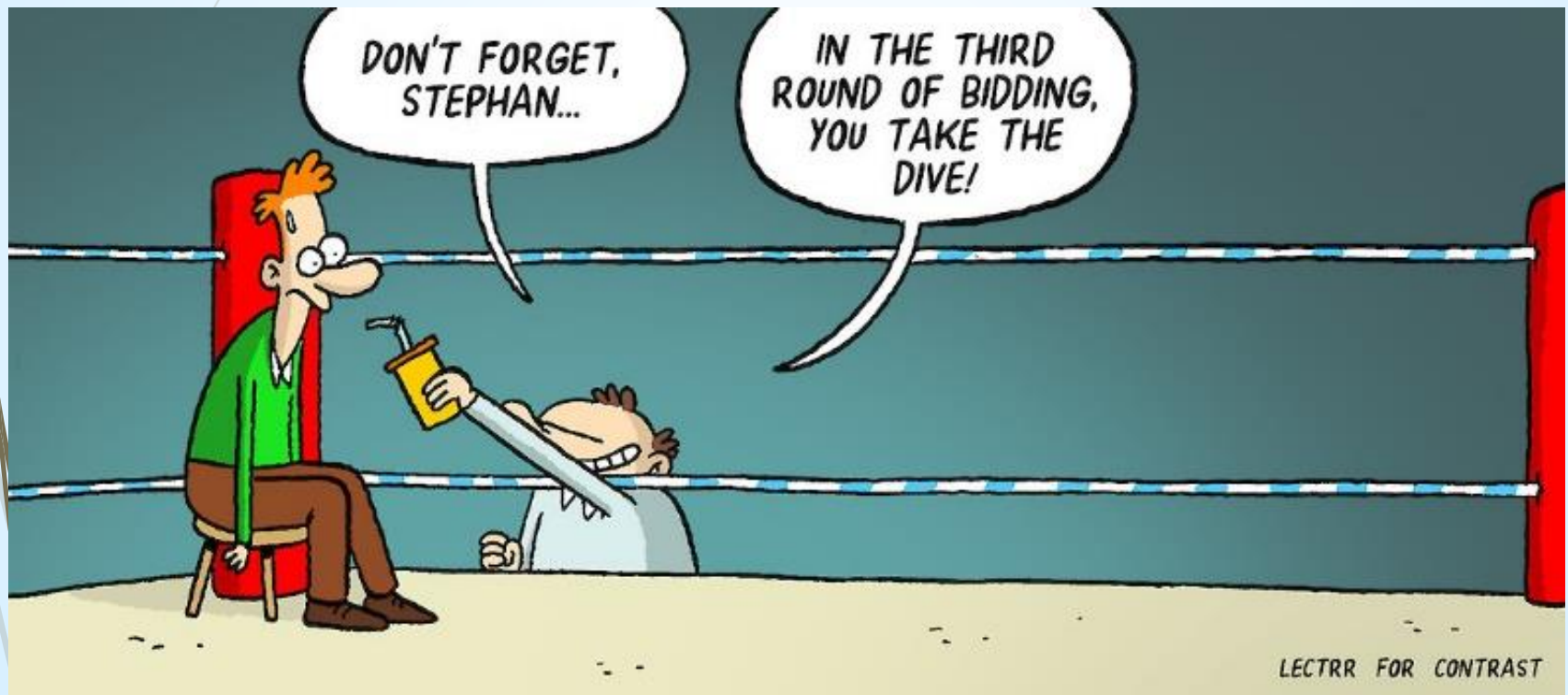
## Finding Proof



# Procurement Fraud



## Finding Proof



# Procurement Fraud



## Procurement Red Flags

### GENERAL RED FLAGS

- Same vendor repeatedly winning competitive bid solicitations for products or services.
- Repeated purchases under the competitive bid threshold.
- Products or services bought by different vendors using the same name, address or other identifiers.

### EMERGENCY WORK RED FLAGS

- Emergency work repeatedly awarded to a particular vendor
- The dollar value of emergency work awarded favors a particular vendor.

### PRE-QUALIFIED VENDOR POOL RED FLAGS

- Awards within a pre-qualified vendor pool repeatedly going to a particular vendor.
- The dollar value of awards within a pre-qualified vendor pool favoring a particular vendor.



# Procurement Fraud



## Procurement Red Flags

### PRODUCT RECEIPT RED FLAGS

- The receipt document changes in form type and paperwork quantity.
- Non-departmental employee “receiving” the item purchased.
- Vendor’s delivery method changes compared to previous deliveries.
- Quantity or Item delivered does not match order.

### INVOICE RED FLAGS

- Inconsistent fonts, sizes, lines, colors.
- Inconsistent or “goofy” layouts.
- Not on company letterhead, no logo, spelling mistakes.
- Lack of social media or other public identifiers.
- Made up names and addresses, copied images.
- Invoice sequence numbering off.
- Vague descriptions.
- No supporting documentation.
- “It just doesn’t feel right.”



## Contract Oversight and Evaluations Division

# Procurement Lessons Learned

# Best Practices

## Solicitations



**The solicitation document should clearly identify:**

- **Performance & delivery schedule**
- **Term, renewals, and payments**
- **Contractor qualifications, licensing, insurance, and bonding**

# Best Practices



## Committee's Award Decision

### *Best practices for Selection Committees include:*

- Cone of Silence.
- Having procurement experience and subject matter expertise available.
- Training on how to score and evaluate the proposals.
- Being free of impairments to independence.
- Properly documenting the evaluation.

***PUBLIC ENTITIES SHOULD CONSIDER HAVING COMMITTEE MEMBERS SIGN A DECLARATION OF IMPARTIALITY AND NON-DISCLOSURE BEFORE RECEIVING THE PROPOSALS.***

# Best Practices



## Award Process

The contract award process should ensure proposals are responsive, consistently and objectively evaluated, and contracts are awarded fairly to responsible contractors.

***WITHOUT A PROPERLY DOCUMENTED  
PROCESS, AWARD DECISIONS MAY NOT BE  
DEFENDABLE, IF CHALLENGED.***



# Best Practices

## Award Decision



Did the public entity:

- Use clearly defined, and consistent scoring criteria
- Carefully check all vendor references
- Document the award decision and vendor responsibility

***THE SELECTION COMMITTEE SHOULD NOT CHANGE THE STATED EVALUATION PROCESS OR CRITERIA!***

# Lessons Learned



## Importance of Documenting Decisions

### Selection Committee's Scoring Mistake

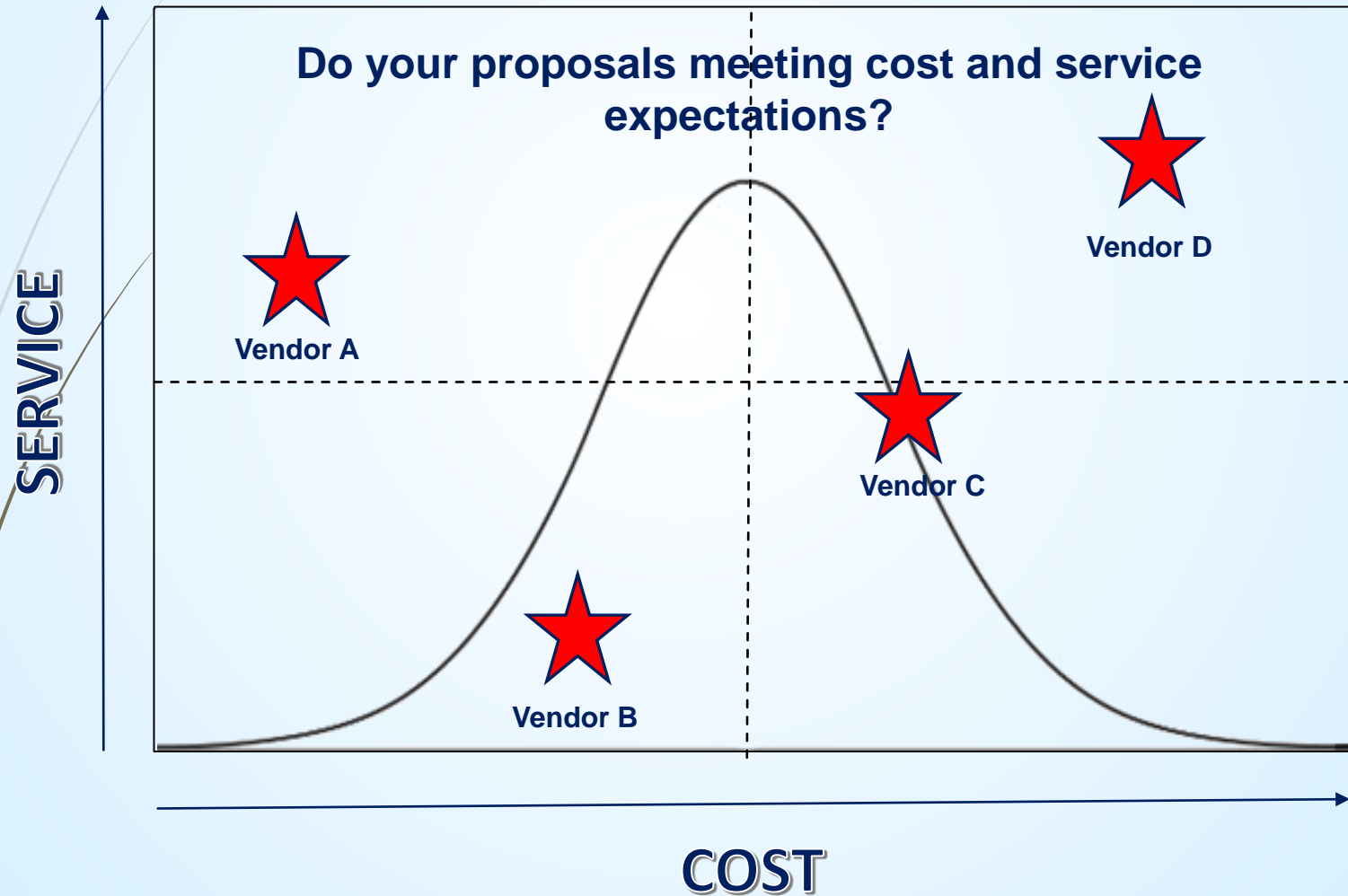
**Special Magistrate's Decision** - A possible maxim relevant to this case might be a variation of Occam's Razor which holds that one should not make more assumptions than the minimum needed. Instead, it might say as follows: ***“Do not attribute to malice that which can be explained by error, even in dealing with government.”***

The GOVERNMENT discovered an error and corrected it prior to final approval. The procedures used to effectuate the correction were reasonable. The suggestions of the ***“smoke” of improper influence are not supported by the “fire” of proof.***

# Lessons Learned



## Gaming Scores - Vendor

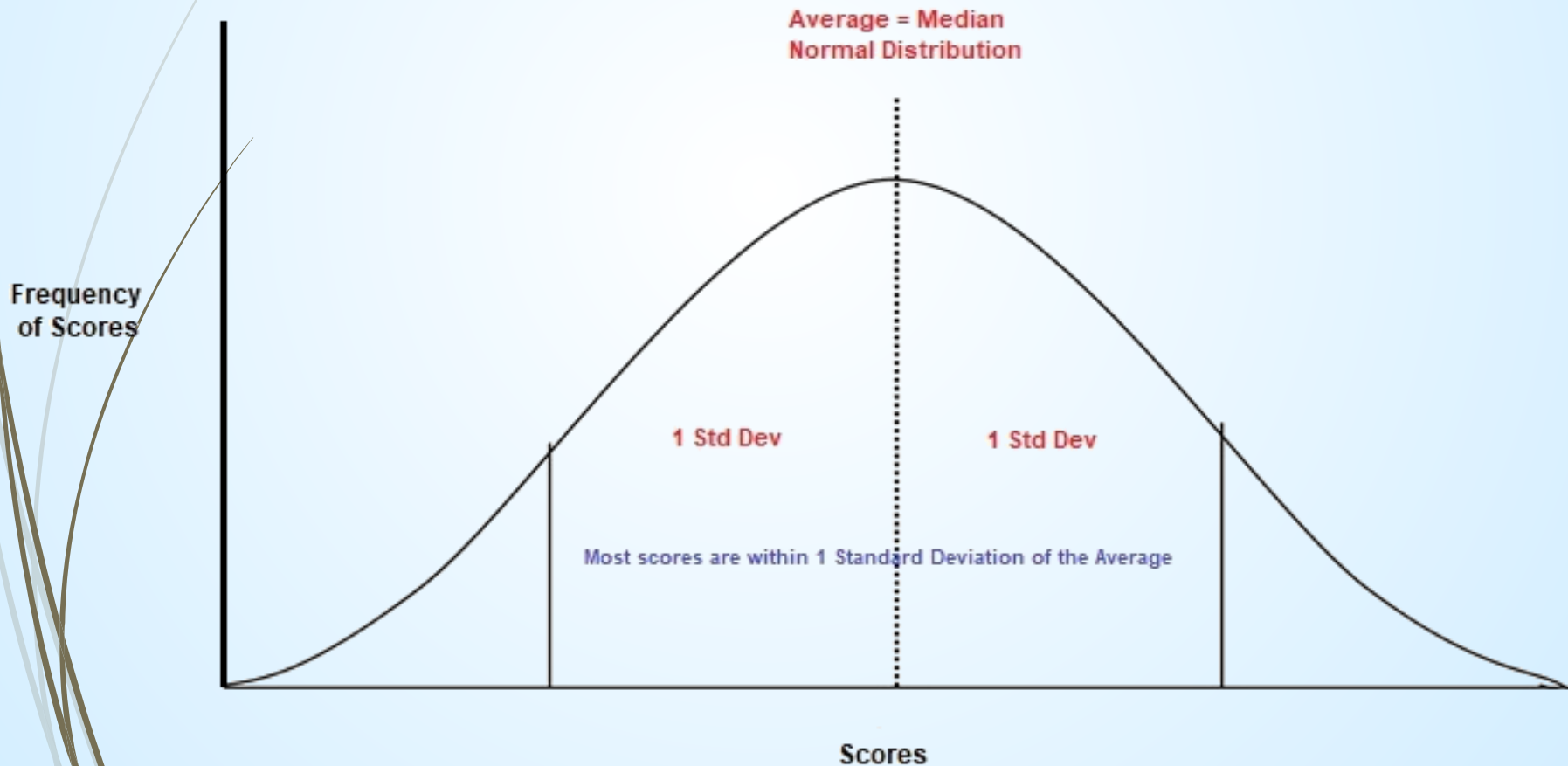


# Lessons Learned



## Gaming Scores – Committee

### Committee Scores



# Lessons Learned



## Vendor B Wins!

Evaluation Committee Scores							
Vendor	Final Scores						
Evaluation Factors							
Vendor A	AB	CD	EF	Total	Average	Median	Std Dev
Experience/Qual.	20.0	25.0	10.0	55.0	18.3	20.0	7.6
Technical Resources	5.0	15.0	15.0	35.0	11.7	15.0	5.8
Approach	15.0	20.0	10.0	45.0	15.0	15.0	5.0
Financial Stability	10.0	8.0	7.0	25.0	8.3	8.0	1.5
Compensation/Fees	15.0	9.0	12.0	36.0	12.0	12.0	3.0
Total	65.0	77.0	54.0	196.0	65.3	65.0	11.5
Vendor B	AB	CD	EF	Total	Average	Median	Std Dev
Experience/Qual.	15.0	20.0	20.0	55.0	18.3	20.0	2.9
Technical Resources	15.0	9.0	15.0	39.0	13.0	15.0	3.5
Approach	10.0	20.0	10.0	40.0	13.3	10.0	5.8
Financial Stability	10.0	10.0	10.0	30.0	10.0	10.0	0.0
Compensation/Fees	6.0	15.0	15.0	36.0	12.0	15.0	5.2
Total	56.0	74.0	70.0	200.0	66.7	70.0	9.5
Average	60.5	75.5	62.0	198.0			
Median	60.5	75.5	62.0	198.0			
Std Dev	6.4	2.1	11.3	2.8			



# Lessons Learned



## Vendor A Wins!

Evaluation Committee Scores	Ordinal Scoring Check				
Vendor	AB	CD	EF	Total	Rank
Vendor A	1	1	2	4	1
Vendor B	2	2	1	5	2
TOTAL	3	3	3	9	

# Lessons Learned



## The Art of Piggybacking

**A public entity piggybacked on another entity's roadworks contract:**

- Only 78 out of 211 contract line items awarded were piggybacked.
- \$350K of the \$700K contract were piggybacked line items
- The remaining line items were not competed.
- Violated local policies for piggybacking.
- Failed to obtain a construction bond.

# Lessons Learned



## OIG Tips & Trends #2023-0003: The Art of Piggybacking

### BENEFITS OF PIGGYBACKING:

- Share contract pricing for goods and services that are similar in quantities, scope, and/or size
- Saves time, effort, and costs associated with a formal solicitation
- Expedites the time to receive goods and/or services

Published guidance on piggyback contracts is limited. Procedures are mostly developed from local policies, best practices, issued opinions, and legal case history.

### BEST PRACTICES:

1. Obtain informal quotes for a cost comparison
2. Use competitively procured contracts
3. Limit piggyback contracts to identical items
4. Validate the procurement process and the contract to ensure the award process was fair and equitable.

# Lessons Learned



## Time and Material Contracts

### Repairs & Maintenance contract for HVAC.

- Vendor paid hourly rate for repairs.
- Parts reimbursed at supplier cost.

### Whistleblower complaint; noticed invoice “red flags”:

- Missing information
- Missing or “odd” part names and numbers.
- Invoice looked amateurish...fonts, no logo, spacing, lack of embellishment like a website or social media.

# Lessons Learned



## What we found:

- Contractor created shell company that falsely claimed to be an “OEM manufacturer/supplier”.
- Invoices washed through shell company at an inflated rate. Owned by same principals as HVAC contractor.
- Business address at storage unit.
- Was not an OEM supplier and had no commercial business or banking activity.
- Only verified \$70K in overbilling due to a lack of proper invoice documentation.
- Questioned costs in excess of \$1M due to a lack of proper documentation over the life of the 5-year contract.



# Lessons Learned



## Epilogue

**At the same time, the OIG received another whistleblower complaint on an Electrical/Lighting Contractor.**

**Created shell companies to wash fake, inflated invoices:**

- **Shells had the same address as principle.**
- **Substituted cheaper, similar looking items like light fixtures.**
- **70% (305) of the invoices lacked proper backup documentation.**
- **Invoice irregularities like varied shipping & billing addresses.**

**We found:**

- **\$180K in overbilling.**
- **\$1.8M in questioned costs due to a lack of documentation.**

# Lessons Learned



## Due Diligence in Construction

**A municipality awarded a construction contract to a contractor that:**

- **Was non-compliant with Florida's E-Verify Law**
- **Was not licensed by the State for work, but submitted the license for an unknown individual.**
- **Submitted an altered and invalid insurance certificate for workers' compensation.**
- **Failed to notify the OIG timely per PBC code 2-423(4).**



# Lessons Learned



## Due Diligence in Construction

### Summary:

- **OIG questions about E-Verify led to questions about proposal.**
- **Suspicious change order request led to review of proposal.**
- **Contractor not properly vetted for award.**
- **Proposal review prompted verification of license and insurance.**
- **Insurance certificate invalid; Contractor's licensee could not be verified.**
- **After DFS investigation, contractor arrested for fraud: submitting an altered instrument.**
- **OIG found \$411,731.90 in questioned costs.**
- **Job was completed by second low bidder.**

# Lessons Learned



## Due Diligence in Construction

**Public entities can reduce their financial liabilities and performance risks in contracting with due diligence in the award evaluation process to determine the vendor's responsiveness and responsibility.**

**Verify vendor licenses, bonds, and insurance during the award evaluation. (See OIG Tips & Trends #2022-0002)**

**Understand the vendor requirements for E-Verify. (See OIG Tips & Trends #2021-0001)**

# Lessons Learned



## Other Construction Best Practices

- Perform interim and final audits.
- Verify proper allocation of costs, especially with change orders. (Beware rates!)
- Verify costs with schedule...they should be approximate.
- Verify quantity, costs, and type of any stockpiled materials.
- Verify material orders for accuracy. (i.e. FDOT MAC)





# Lessons Learned

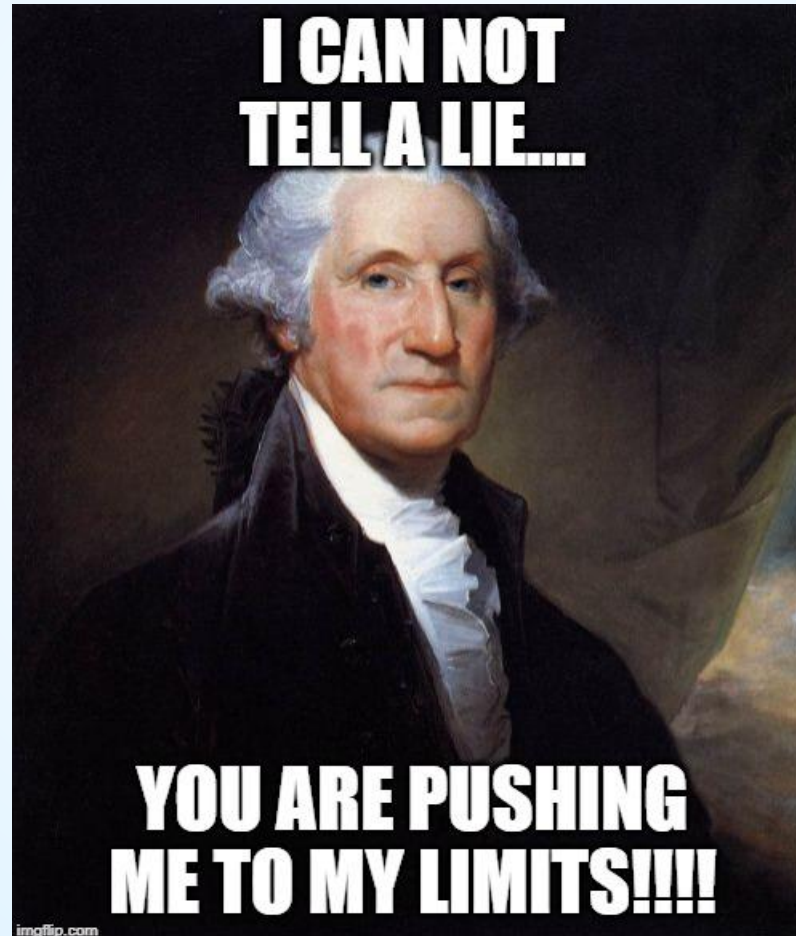


## Public Meetings/Records

**RFP evaluation discussions between two or more elected officials, or staff occurring outside of a public bid meeting may be a violation of §286.011.**

**This may include any discussions conducted via social media exchanges, such as Facebook, Instagram, and X (Twitter).**

# And Now . . .



# Lessons Learned



## On the Edge...

### A & E Short List Committee

A whistleblower complaint alleged that a supervisor, while serving as the Chair of the Engineering Short List Committee:

- Improperly voted for firms with whom they maintained close personal relationships with the principal consultants and/or owners.
- Improperly influenced the votes of subordinate committee members.
- Policies and practices are not in compliance with the Consultants Competitive Negotiation Act (CCNA).

# Lessons Learned



## Talk to me...

### Interview with Supervisor

- Acknowledged the close personal relationships with the firms' owners.
- Had regular weekly lunches with 3 firm owners for at least 20 years.
- Their entire extended family spent Christmas Eve at an owner's home for over 10 years, while the owner and their family spent Christmas morning opening gifts at their home.
- Took a joint family vacation with one owner every year up until 10 years ago. The firm's owner always paid for the lodging.

# Lessons Learned



## Could you please repeat that?

- The supervisor denied showing any favoritism.
- None of the committee members interviewed stated that the supervisor directly influenced their choices either before, during, or after Committee meetings.
- But, half of all the Committee members interviewed felt that the supervisor indirectly influenced or attempted to influence either their future choices or other Committee members' future choices.

**What was the result?**

# Lessons Learned



## Legal versus Right

### Conclusion

- The allegations were deemed to be inconclusive, or not supported.

**But:**

- The OIG uncovered significant issues for which corrective actions must be taken.

***“To better understand this report, some discussion of Inspector General standards and the gray area between legality and what is right is warranted.”***



# Lessons Learned



## Conclusion

“In this case, two of the three allegations were deemed to be inconclusive due to a ***lack of established standards.***”

***“However, just because certain actions may not be illegal does not make those actions right.***

“When situations like this come to light, corrective measures ***must*** be taken. Such actions may include the establishment of new policies or procedures and appropriate personnel actions.”

# Lessons Learned



## Highlights

- Supervisor served as the chair of 25 evaluation committees. “Friends” submitted proposals on 18 solicitations. Supervisor voted 17 times to advance their “friends” companies.
- Committee member interview comments about supervisor:
  - A vindictive person, power hungry, intimidating, holds a grudge, throws fits, and continually reminds subordinates that they are employed “at-will.”
  - Negative comments against “friends” means the employee is personally “against” supervisor.
  - Often has terse words with members after meetings about their choices.
  - Asked the IG for a warning before report was released to “prepare for blowback.”

# Lessons Learned



## Supervisor's Classic Quote:

*"everybody does their [own] vote... and I am entitled to vote however I see fit...and if it's for my friends, hallelujah."*



# Lessons Learned



## Contact Information

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**Thank you!**

**Questions**