**Section 500.320 Competitive Sealed Proposals**

a) The Competitive Sealed Proposal method of source selection shall be used to procure professional and artistic services, except as otherwise provided in subsection (b) of this Section. Other supplies and services may be procured through the Competitive Sealed Proposal method of source selection, on a case-by-case basis, when it is determined by the Procurement Officer that competitive sealed bidding is either not practicable or advantageous.

1) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].

2) "Practicable" Distinguished from "Advantageous". As used in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest.

A) Factors to be considered in determining whether competitive sealed bidding is not practicable include:

i) whether the contract needs to be other than a fixed-price type;

ii) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;

iii) whether offerors may need to be afforded the opportunity to revise their proposals, including price;

iv) whether award may need to be based upon a comparative evaluation, as stated in the RFP, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; and

v) whether the primary consideration in determining award may not be price.

B) Factors to be considered in determining whether competitive sealed bidding is not advantageous include:

i) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and

ii) whether the factors listed in subsection (a)(2)(A) are desirable, in conducting a procurement, rather than necessary.

b) All new procurements of professional and artistic services shall be made using the procedures contained in this Section, except:

1) Procurements under Section 500.330 (Small Purchases);

2) Procurements under Section 500.340 (Sole Source Procurement);

3) Procurements under Section 500.350 (Emergency Procurements);

4) Procurements of contract audit services pursuant to subsection (c); and

5) Procurements subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

c) Contract Audit Rotation

1) Auditor Retention Policy. Initial audits by a contractor involve audit hours to identify key records and personnel, become familiar with agency operations and the electronic data processing environment, determine what internal controls and procedures are in place, and develop agency specific audit programs. Retaining a contractor for successive audits of the same agency generally allows audits to be conducted more economically, efficiently and effectively, and minimizes audit effort by both the contractor and the agency under audit. Professional auditing standards generally recognize the importance of an auditor retention policy.

2) Rotation Policy. To maximize the efficiencies obtained by auditor retention, it is the OAG's general policy, subject to the OAG's sole discretion, to maintain the same contractor on an audit engagement for six successive fiscal years, subject to an examination of those factors, including but not limited to performance review, the satisfactory negotiation of terms (including price) and the annual availability of an appropriation.

3) Emergency Purchases. The term of a contract for audit or examination services procured in compliance with the emergency purchase provisions of Section 500.350 shall not be limited to 90 calendar days but shall be valid until the completion of the audit or examination to which the contract relates.

d) Contents

The RFP shall be in the form specified by the Procurement Officer and shall contain at least the following information:

1) instructions and information to proposers concerning the proposal submission requirements, including the time and date set for receipt of proposals, and the address of the office to which proposals are to be delivered;

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

3) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:

A) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;

B) the abilities, qualifications, and experience of key persons who would be assigned to provide the required services;

C) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP;

D) a plan, giving as much detail as is practical, explaining how the services will be performed; and

4) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package).

e) Prequalification

The Procurement Officer shall maintain a list of prequalified professional and artistic vendors in accordance with Section 500.420. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.

f) Public Notice

1) Proposals shall be obtained by issuing an RFP. Notice of Intent to Issue an RFP may be made by the Procurement Officer.

2) Availability of the RFP shall be published in the Auditor General Bulletin at least 14 calendar days before proposals are due.

3) The RFP shall also be distributed to prequalified persons expressing interest in performing the services required by the proposed contract.

g) Pre-Proposal Conference

A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 500.310(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

h) Receipt and Registration of Proposals

Proposals shall not be opened publicly but shall be opened in the presence of at least one witness. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service offered. All proposals, except as otherwise provided in subsection (i), and the Register of Proposals, shall be available for public inspection after award.

i) Confidential Data

The Procurement Officer shall examine the proposals to determine the validity of any written requests from the vendor for nondisclosure of trade secrets or other proprietary data. If the parties do not agree as to the disclosure of data or other information, the proposal shall be rejected as non-responsive.

j) Evaluation of Proposals

The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price, and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals. Factors not specified in the RFP shall not be considered. Numerical rating systems may be used but are not required.

k) Discussions

1) Discussions Permissible.

A) The Procurement Officer may conduct discussions with any offeror to:

i) promote understanding of the OAG's requirements and the offerors' proposals;

ii) determine in greater detail such offeror's qualifications;

iii) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach; and

iv) facilitate arriving at a contract that will be most advantageous to the OAG, taking into consideration price and the other evaluation factors set forth in the RFP.

B) The Procurement Officer may allow changes to the proposal based on those discussions.

2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and information contained in any proposals shall not be disclosed until after award of the proposed contract has been made.

3) Best and Final Offers. The Procurement Officer may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The Procurement Officer may conduct additional discussions or change the OAG's requirements and require another submission of best and final offers. The scope of the best and final and the number of offerors allowed to participate shall be defined by the Procurement Officer. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

4) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the RFP being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.

l) Award

An award shall be made by the Procurement Officer pursuant to a written determination showing the basis on which the award was found to be most advantageous to the OAG, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made. If the price of the most qualified vendor is not the lowest price, and if the price exceeds $100,000, the Procurement Officer must state in writing why a vendor other than the low priced vendor was selected and that determination must be published in the Auditor General Bulletin.

m) Publicizing Awards

Notice of award shall be issued by either paper or electronic means to all offerors submitting responses to the solicitation and published in the Auditor General Bulletin prior to contract execution.

n) Pre-solicitation Request for Information

When the Procurement Officer does not have sufficient information about available supplies or services to issue an RFP, the Procurement Officer may issue a Pre-solicitation request for information inviting vendors to submit non-price information about the availability of specified types of supplies or services. Public notice of the Pre-solicitation request for information shall be published in the Auditor General Bulletin at least 14 calendar days before the date set for the receipt of information. The submission of information by a vendor in response to a Pre-solicitation request for information is not a prerequisite for that vendor to respond to a subsequent IFB or RFP for the types of supplies or services for which information was solicited, and the issuance of a Pre-solicitation request for information does not commit the OAG to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a Pre-solicitation request for information.

(Source: Amended at 42 Ill. Reg. 3193, effective February 16, 2018)