**Section 1600.2040 Cancellation of Solicitations; Rejection of Bids or Proposals**

a) Scope of this Section

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

b) Policy

Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:

A) the OLG no longer requires the supplies or services;

B) the OLG no longer can reasonably expect to fund the procurement; or

C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:

A) identify the solicitation;

B) briefly explain the reason for cancellation; and

C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies or services.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:

A) the supplies or services being procured are no longer required;

B) ambiguous or otherwise inadequate specifications were part of the solicitation;

C) the solicitation did not provide for consideration of all factors of significance to the State;

D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.

e) Documentation

The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Bids or Proposals

1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.

3) Reasons for Rejection. Reasons for rejecting a bid or proposal may include, but are not limited to:

A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1600.2045 (Responsibility) of this Part;

B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;

C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;

D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or

E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.