**Section 8.2005 General Provisions**

a) Solicitation. A solicitation will contain forms that must be returned or may require completion in a prescribed format. If a form or format is prescribed, prospective vendors shall submit those forms as instructed.

b) Late Bids or Proposals, Late Withdrawals and Late Modifications

1) Any bid or proposal (including any modification, withdrawal or other procurement related submission) received after the time and date for receipt, or at other than the specified location, is late. A submission that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall not be considered to be late. Staff at the incorrect delivery location shall not be responsible for ensuring subsequent delivery. Delivery at the specified location and time shall be the sole responsibility of the bidder or offeror.

2) No late submission will be considered unless the SPO, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address). It is the responsibility of the bidder or offeror to ensure delivery at the time and to the place specified. A vendor that submits a late response will be notified and given the opportunity to retrieve the submission at its cost. Late submissions not returned to the vendor will be destroyed after all related procurement activity is complete and the resulting contract has been executed.

3) Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal. The record shall include time of receipt, method of delivery (e.g., hand-delivered, overnight mail), name of vendor and person making delivery, and a brief description of the circumstances, if known, that caused the delivery to be late.

c) Extension of Solicitation Due Date

The SPO or a designee may, prior to the due date, extend the time for submitting or modifying a bid or proposal for the convenience of the State. If notice to extend cannot be made in a manner that fosters a competitive procurement, the opening will be cancelled and rescheduled. All notices under this Section will be provided electronically and posted on the CDB Procurement Bulletin.

d) Bid Firm Time

1) Unless otherwise provided in the solicitation, the vendor's bid must be kept firm for at least 60 days after the opening date.

2) After opening bids, the SPO or a designee may request bidders to extend the offer firm time for an additional 60 days, provided that, with regard to offers, no other change is permitted. An extension beyond this will require approval from the Procurement Officer. CDB must submit a detailed written explanation of the need for extension with the request for additional extension. This Extension does not provide an opportunity for others to submit bids or proposals.

e) Offer Firm Time

1) Unless otherwise provided in the solicitation, the vendor's offer must be kept firm for at least 120 days after the opening date.

2) After opening proposals, the SPO or a designee may request offerors to extend the offer firm time for no more than an additional 60 days, provided that, with regard to offers, no other change is permitted. An extension beyond this will require approval from the Procurement Officer. CDB must submit a detailed written explanation of the need for extension with the request for additional extension. This extension does not provide an opportunity for others to submit offers.

f) Electronic Submissions

1) The solicitation may state that electronic submissions will be considered if they and any required attachments are received in the manner and by the time and date set for receipt, as stated in the solicitation.

2) Electronic submissions authorized by specific language in the solicitation will be opened in accordance with electronic security measures in effect at the time of opening.

g) All bids/offers received shall be time-stamped, and if received via hard copy, recorded on a log and stored in a secure, locked file cabinet or safe and under the control of the bid officer. The bid officer shall maintain the confidentiality of the bid/offer submittals. No information regarding bids/offers received shall be disclosed to anyone except to confirm receipt to the bidder or offeror.

h) Only One Bid or Proposal Received

If only one bid or proposal is received, and if it meets the thresholds established by the Capital Development Board of Director's Resolutions, the SPO may award to the single bidder or offeror if the SPO finds that the price submitted is fair and reasonable, and that other prospective bidders or offerors had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the SPO may cancel the procurement and CDB will return the bids.

i) Unit Prices

Unit price items may be included in project specifications only if stated in a solicitation. The interest of the State must be protected from unlimited increased quantities.

j) Alternate Bids

Subject to Procurement Officer approval, CDB shall, with the assistance of the A/E and user agency, determine what parts or features of the work are most essential and, due to the limit of available funding, what discretionary elements may or may not be included in the project. Essential elements must be included in the base bid. All discretionary work must be identified in the IFB as alternates. To the extent discretionary elements are included, CDB shall identify discretionary work items in the order in which CDB will award the work at time of posting the bid. The alternates may be additive or deductive values. The lowest bidder shall be determined by the amount of the base bid plus accepted alternates. If not all the alternate bids are accepted at the award time, an alternate may be added to the project at a later time by change order if funding becomes available. If, however, acceptance of the alternate prior to award would have resulted in changing the lowest bidder, the alternate can only be added by change order upon approval of the SPO.

k) Assignment, Novation or Change of Name

1) Assignment. No CDB contract is transferable, or otherwise assignable, without the prior written consent of the CPO or SPO; provided, however, that a vendor may assign money receivable under a contract after due notice to CDB. The assignee, except in the case of assignment for payment only, must meet all requirements for contracting with CDB. Any purported assignment without prior written consent shall be null and void. The decision to consent with respect to QBS, Construction Management, or design-build contracts shall be based upon consideration of, among other things, the continued availability of personnel whose qualifications served as the basis for the original award and the importance of the professional and artistic judgment of those persons, the qualifications of replacement staff, and the extent to which the services have already been performed.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

A) the transferee assumes all of the transferor's obligations;

B) the transferee meets all requirements for contracting with CDB;

C) the transferor waives all rights under the contract as against the State; and

D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.

3) Change of Name. A vendor may submit to the SPO a written request to change the name in which it holds a contract with CDB. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

l) Incorporation by Reference

A solicitation may incorporate documents by reference provided that the incorporated materials are readily available to potential bidders and the solicitation specifies where the documents can be obtained.

m) Confidential Data

Vendors must clearly identify, by page and paragraph, any information submitted to the State claimed to be exempt from the disclosure requirement of the Illinois Freedom of Information Act (FOIA), identify the specific Section of FOIA applicable to the claimed exemption, and show how that Section applies to the information claimed to be exempt. Information submitted without a claim or exemption may be disclosed to the public without notice or permission. Information submitted with a claimed exemption may still be disclosed to the public if determined by a court, the Public Access Counselor appointed by the Illinois Attorney General, or the agency receiving the FOIA request that the claimed exemption does not meet the requirements for withholding the information under FOIA. The agency receiving the FOIA request shall attempt to provide the vendor reasonable notice and opportunity to object to the disclosure of any material claimed by the vendor to be exempt from FOIA.

n) Notice of Subcontractor

1) Any contract entered into under this Part shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than $50,000, the general type of work to be performed by each subcontractor and the expected amount of money each will receive under the contract.

2) If, at any time during the term of the contract, a contractor desires to add or change any subcontractors with subcontracts with an annual value of more than $50,000, the contractor shall promptly notify CDB, in writing, of the names and addresses of the proposed subcontractors, the expected amount of money each new or replaced subcontractor will receive, and the general type of work to be performed. Subcontractors shall be required to register with CDB prior to entering into an agreement and provide financial disclosure and standard certifications prior to entering into a contract with the Prime Contractor.

3) No contractor shall change a subcontractor listed in the original bid or proposal, except with the consent of the SPO for good cause.

A) Good cause may include:

i) the failure of the subcontractor to execute a written contract after a reasonable period of time after the written contract is presented to the subcontractor by the contractor;

ii) bankruptcy of the subcontractor;

iii) the death or disability of the subcontractor, if the subcontractor is an individual;

iv) dissolution of the subcontractor, if the subcontractor is a corporation or partnership;

v) failure of the subcontractor to meet bond requirements as specified in the solicitation;

vi) ineligibility of the subcontractor to perform on the subcontract because the subcontractor is suspended, debarred, or otherwise ineligible to perform;

vii) a series of failures by the subcontractor to perform in accordance with the specifications, terms and conditions of its subcontract;

viii) failure of the subcontractor to comply with a requirement of law applicable to the subcontractor; or

ix) failure or refusal of the subcontractor to perform the subcontract.

B) A request of a contractor for a substitution of a listed subcontractor shall be submitted in writing to the agency and SPO and shall include the reasons for the request. The contractor shall provide a copy of its request for substitution to the listed subcontractor by registered or certified mail to the last known address of the subcontractor.

C) No contractor shall permit any subcontract to be assigned or transferred or performed by any entity other than the subcontractor listed on the bid or proposal without the consent of the SPO. Consent of the SPO to a contractor for a substitution shall be made in writing and be included in the procurement file.

D) Failure of a contractor to comply with this Section may result in cancellation of its contract or be considered grounds for suspension or debarment.

o) Pre-Solicitation Assistance

1) *For purposes of this subsection* (o):

A) *"business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager or shareholder of a business* [30 ILCS 500/50-10.5(e)]; and

B) "agent of the State" is limited to an A/E under contract with CDB or a consultant to the A/E.

2) Prohibited Bidders or Offerors. Except as provided in subsection (o)(3), Section 50-10.5(e) of the Code prohibits any person or business from bidding or entering into a contract *if the person or business assisted an employee of the State of Illinois, who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract, by reviewing, drafting, directing, or preparing any invitation for bids, request for proposal or request for information or provided similar assistance.*

3) Non-Prohibited Acts. Subsection (o)(2) does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business:

A) Provides the assistance as part of a publicly issued opportunity to review drafts of all or part of the IFB, RFP or RFI.

B) Initiates the communication to provide general information about products, services or industry best practices and, if applicable, that communication is documented in accordance with Section 50-39 of the Code.

C) Responds to a communication initiated by an employee or agent of the State for the purposes of providing information to evaluate new products, services or technologies.

D) In the case of a vendor who bids or offers to supply technology, goods or services developed by the vendor, demonstrates the technology, goods or services in such a way as to represent industry trends and innovation and not in a way specifically designed to meet the State's needs.

E) Receives or possesses written material obtained from a State employee from public sources, such as through an internet search or literature packets obtained in conjunction with an event such as a trade show.

F) Provides, at the request of the State or agent of the State, general marketing material or makes a general sales presentation to show the person's qualifications or product capabilities. Material may be personalized for the procuring agency provided any personalization is obtained from publically available sources.

G) For purposes of this subsection (o), "agent of the State" is limited to an architect/engineer under contract with CDB, or a consultant to that A/E.

4) Prohibited Acts

A) Specifications. A person or business may not submit specifications to a State agency unless requested to by a State employee.

B) Assistance to State Employees. A person or business is prohibited from bidding on a solicitation and from having a contract or subcontract arising from any of the following activities if the person or business assisted an employee of the State agency who, by the nature of his or her duties, has the authority to participate personally and substantially in the decision to award a State contract. Assistance to a State employee may include any of the following:

i) Draft (writes or assists the State with writing all or part of the procurement document);

ii) Review (reads the document and provides comments on the procurement document or signifies approval or disapproval);

iii) Direct (any activity relating to giving instructions or commands or in supervising or overseeing the preparation of the procurement document);

iv) Prepare (any activity relating to organizing or distributing the documents, including through the Procurement Bulletin); or

v) Provides similar assistance, e.g., conducting research or providing any advice used in drafting, reviewing or preparing procurement documents.

C) A person who contracts with CDB to write specifications for a particular procurement may not submit a bid or proposal or receive a contract or subcontract for that procurement.

5) Exceptions. Any person or business who responds to an advertised request for information or other publically available opportunity to provide information related to the procurement need or to review drafts of all or part of proposed procurement documents shall not be disqualified by virtue of responding to the State's publically advertised request.

p) Pre-Bid Conference

1) A pre-bid conference may be conducted to enhance the potential vendors' understanding of the procurement requirements. The pre-bid conference shall be announced as part of the solicitation notice. The conference may be designated as "attendance mandatory" or "attendance optional". CDB may designate a conference as "attendance mandatory" only when direct observation of site conditions or the nature of specifications makes attendance necessary to be able to prepare an accurate bid.

2) The conference should be held long enough after the solicitation has been published to allow potential vendors to become familiar with it, but sufficiently before solicitation opening to allow consideration by vendors of conference results in preparing their responses.

3) Supporting documentation of the conference shall be supplied to all prospective vendors known to have received a solicitation by posting the information on the Bulletin. Nothing stated at the pre-bid conference shall change the solicitation unless a change is made by written modification to the solicitation.

4) Nothing stated at the pre-bid conference shall change specifications unless a change is made by written modification to the solicitation. Information conveyed in pre-bid conferences is not reportable under Section 50-39 of the Code, but any amendments resulting from the conference shall be supplied to all those prospective vendors through posting on the Bulletin. The A/E shall also issue a copy of the modified solicitation directly to all vendors who attended the conference and publish it in the location of the original solicitation and specifications.

q) Federally Funded Purchases. For purchases funded in whole or in part by United States Government funds, the solicitation will identify the federal statutes and regulations with which the vendor must comply.