**Section 4.2010 Competitive Sealed Bidding**

a) Application

Competitive sealed bidding, also referred to as Invitation for Bids, is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to each procurement required to be conducted by competitive sealed bidding.

b) Invitation for Bids

1) Use. An Invitation for Bids is used to initiate a competitive sealed bid procurement.

2) Content. An IFB shall include, at a minimum, the following:

A) instructions and information to potential bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the location to which bids are to be delivered and the maximum time for bid acceptance by the university;

B) the purchase description, evaluation factors, delivery or performance schedule and such inspection and acceptance requirements as are not included in the purchase description;

C) the contract terms and conditions;

D) State mandated certifications, disclosures and registration requirements; and

E) A form or format that will specify or organize the manner of price submission.

3) Delivery-Related Costs. Unless otherwise provided in the solicitation, the bid price includes transportation, transit insurance, delivery, installation and any other costs.

c) Amendments to Invitations for Bids

1) Form. Amendments to IFBs shall be clearly identified and shall reference the portion of the IFB they amend.

2) Distribution. Amendments shall be made available by posting on the Bulletin.

3) Timeliness. Amendments shall be made available at least 72 hours prior to the date or time for submitting a bid to allow prospective bidders to consider them in preparing their bids. If notice cannot be made at least 72 hours in advance of the time responses are due, the solicitation shall be cancelled and reissued or the SPO shall extend the time to respond for a reasonable period of time. The SPO, after consultation with the university, shall determine which action best meets the needs and interests of the university and best promotes transparency, competitiveness and other policies of the Code.

d) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received at the location designated in the IFB prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

e) Opening and Recording of Bids

1) Bids and modifications shall be opened publicly at the time, date and place designated in the IFB in the presence of a State witness or through an electronic procurement system approved by the CPO-HE.

2) The person opening bids shall not serve as witness. The name of the person opening the bids, the name of the person serving as the State witness, the name of each bidder, the bid price, and such other information determined by the CPO-HE or SPO shall be recorded on a form prescribed by the CPO-HE, read aloud, signed by the person opening the bids and the State witness, and otherwise made available through an electronic procurement system approved by the CPO-HE. The person opening the bid and the State witness may sign electronically.

f) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB, except as permitted in the Code and this Part. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated on the basis of any requirements or criteria that are not disclosed in the IFB.

2) Responsibility. Responsibility of prospective vendors is covered by Section 4.2046 (Responsibility).

3) Responsiveness. A bid must conform in all material respects to the IFB.

A) Product or Service Acceptability. The IFB shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;

ii) examination of such elements as appearance, finish, taste or feel;

iii) other examinations to determine whether the product or service conforms to any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose or determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the IFB. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Price

A) Following determination of product or service acceptability as set forth in this subsection (f), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria that are set forth in the IFB shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, administrative cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but, to the extent possible, the evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall treat all bids equitably.

B) The IFB shall identify in the solicitation what parts or features of the work are essential and what options may be included in the project. An option is a right to purchase additional supplies or services identified in the solicitation and directly relates to additional features or services of the underlying supply or service. All options must be clearly identified in the solicitation as optional work.

C) The solicitation shall identify how the university will evaluate bids to determine the lowest cost for award purposes by identifying whether options will or will not be included in the price evaluation.

D) The State expects prices for the required and optional supplies and services to be the lowest competitive market prices available for a customer of like type and of like circumstance. If the university solicits required and optional supplies or services, but awards based on the required supplies and services, the university may reject any response to the solicitation if the required or optional prices are materially unbalanced in relation to each other. For example, if a vendor submits an artificially low price for the required supplies and services but has submitted an artificially high price for the options, the prices are presumed to be unbalanced. Unbalanced prices are not conducive to competitive comparison and may not be in the best interests of the State.

E) Evaluation of options does not obligate the university to exercise those options. If a university adds, during the contract term or renewal, options not accepted at the time of contract award, a change order shall be executed based on the price provided in the contract. Notice of the exercise of the options shall be published to the Bulletin 14 days in advance of exercise of the options.

F) Pricing for any renewal terms identified in the solicitation shall be applied in determining the lowest cost to the university. A renewal term is not an option.

G) Negotiations. Negotiations are permitted with the lowest responsible bidder to obtain a reduction in the price of the bid.

(Source: Amended at 43 Ill. Reg. 1781, effective February 15, 2019)