**Section 8.2010 Competitive Sealed Bidding**

1. Application. Except as provided, unless an exception authorized by the Code and this Part exists, CDB contracts for construction projects shall be procured by competitive sealed bidding in accordance with Section 20-10 of the Code and this Section. Solicitations for bids shall be in conformance with the Code and this Part, and, in exigent circumstances for a specific procurement, with CPO Notices. Contracts shall be awarded in accordance with those authorities and with the provisions set forth in the SDC unless otherwise specified in the advertisement for bids published in the Procurement Bulletin, or as authorized by law or policies governing bid matters that are expressed in the SDC relating to the Invitations for Bid process.

b) Invitations for Bids

1) Use. An IFB 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, the name of the bid officer, and the bid firm date;

B) the project description, instruction as to where the comprehensive purchase description (also known as "bid documents") may be obtained, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the project description;

C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable, and State mandated certifications; and

D) A form or format that will specify or organize the manner of price submission and that the bidder shall submit along with all other necessary submissions, including disclosure forms.

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 issued as "addenda" and shall clearly identify and reference the portion of the IFB being amended.

2) Distribution. Amendments shall be posted to the Bulletin, and the A/E shall distribute them directly to plan rooms and all known plan holders.

3) Timeliness. Amendments shall be made available so as to allow prospective bidders a reasonable time to consider them in preparing their bids, but receipt will be not later than 3 days before the time of bid opening. If the time and date set for receipt of bids will not permit that preparation, the amendment shall extend the response time.

d) Licensing. In addition to other statutory requirements, all bidders shall be responsible for proper licensing with the appropriate State agency in the trades the bidder will perform on the particular project, such as, but not limited to, roofing, plumbing and asbestos abatement.

1. Obtaining Bid Documents. At the time of publishing an advertisement for bids, CDB shall make project plans, specifications and other bidding documents available to prospective bidders through the offices of the project Architect/Engineer (A/E) and other locations such as commercial "plan rooms", or electronic means, including the CDB or CPO websites or the Procurement Bulletin. Each advertisement shall identify the specific locations from which bid documents may be obtained. The A/E may charge a refundable deposit for loan of bid documents.
2. Construction Administration Fee. If CDB assesses a construction administration fee as authorized by Section 9.02(a) of the CDB Act, the amount or percentage of that fee shall be identified in the bid documents.
3. Reporting of Bid Document Errors or Inconsistencies. Bidders shall have an affirmative duty to examine bid documents and site conditions and to report any discovered errors or inconsistencies to the project A/E. Bidders awarded a contract will not be given change orders for extra payment or time extension for conditions that could reasonably have been discovered.
4. Agreement to Terms. By submitting a bid, the bidder agrees to all terms and conditions of the SDC and other contract documents referenced or incorporated in the IFB. Accordingly, submittal of conditions or qualifying statements on bids may be cause for rejection of the bid.
5. Bid Security. All bids shall include bid security in the form of a bid bond on CDB's form, certified check, cashier's check or bank draft in the amount of 10% of the base bid. If a bid bond is used, the surety issuing the bond must be acceptable to CDB.

j) 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.

k) Receipt, Opening and Recording of Bids

1. Receipt. Upon its receipt, each bid and modification shall be date and time-stamped but not opened and shall be stored in a secure manner (e.g., locked file cabinet, safe, locked room or other secure location) until the time and date set for bid opening. If a bid is opened for identification purposes or in error, the file shall state the reason for the breach. The bid officer and the person mistakenly opening the bid shall sign a statement explaining the reason for the mistake or error, including the name of anyone involved. The statement shall be included in the procurement file, and the bid shall be resealed. The bid shall be resealed until the time set for bid opening.

2) Opening and Recording. The bid officer shall open the bids and modifications publicly at the time, date and place designated in the IFB in the presence of a State witness. The bid officer shall not serve as witness. The bid officer shall announce and record on the bid tabulation sheet the project, the construction trade, the name of each bidder and that bidder's price, including modifications and alternate prices, and any acknowledgement of addenda. The Procurement Officer may require the reading of additional information if the nature of the project and bidding warrants.

3) CDB the CPO or SPO may request that a vendor clarify its bid or proposal as part of the evaluation process. A vendor shall not be allowed to change its bid or proposal or deviate from the specifications in response to a request for clarification.

l) 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 and only those requirements and criteria, except as permitted in the Code and this Part. After evaluating bids, CDB shall identify the lowest responsible and responsive bidder and submit to the Procurement Officer a written recommendation to award to that bidder unless an exception applies.
2. Responsibility and Ineligibility. Responsibility of prospective vendors is addressed in Section 8.2046 and Subpart V.
3. Material deficiencies shall result in rejection of a bid and include:

A) Failure of the contractor to be prequalified;

B) Omission of signatures resulting in the intent to be bound by the bid being not apparent;

C) Submission of a bid price that cannot be determined;

D) Failure to provide required bid security;

E) Failure to demonstrate responsibility.

4) Technical Deficiencies. Technical deficiencies in bids may be remedied by the bidder within 7 days after having been notified of the deficiency by CDB. The date of notification is deemed to be the business day of the sending of an email or fax, the date of delivery if recorded by the service making the delivery, or, in the case of first class mail, the third day after the date of the postmark. Technical deficiencies include but are not limited to the following:

A) Failure to use proper bid forms;

B) Submission of a bid bond that is not on CDB's form;

C) Failure to include a properly completed PC-2 (the Minority and Female Workforce Participation form of the Department of Human Rights); or

D) Failure to acknowledge an addendum that makes a material change to the bid documents.

5) Product Substitutions. Bids for construction projects shall be based on providing all products, subcontractors or suppliers specified. However, CDB specifications shall provide that a bidder may propose substitutions of a product, subcontractor or supplier upon review and approval by CDB and the project A/E. The product substitution process may be utilized regardless of whether the specification calls for a sole source and whether only brand names are listed. Substitutions shall not be accepted after award unless approved by a Procurement Officer. Determinations on the acceptance of substitutions shall be included in the procurement file.

6) CDB's written recommendation to award shall be in the form of an award package that includes, at least, the bid tabulations, the name and bid amount of the recommended awardee, results of the awardee's evaluation, MBE/FBE participation and identification of any bids rejected and the reasons for rejection.

7) No Disclosure of Information. Other than information that was recorded, read and made publicly available at the opening of the bids, CDB shall not disclose any information contained in any bid with any other bidder or person or entity, other than the CPO, SPO, PCM or CDB personnel, who requires access to information in furtherance of his or her job duties until after award of the proposed contract has been posted to the Illinois Procurement Bulletin.

m) Award to Other Than Low Responsible and Responsive Bidder

1) The SPO, but not a designee, may authorize the State to award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The determination shall include a description of the user agency's needs, a statement that the anticipated cost will be fair and reasonable, a listing of all responsible and responsive bidders, the name of the bidder selected, the total contract price and an explanation of the reasons for selecting this bidder instead of the low bidder.

2) The SPO must publish the determination in the Bulletin and file a copy with the Legislative Audit Commission and PPB. This information shall be made available by the CPO for inspection by the public within 30 days after the agency's decision to award the contract.

n) Publicizing Award

1) Bidders shall be notified of contract award. The notification shall be issued electronically to the successful bidder in the form of a letter or other clear communication. Notices of awards through the Invitation for Bids process shall be published in the Bulletin prior to the execution of a contract. Failure to provide this notice to all bidders shall result in extending the time for filing a bid protest up to 5 business days. The extension shall be a day for each day the notice is late, up to 5 days. If the contract is awarded to other than the lowest bidder, the notice shall include an explanation of the award. Notice of the award shall be posted on CDB's website the next business day. All bids and supporting documents shall be made available by CDB for public inspection and copying after award unless exempt from the disclosure requirement of the Illinois Freedom of Information Act ("FOIA") [5 ILCS 140].

2) Notice of award must include at least the following information:

A) date solicitation first offered;

B) due date for submission of offers;

C) location for submission of offers;

D) name of purchasing agency;

E) name of responsible SPO and CDB personnel on the purchasing staff;

F) brief description of supplies/services being purchased;

G) method of source selection;

H) the contract price and the name of the vendor selected for award;

I) the number of unsuccessful responding vendors;

J) for each vendor who submitted a response:

i) the vendor's name;

ii) the bid amount;

iii) the percentage of business enterprise utilization plan;

K) total number of veteran owned small businesses and service disabled veteran owned small businesses that submitted bids and the percentage of veteran utilization plan;

L) any other disclosure required by the Code.