Florida Standards Assessment Review Selection Panel
Overview of Sunshine and Public Records Law

This overview addresses the selection process as it relates to Florida’s open meetings (Sunshine) law and public records law.

Open Meetings Law – Triggered if two or more members of a “board or commission” meet. Specifically, the Florida Assessment Review Selection Panel is subject to the Sunshine law in chapter 286, Florida Statutes.

1. Conversations between two or more Panel members about the Panel selection or about any proposals or entities submitting proposals outside a publicly noticed Panel meeting are not permitted. This includes even generic discussions about the selection, or about particular proposals or replies, even if companies are not specifically named. It also includes one-way discussions, i.e. when one member speaks and the other is just listening.

2. The standard is whether the subject matter of the discussion is or foreseeably could be an issue that comes before the Panel.

3. Panel members may not use email, texts, the telephone, or any other communication devices to conduct a private discussion about Panel business. Any “one-way” communication to be discussed at an open public meeting should be sent to Panel staff for distribution. Panel members may not respond to any “one-way” communications except at a public meeting.

4. Notice of meetings – staff will ensure that meetings are properly noticed to the public. The legal requirement is that meetings be noticed within a reasonable amount of time prior to the meeting.
Meeting notices will be posted on the Governor’s website and provided to the Senate and House of Representatives.

5. Meeting minutes must be taken and maintained. Minutes are not required to be verbatim, but need to outline discussion points and any decisions.

6. Meetings may be conducted via teleconference. However, it is important to ensure that if Panel members participate via telephone, all members have access to the same written materials or other visual aids that may be used during the course of the discussion.

7. The Panel’s deliberations about proposals, replies, or offers are open. Accordingly, it is important that the Panel discuss the merits of proposals on the record. This includes a discussion of both positive and negative aspects of individual proposals.

8. Prospective entities submitting proposals are permitted to identify certain aspects of proposals as “trade secret.” This is proprietary information that, if made public, would cause a competitive disadvantage to the entity.

9. Single members of the Panel can talk to others who do not serve on the Panel outside an open meeting about the selection. However, members may not use other individuals as “conduits” to relay communications to other members when the discussion would be prohibited if they were speaking person-to-person.

10. While a Panel member is not prohibited from discussing Panel business with staff or a nonboard member, these individuals cannot be used as a liaison to communicate information between board members.
a. For example, a Panel member cannot ask staff to poll the other Panel members to determine their views on an issue.

11. If you anticipate that a discussion may arise relating to any aspect of the selection between you and another member of the Panel outside the scope of a public meeting, the best advice is to excuse yourself from the discussion or immediately contact staff for further guidance.

Public Records Law- Florida’s Public Records Law, chapter 119, Florida Statutes, provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. In the absence of a statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate, or formalize knowledge.

In addition, Article I, section 24(a), of the Florida Constitution provides a constitutional right of access to “any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.”

1. Staff will maintain public records of the Panel in accordance with chapter 119, Florida Statutes.

2. Public records made or received by Panel members must also be retained pursuant to Florida’s Public Records Act.

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