**NYSOFA Policy Statement**

**Requests for Applications (RFA) or Requests for Proposals (RFP): Debriefing**

NYSOFA personnel responsible for developing a request for applications or request for proposals shall include provisions describing the process for an unsuccessful offerer (i.e., applicant or proposer) to request a debriefing. The timing and the criteria for a debriefing is established in State Finance Law §163 (9)(c). The Legal Unit has developed language to be included in any RFA or RFP issued by NYSOFA (attached). This language is available in the NYSOFA Legal Division file on the G:Drive.

The following information is provided to explain the debriefing process to NYSOFA personnel who may be required to conduct or participate in a debriefing.

**Definition of Terms**

1. "Contract award" or “award’ is a written determination from NYSOFA to an offerer or applicant advising that NYSOFA has accepted its proposal, bid or application (see State Finance Law §163 (10)(a)). This definition does not include final contract approval by the Office of the State Comptroller (OSC).
2. “Debriefing” means the opportunity afforded an unsuccessful offerer that responded to a NYSOFA request for proposals, or a request for applications, regarding the reasons that the bid, proposal or application as applicable submitted by the unsuccessful offerer was not selected for an award.
3. "Director" means the Director of NYSOFA, as well as his or her designee.
4. “Offerer” (also referred to as proposer or applicant) means the person or organization submitting a proposal in response to a procurement of goods or services. For purposes of this policy, the term “offerer” shall also refer to an applicant for grant awards under a request for applications process and to entities that offer the goods or services being sought.
5. "Successful offerer" means the person or organization which receives written notification from NYSOFA stating that its proposal, bid, or application has been accepted. The term “successful offerer” shall also refer to the successful applicant for grant awards under a request for applications process.
6. "Unsuccessful offerer" means any person or organization which receives written notification from NYSOFA stating that its proposal or application was unsuccessful. All unsuccessful offerers must be provided with written notice that they were unsuccessful. The term “unsuccessful offerer” shall also refer to the unsuccessful applicants for grant awards under a request for applications process.
7. “Final contract approval” or “contract execution” means final approval by the Office of the State Comptroller (OSC), as required by State Finance Law § 112.

**Debriefing Process**

Consistent with New York State Finance Law §163 (9)(c), an unsuccessful offerer may request a debriefing. The RFA or RFP must include information advising offerers that a debriefing may be requested by any unsuccessful offerer, within a reasonable time frame after the contract award, regarding the reasons that the proposal or application submitted by the unsuccessful offerer was not selected for an award. NYSOFA views debriefing as a learning process so that the offerer will be better prepared to participate in future procurements.”

The request for a debriefing is to be made within fifteen calendar days of release by NYSOFA of a notice in writing or electronically that the offerer’s proposal or application is unsuccessful.

NYSOFA personnel responsible for the RFP or RFA shall schedule the debriefing to occur within a reasonable time of such request having been received.

NYSOFA personnel participating in the debriefing discussion shall have been involved with and knowledgeable about the procurement or competitive grant award process, and the evaluation and selection of the successful proposal(s), bid(s) or application(s).

NYSOFA personnel are to limit the scope of the debriefing to a review of an unsuccessful offerer’s own submission and the scoring of that submission. An unsuccessful offerer is not entitled to review the submission of the successful offerer(s) beyond being informed of the total scoring of the successful offer(s).

The debriefing shall be conducted by NYSOFA with the unsuccessful offerer in-person; provided, however, NYSOFA and the unsuccessful offerer may mutually agree to utilize other means such as, but not limited to, by telephone, video-conferencing or other types of electronic communications.

The State Finance Law requires that the debriefing include, but need not be limited to:

1. The reasons that the proposal, bid, or application submitted by the unsuccessful offerer was not selected for award;
2. The qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids, or applications;
3. The application of the selection criteria to the unsuccessful offerer’s proposal, bid or application; and
4. When the debriefing is held after the final award, the reasons for the selection of the winning proposal(s), bid(s) or application(s).

During the debriefing NYSOFA personnel are to provide, to the extent practicable, general advice and guidance to the unsuccessful offerer concerning potential ways that their future proposals, bids or applications could be more responsive.

**NOTE:** Caution should be used when releasing information that may be withheld under FOIL, such as trade secrets, or information which will impede contract negotiations.