**Section 1300.2046 Responsibility**

a) Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards of Responsibility

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective vendor:

A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain same) necessary to indicate its capability to meet all contractual requirements;

B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;

C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;

D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;

E) is qualified legally to contract with the State;

F) has supplied all necessary information in connection with the inquiry concerning responsibility;

G) has a current Public Contracts number from the Illinois Department of Human Rights pursuant to 44 Ill. Adm. Code 250.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination; and

H) pays prevailing wages, if required by law.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Ability to Meet Standards

The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

1) evidence that such vendor possesses such necessary items;

2) acceptable plans to subcontract for such necessary items; or

3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

d) Duty Concerning Responsibility

Before awarding a contract, the Procurement Officer must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of award or execution of contract, whichever is later.

e) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer. A copy of the determination shall be sent promptly to the nonresponsible vendor. The final determination shall be made part of the procurement file.

f) Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required for such bidders.

g) Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.

(Source: Amended at 36 Ill. Reg. 11974, effective July 13, 2012)