**Section 1120.2035 Competitive Selection Procedures for Professional and Artistic Services**

a) Application

1) The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions, or investigations, which are exempt from the requirements of the Code and this Part and except as provided in Section 1120.2020 and in subsection (c) of this Section.

2) *"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].

b) Public Notice of Competitive Selection Procedures

1) Notice of the need for professional and artistic services shall be made by the CPO in the form of an RFP.

2) Notice shall be given as provided in Section 1120.2010(e).

3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.

c) Request for Proposals

1) Contents. The RFP shall be in the form specified by the CPO and shall contain at least the following information:

A) the type of services required;

B) a description of the work involved;

C) an estimate of when and for how long the services will be required;

D) the type of contract to be used;

E) a date by which proposals for the performance of the services shall be submitted;

F) a statement of the minimum information that the proposal shall contain, which may include, but is not limited to:

i) 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;

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

iii) 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;

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

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

H) the factors to be used in the evaluation and selection process and their relative importance.

2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFP. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

A) the plan for performing the required services;

B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and

D) a record of past performance of similar work.

d) Pre-Proposal Conference

A pre-proposal conference may be conducted in accordance with Section 1120.2010(f). The conference may be held at any time prior to the date established for submission of proposals.

e) Receipt and Handling of Proposals

1) Proposals and modifications shall be sent to the CPO as directed in the solicitation and shall be time-stamped upon receipt and held in a secure place until the due date and time at which they will be opened by the Procurement Officer.

2) Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of at least one witness.

3) A register of proposals shall be established that shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered.

4) The register of proposals shall be open to the public only after award of the contract.

f) Discussions

1) Discussions Permissible

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

i) determine in greater detail the offeror's qualifications; and

ii) 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.

B) The CPO 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 the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

g) Selection of the Best Qualified Offerors

After conclusion of validation of qualifications, evaluation, and discussion, the CPO shall rank the acceptable offerors in the order of their respective qualifications.

h) Evaluation of Pricing Data

Pricing submitted for all proposals timely submitted shall be opened and ranked.

1) If the low price is submitted by the most qualified vendor, the CPO may award to that vendor.

2) If the price of the most qualified vendor is not low and if it is under $25,000, the CPO may award to that vendor.

3) If the price is over $25,000, the CPO must state why the qualifications were deemed more important than price and that determination shall be published in the next available issue of the Bulletin.

i) Negotiation and Award of Contract

1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors while negotiating with the best qualified vendor.

2) Elements of Negotiation. Contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of the services.

3) Request for Nondisclosure of Data

A) If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations.

B) If the parties do not agree as to the disclosure of data in the contract, the CPO shall reject the proposal.

4) Successful Negotiation of Contract with Best Qualified Offeror

A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the CPO based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of the range of prices received in the course of the procurement, and the agency's identified budget.

5) Failure to Negotiate Contract with Best Qualified Offeror

A) If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise the offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement canceled.

j) Multiple Awards

The Procurement Officer may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract.

k) Notice of Award

Written notice of award shall be public information and made a part of the contract file. The CPO shall publish the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

l) The CPO may publish notices of small, sole source and emergency procurements of professional and artistic services under the jurisdiction of the CPO.

(Source: Amended at 37 Ill. Reg. 3075, effective March 1, 2013)