**Section 1120.2050 Specifications** **and Samples**

a) CPO Responsibilities Regarding Specifications

1) The CPO is authorized to write IOC procurement specifications.

2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPO. If no such specification exists, the CPO shall have the authority to prepare specifications for use in the purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.

b) Procedures for the Development of Specifications

1) If a specification for a common or general use item has been developed or a qualified products list has been developed in accordance with this Section for a particular supply or service, it shall be used unless the CPO authorizes use of another specification.

2) All procurements shall be based on specifications that accurately reflect the IOC's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate IOC needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

4) Any specifications or standards adopted by a business, industry, not-for-profit organization or governmental unit may be adopted by reference.

5) A specification may provide alternate descriptions when two or more design, functional or performance criteria will satisfactorily meet the IOC's requirements.

c) Brand Name or Equal Specification

1) Brand name or equal specifications may be used when the CPO determines in writing that:

A) no specification for a common or general use specification or qualified products list is available;

B) time does not permit the preparation of another form of specification, not including a brand name specification;

C) the nature of the product or the nature of the IOC's requirement makes use of a brand name or equal specification suitable for the procurement; or

D) use of a brand name or equal specification is in the State's best interest.

2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

3) Required Characteristics. Unless the CPO determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional or performance characteristics that are required.

4) Nonrestrictive Use of Brand Name or Equal Specifications. When a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that a product is equal is on the bidder.

d) Brand Name Only Specification

1) Determination. A brand name only specification may be used only when the CPO makes a written determination that only the identified brand name item or items will satisfy the IOC's needs.

2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO.

3) Competition. The CPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1120.2025.

4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under Section 1120.2020 and Section 1120.2025.

e) Qualified Products List

1) Use. A qualified products list may be developed when testing or examining supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy IOC requirements.

2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.

3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) State Required Samples

1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.

2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the IOC's right to require adherence to specifications.

3) No payment will be made for IOC required samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. The request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

h) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow the demonstration will be solely at the IOC's discretion and will not entitle the bidder to a contract, nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

i) Specifications Prepared by Other Than IOC Personnel

1) Specifications may be prepared by other than IOC personnel, including, but not limited to, consultants, architects, engineers, designers and other drafters of specifications for public contracts when the CPO determines that there will be no substantial conflict of interest involved and it is otherwise in the best interests of the State, and provided the CPO retains the authority for final approval of the specifications. Contracts for the preparation of specifications by other than IOC personnel shall require the specification writer to adhere to the Code and the IOC requirements.

2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Comptroller determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.

j) Pre-solicitation Assistance/Specifications Prepared by Other Than State Personnel

1) Prior to issuing a solicitation, a CPO may issue an RFI to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help IOC develop its procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist IOC in reviewing, drafting and preparing an RFP or RFI or to provide similar assistance.

2) Notice. An RFI shall be published in the Bulletin for at least 7 calendar days. All information received in response to an RFI shall be published in the Bulletin for at least 7 calendar days.

3) The RFI shall contain at least the following:

A) the name of the requesting agency;

B) a brief description of the agency's needs; and

C) a statement that the RFI is not a solicitation.

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