**Section 1.2036 Other Methods of Source Selection and Contract Formation**

a) Split Award

An award of a definite quantity requirement may be split between bidders or offerors if necessary to obtain the total quantity needed. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required.

b) Multiple Award

1) A multiple award may be made for an indefinite quantity solicitation when award to two or more bidders or offerors for similar products or services is necessary for adequate delivery or service.

2) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.

3) In a multiple award situation, one vendor shall be designated as the primary recipient of orders, unless otherwise provided in this Section. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO.

4) The State agency shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

5) Multiple Award with Set Rate

A) Notwithstanding anything to the contrary in this Part, the CPO-GS but not a designee, may, on a case-by-case basis, authorize an appropriate purchasing agency to issue a competitive solicitation and to enter into contracts with multiple vendors under a process that provides for prequalification, agreement to perform at a set rate, and final selection based on random and equitable distribution of work among qualified vendors.

B) The CPO-GS may authorize use of this source selection procedure upon a determination in writing that use of the methods of source selection set forth in Article 20 of the Code is either not practicable or advantageous because, for example, the program needs of State agencies cannot reasonably be met within the normal procurement timeframes, or that the type and variety of State agency needs are such that a single award will not assure the needed availability or diversity of vendors.

C) Vendors shall be prequalified once per fiscal year, or as often as necessary, through use of a competitive sealed proposal. The minimum qualifications (including performance standards and agreement to provide services at a set rate determined by the State), any desirable additional qualifications, and the method of obtaining and setting rates shall be stated in the solicitation advertised in the Bulletin. Those vendors meeting minimum qualifications shall be offered non-exclusive indefinite quantity master contracts against which a procuring agency may later place one or more orders on an as needed basis in accordance with the vendor selection procedure set forth in subsection (b)(5)(F). Implementing Section 45-45 of the Code and subsection (b)(5)(F) of this Section, the solicitation shall contain a provision alerting vendors that the random selection process used to meet a specific using agency's needs may be limited to those master contract holders who qualify as small businesses.

D) The purchasing agency shall establish the set rate by one of the following methods. The lowest rate identified will not necessarily be the set rate, but will be a consideration in determining the set rate.

i) Set in the solicitation the rate that vendors must agree to bill. In general, this rate shall be the lowest rate at which a sufficient number of vendors are ready, willing and able to meet the State's needs. The solicitation shall show the selected purchasing agency has conducted sufficient research (such as reviewing past State contract rates, reference to GSA or other governmental contract rates, or private sector rates determined by internal or industry expert surveys) that the public can have confidence the rate provides overall advantage to the State.

ii) Require as part of the solicitation that vendors submit rates (prices), including disclosable rates, and inform them the selected purchasing agency will use this rate information and additional rate information received through use of the best and final process, from other contracts and from research to establish the set rate that vendors must bill.

E) Vendors not willing to agree to bill at the set rate may be rejected or may have their contracts restricted to use in special circumstances approved by the CPO-GS.

F) Using agency needs will be met by the selected purchasing agency selecting a master contract holder on a random basis. If the using agency determines that it has specific programmatic needs that require additional qualifications (e.g., specialized programming knowledge or specific educational requirements) or conditions (e.g., geographic limitations) or State policy considerations (e.g., promotion of small business), such that random vendor selection from among all master contract holders would not meet its needs, the using agency may submit an alternate selection request to the CPO-GS. This request shall set forth all reasons, including the additional qualifications or conditions, why a random vendor selection would not reasonably meet the needs of the agency, or the policy of the State. If at least 3 of the master contract holders meet those additional qualifications or conditions, the selected purchasing agency shall conduct a random selection limited to that subset of the master contract holders. If the using agency's request does not show a need for additional qualifications or if there are not 3 master contract holders with the needed qualifications, the using agency may not utilize the method of source selection set forth in this Section.

G) In order to ensure the continued availability of the set of master contract holders, all potential orders shall be monitored by the selected purchasing agency to ensure the equitable distribution of work and that no single vendor has an unwarranted disproportionate share of the available work. The selected purchasing agency shall, to avoid a disproportionate distribution of work, remove a vendor from consideration for a period of time sufficient to minimize dollar value discrepancies among vendors. In addition, any vendor so removed may be reinstated for consideration to meet a particular using agency's need if only 3 or fewer otherwise eligible vendors are available to meet the using agency's need.

H) The selected purchasing agency shall conduct the random selection using a drawing, mechanical device or software driven selection. The specific process used shall ensure that final selection is influenced only by chance, after taking into consideration, as applicable and as allowed in this Part, the policy of equitable distribution, use of small businesses, and specific requests from agencies to meet special needs.

I) It shall be the affirmative obligation of each vendor with a master contract to update information provided to the State regarding its continued ability to provide the contracted service. Master contracts may provide that vendors who cannot perform the required services when contacted and who have not provided the updated information may be taken out of consideration for orders for a period of time, including until the next prequalification.

J) The procurement file shall contain justification for the selection of the master contract vendors and each selection to meet the particular need of a using agency including the determination in subsection (b)(5)(B); the research papers, reports, contract rates and internal or industry expert surveys, "additional rate information" and identification of "other contracts and research" in subsections (b)(5)(D)(i) and (ii); the alternate selection documents required by subsection (b)(5)(F), the 3 or more master contract holders for the alternate random selection in subsection (b)(5)(F) and updated information required of contractors pursuant to subsection (b)(5)(I). The selected purchasing agency shall publish the names of the vendors selected to receive master contracts and the name of each vendor selected to receive an order to meet the using agency's particular need.

6) Geographical

A multiple award may be made to a vendor based on geographical locations in the State. A vendor may be granted multiple awards for a particular geographical location, based on a determination, in writing, that:

A) use of the methods of source selection set forth in Article 20 of the Code is not practicable or advantageous because, for example, the program needs of State agencies cannot reasonably be met within the normal procurement timeframes; or

B) the type and variety of State agency needs are such that a single award will not assure the needed availability or diversity of vendors.

c) Term and Condition Contracts

1) A term and condition contract contains agreed contractual terms and conditions established for the convenience of the parties to be used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A term and condition contract is not a procurement. It creates no obligation on the part of the State to procure from the vendor, nor does it create an authorization for a State agency to order based on that term and condition contract, except as provided in subsection (c)(2).

2) Orders may be placed against term and condition contracts without use of any method of source selection specified in the Code for convenience of processing sole source, emergency or small procurements.

d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium. Individual purchases at auction exceeding the small purchase maximum shall be posted in the Bulletin.

e) Federal Requirements

The State agency, in consultation with the SPO, for any State agency receiving federal aid funds, grants or loans or otherwise subject to federal entity requirements may conduct procurements in accordance with federal requirements that are necessary to receive or maintain those federal aid funds, grants or loans or to remain in compliance with federal requirements.

f) Foreign Country Procurement

Procurements to meet the needs of State agency offices located in foreign countries shall comply with the Code and this Part whenever practicable. The State agency shall maintain a record of the action taken and provide the record to the SPO.

g) Donations

1) When a procurement will have the majority of funding from a donation, the terms of which require use of particular procurement or contracting procedures, the SPO may follow those procedures, but shall follow the Code and this Part whenever practicable.

2) Donations may be acknowledged by the donee agency in a manner appropriate to the type of donation and the program activity associated with the donation. Acknowledgment may include, but need not be limited to, public announcement at the event or in donee agency publications, signage at the building, or inviting the donor to attend the program activity associated with the donation.

h) Broker Method for Obtaining Certain Insurance Coverages

1) Notwithstanding anything to the contrary in this Part, the CPO-GS, but not a designee, may, on a case-by-case basis, authorize the use of this broker method to obtain insurance coverages when use of the methods of source selection set forth in Article 20 of the Code is not practicable or advantageous because, for example:

A) Due to the structure of the insurance industry, the types of insurance coverages needed cannot reasonably be obtained from "direct writers" who would provide quotes directly to State agencies in a bid or RFP process; or

B) The process of obtaining quotes for needed insurance coverages cannot be accomplished within the normal procurement timeframes.

2) If the CPO-GS determines that this broker method is preferable for designated coverages, a two-part procurement process will be used to obtain the coverages.

A) A broker will be selected in accordance with the RFP process authorized by Section 20-15, and the resulting contract will be subject to all requirements of the Code. The broker contract will be issued for a term of years, and during the term of the contract the broker will assist the State agency in obtaining coverages as set forth in subsection (h)(2)(B) as well as providing customary services such as issuing certificates of insurance and servicing policies.

B) The broker will assist the State agency by serving as broker of record in obtaining insurance coverages through the industry process of going to market to obtain quotes. The State agency will use an evaluation team to test the market for competitiveness, review the quotes, and select the insurers and products best fitting its needs. The solicitation, evaluation and selection process will be documented in writing and become a part of the public procurement file. The insurance coverages obtained, the term of coverage, and the premiums charged will be posted on the Bulletin as attachments to the broker award notice.

i) Competitive Procurements from a Pre-Qualified Pool

1) Conditions for Use. When it may be more efficient or more appropriate, based on the nature of the supply or service, the CPO-GS or a State agency may, with the approval of the SPO, issue a solicitation to identify vendors who meet the criteria, establish a pool of qualified vendors, and then select from that pool as needs arise. Reasons for use of this alternative include, but are not limited to, the need for information technology or telecommunications supplies or services.

2) Request for Qualifications. Qualifications shall be solicited by seeking statements of the qualifications from vendors to determine their inclusion in a prequalified pool. The qualifications submitted to the prequalified pool shall describe the specific supplies or services the CPO-GS or State agency require that the potential vendor can fulfill.

3) Public Notice. Public notice of the Request for Qualifications shall be published in the Bulletin at least 14 days before opening of qualifications.

4) Receipt and Registration of Qualifications

A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFP. Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that includes the name of each offeror, the number of modifications received, if any, a description sufficient to identify the supply or service item offered, and a notation that the package contains a price proposal. The record of proposals shall be open to public inspection after award of the contract.

B) Proposals and modifications shall be opened in a manner that avoids disclosing content to other offerors.

i) Only State personnel and contractual agents authorized by the SPO may review the proposals prior to award. Other than information that was recorded, read and made publicly available at the opening of the proposals, the State agency conducting the procurement shall not disclose any information contained in the offer outside of contracting officers, identified State agency personnel, or others specifically authorized by the CPO-GS or SPO until after the award of the proposed contract has been posted to the Bulletin. This does not restrict the disclosure of information to, or receipt by, State agency personnel identified by the State agency head (which includes the chief executive officer of a board or commission) to receive the information. The SPO may require confidentiality and conflict statements from those persons identified by the agency head to receive the information.

ii) The agency head may identify State employees who have primary responsibility for the procurement; State employees who exercise experience or expertise in the subject matter of the particular procurement in the normal course of business and as part of official responsibilities; and State employees who exercise oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.

5) Evaluation Factors. The Request for Qualifications shall contain the factors and subfactors, if any, to be used in determining if a vendor is prequalified to provide the category of supplies or services. These factors and subfactors, if any, include, but are not limited to, responsibility, any necessary experience, any necessary technical knowledge, any required certification or accreditation, and financial stability.

6) Discussion with Responsible Vendors and Revisions of Qualifications. As provided in the Request for Qualifications, discussions may be conducted with responsible vendors who submit qualifications determined to be reasonably susceptible of being prequalified for clarifying and assuring full understanding of and responsiveness for prequalification. Those vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of qualifications. Revisions may be permitted after submission and before prequalification. In conducting discussions, there shall be no disclosure of any information derived from qualifications submitted by other vendors. If information is provided to any vendor by the State, it shall be provided to all vendors.

7) Prequalified Pool. A multiple award may be made for the prequalified pool when multiple vendors are prequalified in response to a Request for Qualifications. Vendors shall be prequalified in writing, taking into consideration the evaluation factors set forth in the Request for Qualifications. The procurement file shall contain the basis on which each vendor is determined to be prequalified.

8) Submissions to the Prequalified Pool. Each time the CPO-GS or State agency has a need for supplies or services from the prequalified pool, the CPO-GS or State agency shall provide to each member of the prequalified pool a document that describes in detail the supplies or services needed and the selection criteria the CPO-GS or State agency will use to make an award. The prequalified pool shall have at least 5 days to respond with a submission that includes the price or value for the supplies or services described in the proposal.

9) Discussion with the Prequalified Pool and Revisions to Quotation. As provided in the Request for Qualifications, the State's detail of supplies or services may be discussed with members of the prequalified pool to clarify and assure full understanding of, and responsiveness to, the request for the vendor submission. Each member of the prequalified pool shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competitors in the prequalified pool. If any other information is disclosed to any member of the prequalified pool, it shall be provided to all members of the prequalified pool.

10) Award. Award shall be made to the responsible prequalified member of the pool whose proposal is determined in writing to be the most advantageous to the State, taking into consideration the selection criteria set forth in the vendor's written submission to the prequalified pool. The procurement file shall contain the basis on which each award is made. If a vendor other than the lowest price or value vendor is awarded the contract, the CPO-GS or State agency shall publish in the Bulletin the reason for awarding to other than the lowest price or value vendor. Prequalification does not guarantee that the vendor will be awarded a contract.

11) Every request for procurement under this subsection (i) shall provide a method for allowing additional vendors to become part of the prequalified pool after its creation. Additions to the prequalified pool shall be made at least annually.

12) This Section shall not apply to a construction agency in the procurement of construction or construction-related materials.

(Source: Amended at 46 Ill. Reg. 10208, effective June 2, 2022)