**Section 1120.2005 General Provisions**

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

1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the IOC shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.

2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the CPO, and not a designee, determines it would have been timely but for the action or inaction of IOC personnel directly serving the procurement activity (e.g., providing the wrong address).

3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.

4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

b) Extension of Time

1) The Procurement Officer may, prior to the date or time for submitting or modifying, extend the date or time for the convenience of the IOC. Reasons for extension include, but are not limited to, allowing additional time for submissions to account for inclement weather or accidents and for other such reasons.

2) All notices under this subsection (b) will be provided electronically and posted on the Illinois Procurement Bulletin.

c) Electronic and Facsimile Submissions

1) The IFB or RFP may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the IOC at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The IFB or RFP may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

e) Only One Bid or Proposal Received

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the CPO finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

1) new bids or offers may be solicited, including under sole source (Section 1120.2025) or emergency (Section 1120.2030) procedures;

2) the procurement may be canceled.

f) Alternate or Multiple Bids or Proposals

Alternate bids or proposals may be accepted if:

1) permitted by the solicitation and in accordance with instructions in the solicitation; or

2) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1120.2025; or

3) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.

g) Multiple Items

An IFB or RFP may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

h) "All or None" Bids or Proposals

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be in the State's best interest.

i) Conditioning Bids or Proposals Upon Other Awards

Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

1) be rejected unless the vendor removes the condition; or

2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs, provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.

j) Clarification of Bids and Proposals

The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification.

k) Extension of Time on Indefinite Quantity Contracts.

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of the extension. A clarification is not an opportunity for discussion or for submission of Best & Finals as authorized elsewhere in this Part.

l) Increase in Quantity on Definite Quantity Contracts

1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing.

2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.

m) Subsequent Purchase Request

If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of IOC, the CPO receives a purchase request for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such a contract is acceptable to the vendor.

n) Novation or Change of Name

1) Assignment. No IOC contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer; however, a vendor may assign monies receivable under a contract after due notice to the IOC. Assignment may require the execution of a contract with the assignee and, in those cases, the assignee must meet all requirements for contracting with the IOC.

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 the State;

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

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

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

o) Contracting for Installment Purchase Payments, Including Interest.

Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].

p) Use of Source Selection Method that is Not Required

If IOC uses a method of source selection that it is not required by law to use (e.g., use of competitive sealed bid for a small purchase), the IOC is not bound to strict compliance with the Code and the rules governing the method of source selection used.

q) Vendor Signature

A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by the CPO.

r) Stringing

Dividing or planning procurements to avoid the use of competitive procedures (stringing) is prohibited.

s) Confidential Data

Vendors must clearly identify any information that is exempt from the disclosure requirement of the Freedom of Information Act [5 ILCS 140] and must request special handling of that material. It is the sole obligation of vendors to redact confidential information from bids or offers submitted to IOC. Failure to submit redacted copies will result in the release of bids or offers in response to requests made pursuant to the Freedom of Information Act.

t) Documentation of Procurement Actions

1) The Procurement Officer shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:

A) Procurement Bulletin postings;

B) Solicitation documents (e.g., IFBs) and all amendments, clarifications and Best & Final requests;

C) Vendor's responses, including clarifications and responses to Best & Final requests;

D) Evaluation materials (e.g., scoring guidelines and forms, completed score sheets for individual evaluators (including notes), evaluation committee's combined score sheets, evaluation committee's recommendations, and management's decision);

E) Protests and resolutions;

F) Contracts and any orders, changes, amendments, renewals or extensions.

2) All information from subsection (t)(1), less any information exempt from disclosure under the Freedom of Information Act, shall be prepared and made available for inspection and copying, with information from subsections (t)(1)(A) through (D) made available on the date any award is posted to the Bulletin.

u) Communications Related to Procurement

1) Any IOC employee who receives a written or oral communication that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including but not limited to an application, contract or project, shall report the communication to the IOC PPB.

2) A communication must be reported if it is material, if it regards a potential action, if it relates to a procurement matter and if it is not otherwise excluded from reporting.

A) Materiality

i) "Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity and terms of payment or performance.

ii) A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or a response to communications initiated by an employee of the IOC for purposes of providing information for the evaluation of new products, trends, services or technologies.

iii) In determining whether a communication is material, the State employee may consider:

• Whether the information conveyed is new or already known to the IOC (or repeated or restated privately) and other participants in the communication; and

• The likelihood that the information would influence a pending procurement matter.

B) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.

3) This Section does not apply to the following communications:

A) Communication regarding the procurement of items that have a contract value less than the small purchase amount stated in Section 1120.2020;

B) Communications made in a public forum;

C) Communications regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of the matter;

D) Communications regarding the administration and implementation of an existing contract (see 30 ILCS 500/50-39(a));

E) Communication between the IOC employee and:

i) the Comptroller;

ii) other State employees of the IOC;

iii) employees of the Executive Ethics Commission;

iv) an employee of another State agency who, through the communication, is either:

• exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate CPO; or

• exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities;

F) Unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter;

G) Communications received in response to procurement solicitations pursuant to the Code, including, but not limited to, vendor responses to an RFI, RFP, Request for Qualifications or IFB, or a small purchase, sole source or emergency solicitation, and questions and answers posted to the Bulletin to supplement the procurement action. This exemption is not applicable unless the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines;

H) Communications that are privileged, protected or confidential under law;

I) Communications that are part of the formal procurement process as set out by statute, rule or procedure, such as the posting of procurement opportunities, the process for approving a Procurement Business Case (as defined in 2 Ill. Adm. Code 1620.825(i)) or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.

4) Notwithstanding any exemption provided in subsection (u)(3), an IOC employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning a procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.

5) As soon as is practicable, but in no event more than 30 days after receipt of the communication or the first of a series of communications described in subsection (u)(2), the State employee shall report the communication in accordance with Section 50-39 of the Code.

6) For purposes of this Section, "State employee" means:

A) any person employed full-time, part-time or pursuant to a personal services contract with the State and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed; or

B) any appointed or elected commissioner, trustee, director or member of a board of a State agency; or

C) any other person appointed to a position in or with a State agency, regardless of whether the position is compensated.

7) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required. Examples include educational seminars and conferences.

(Source: Amended at 42 Ill. Reg. 6682, effective March 30, 2018)