**Section 1400.2505 General Provisions**

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

1) Definition. Any bid, proposal or response received after the time, date and place set for receipt is late. Any withdrawal or modification of a bid, proposal or response received after the time and date set for opening of bids, proposals or responses at the place designated for opening is late.

2) Treatment. No late bid, proposal or response, modification or withdrawal will be considered unless it is received before contract award, and the bid, proposal, response, modification or withdrawal would have been timely but for the action or inaction of Treasurer's office personnel.

3) Records. Records must be made and kept for each late bid proposal, response, modification, or withdrawal.

4) Any other submission that has a time or date deadline must be treated in the same manner as a late bid, proposal or response.

b) Extension of Time

1) The Chief Procurement Officer may extend the date or time for submitting a bid, proposal, response, modification or withdrawal prior to the opening of bids, proposals, responses, modifications or withdrawals for the convenience of the Treasurer's office.

2) After opening bids, proposals, or responses the Chief Procurement Officer may request that the offerors extend the time during which the State may accept their bids, proposals or responses if, with regard to bids, no other change is permitted. The reasons for requesting the extension must be documented.

c) Electronic Submissions

1) The Invitation for Bids, Request for Proposals, or Request for Information may state that electronic 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 Invitation for Bids, Request for Proposals or Request for Information.

2) Electronic submissions will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, the vendors assume the risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The Invitation for Bids, Request for Proposals or Request for Information may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid, proposal or response. Bids, proposals and responses submitted without complying with the notice of intent requirement will be rejected.

e) Only One Bid, Proposal or Response Received

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

1) new bids, proposals or responses may be solicited;

2) the procurement may be cancelled; or

3) if the Chief Procurement Officer determines in writing that the need for the supply or service continues, but that, after attempting to negotiate a better price, the one offer is not fair and reasonable and there is no time for resolicitation, the vendor is not responsible, or resolicitation would likely be futile, the procurement may be conducted with any vendor as a sole source procurement under Section 1400.2025 or as an emergency procurement under Section 1400.2030, as appropriate.

f) Unsolicited Offers

1) Defined. An unsolicited offer is any offer other than one submitted in response to a solicitation.

2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.

3) Evaluation. The unsolicited offer will be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on the offer. An unsolicited offer that meets the requirements of subsection (f)(2) may be considered for award if the procurement also meets the requirements of Section 1400.2020 for small purchases or Section 1400.2025 for sole source procurements, in which case those procedures must be followed as applicable.

4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If an award is made, confidentiality of data must be agreed upon by the parties and governed by the provisions of the contract. If agreement cannot be reached on confidentiality, the Chief Procurement Officer shall reject the unsolicited offer.

g) Clarification of Bids, Proposals and Responses

The Chief Procurement Officer may request that a vendor clarify its bid, proposal or response as a part of the evaluation process. A vendor is not allowed to change its bid, proposal or response in response to a request for clarification without the written approval of the Chief Procurement Officer.

h) 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 Chief Procurement Officer determines in writing that it is not practicable to award another contract at the time of the extension.

i) Increase in Quantity on Definite Quantity Contracts

The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the Chief Procurement Officer determines that separate procurement of the additional quantity is not likely to achieve lower pricing. 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.

j) Novation or Change of Name

1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Chief Procurement Officer, but a vendor may assign monies receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee that meets all requirements for contracting with the State.

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 must 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 State; and

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

3) Change of Name. When a vendor requests to change the name in which it holds a contract with the State, the Chief Procurement Officer shall, upon receipt of a document indicating the change of name, enter into an agreement with the requesting vendor to effect the change of name. The agreement changing the name must specifically indicate that no other terms and conditions of the contract are changed.

k) 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 shall not exceed that established by law.

l) Information Exempt from Disclosure under FOIA

1) Vendors must clearly identify in writing any information submitted to the Treasurer's office claimed to be exempt from the disclosure requirement of the Illinois Freedom of Information Act (FOIA) [5 ILCS 140] and must identify the basis of the claimed exemption and show how that basis applies to the request for exemption. Information submitted without a claim of exemption may be disclosed to the public without notice or permission. Information submitted with a claimed exemption may still be disclosed to the public if determined by the Treasurer's office, or other appropriate party, that the claimed exemption does not meet the requirements for withholding the information under FOIA. The Treasurer's office may, in its discretion, attempt to provide to the vendor reasonable notice and opportunity to object prior to disclosure of any material claimed by the vendor to be exempt from FOIA.

2) The CPO may request that bidders, offerors and other respondents provide an additional copy of their bid, offer or response that omits or redacts information claimed to be exempt under FOIA. This copy may be used to respond to FOIA requests for a copy of the respective bid, offer or response.

3) To the extent that these public records are exempt under Section 7 of FOIA, and only until an award or final selection is made, *proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the* Treasurer along with *information prepared by or for the* Treasurer *in preparation of a bid solicitation* shall be available only to persons necessary to the procurement process. [5 ILCS 140/7(h)] Subsequent to an award or final selection such public records shall be made available for inspection or copying upon request to the extent required by FOIA.

m) Bidder or Offeror Authorized to Transact Business or Conduct Affairs or Do Business in Illinois

In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Part only if the person is a legal entity prior to submitting the bid, offer, or proposal. The legal entity must be authorized to transact business or conduct affairs in Illinois prior to execution of the contract.

(Source: Amended at 48 Ill. Reg. 2924, effective February 7, 2024)