

Regulations of Connecticut State Agencies

TITLE 4d. State Information Telecommunication Systems

Agency

Department of Information Technology

Subject

Procurement of Information and Telecommunication Systems

Inclusive Sections

§§ 4d-3-1—4d-3-19

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Sec. 4d-3-1. Definitions

As used in sections 4d-3-1 to 4d-3-19, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Agency” means any department, board, council, commission, institution or other agency of the executive branch of the state government, provided each board, council, commission, institution or other agency included by law within any given department shall be deemed a division of that department;

(2) “Alternate bids or proposals” means bids or proposals submitted in addition to the bidder’s or proposer’s primary response to the invitation to bid or request for proposals. Such bids or proposals are intended to act as an alternative to the primary bid or response or be exchanged for, take the place of, replace or substitute for the primary bid or response should such primary bid or response be rejected;

(3) “Bid” means an offer, submitted in response to an invitation to bid, to furnish information technology personal property or services to an agency under certain prescribed conditions at a stated price;

(4) “Bidder” means any person submitting a bid on an invitation to bid or a solicitation issued by the CIO;

(5) “Century date change effect” means the management, manipulation, processing, comparing, sequencing and other use of date data, including single and multi-century formulae and leap years, by hardware, software or firmware, which (1) may cause or in any way affect abnormal ending dates or (2) is intended to produce, reflect or otherwise reference accurate date-related data interface functionality, including the indication of century;

(6) “Chief Information Officer” or “CIO” means the department head of the Department of Information Technology or his authorized designee;

(7) “Competitive negotiation” means a procedure for contracting for information technology personal property or services, in which (1) proposals are solicited from qualified vendors by a request for proposals; (2) changes may be negotiated in proposals and prices after being submitted; and (3) the proposal deemed by the department to be most advantageous in terms of criteria designated in the request for proposals is accepted;

(8) “Conditional bids or proposals” means bids or proposals that substantially limit or modify any of the terms and conditions, specifications or requirements of the invitation to bid or request for proposals;

(9) “Contract” means the agreement reached when the department accepts an offer of a bidder to furnish information technology personal property or services at a stated price in response to an invitation to bid or the agreement arrived at between the department and a proposer following competitive negotiation. In the case of competitive negotiation, the contract shall include the (1) response of the successful proposer, (2) the contract award, and (3) any other documents specifically designated by the department at the time of contract award;

(10) “Contractor” means any person to whom a contract is awarded as the result of the

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submission of a bid or in response to a request for proposal;

(11) “Department” means the Department of Information Technology;

(12) “Direct purchase authority” means an authority granted by the CIO to permit an agency to make a direct purchase of information technology personal property or services relating to information systems, telecommunication systems or information technology personal property without prior approval of the CIO;

(13) “Information Systems” means the combination of data processing hardware and software in the collection, processing and distribution of data to and from interactive computer-based systems to meet informational needs;

(14) “Information technology personal property” shall have the meaning set forth in subsection (b) (1) of section 4d-8 of the Connecticut General Statutes;

(15) “Invitation to bid” or “ITB” means the communication that states, for the information of prospective vendors, the terms and conditions under which a specified procurement will be made in a particular instance;

(16) “Minor irregularities” means those deviations from the ITB or RFP that are matters of form rather than substance, or insignificant or immaterial mistakes that may be waived or corrected, where the effect on price, quantity, quality, delivery, service or contractual conditions is negligible;

(17) “Multiple bids or proposals” means more than one bid or proposal submitted in response to the same invitation to bid or request for proposals by the same bidder or proposer, whether on a separate bid or proposal form or attached to the initial bid or proposal form. Such bids are intended to be separate and distinct from each other and are meant to be evaluated as individual bids or proposals without reference to any other bid or proposal;

(18) “Person” means an individual, partnership, firm, limited liability company, corporation, association, society, governmental subdivision, agency or public or private organization;

(19) “Proposer” means any person submitting a proposal in response to a request for proposals issued by the CIO;

(20) “Purchasing agency” means an agency acquiring information technology personal property or services;

(21) “Request for proposals” or “RFP” means the solicitation communication used in the competitive negotiation process;

(22) “Services” means any and all data entry, data processing, information systems, telecommunication systems and information technology personal property services;

(23) “State” means the State of Connecticut; and

(24) “Telecommunication systems” shall have the meaning set forth in subsection (4) of section 4d-1 of the Connecticut General Statutes.

(Adopted effective August 9, 2004)

Sec. 4d-3-2. Delegation of purchasing authority

(a) The CIO may delegate direct purchase authority to the head of any agency or may

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revoke any such authority at the CIO's discretion. Factors to consider in making the decision to delegate include:

- (1) the expertise of the agency in terms of procurement knowledge and any specialized knowledge pertinent to the direct purchase authority to be delegated;
- (2) the past experience of the agency in exercising similar direct purchase authority;
- (3) the degree of economy and efficiency to be achieved in meeting the state's requirements if the direct purchase authority is delegated;
- (4) the available resources of the agency to exercise the authority if it is not delegated; and,
- (5) the consistency of delegation under similar circumstances.

(b) Any person who has been designated by the CIO to exercise direct purchase authority shall exercise such authority in accordance with the terms set forth by the CIO and the applicable provisions of the Connecticut General Statutes, and sections 4d-3-1 through 4d-3-19 of the Regulations of Connecticut State Agencies.

(c) The CIO may delegate such direct purchase authority, as he deems to be appropriate. Such delegation shall be in writing and may specify:

- (1) the activity or function authorized;
- (2) any limits or restrictions on the exercise of the delegated direct purchase authority;
- (3) whether the direct purchase authority may be further delegated; and,
- (4) the duration of the delegation.

(d) The CIO may delegate to the agency head the direct purchase authority to make minor non-recurring purchases for information technology personal property or services pursuant to subsection (c) of this section in an amount consistent with the department's statutory authority. Any such delegation may be limited as the CIO directs.

(e) Purchases made under any direct purchase authority shall be based on competitive bids, proposals or quotes, as provided for in section 4a-57 of the Connecticut General Statutes where possible or practical. Purchase orders issued on the basis of any direct purchase authority shall have noted in the space provided for the department's authorization the appropriate direct purchase authority number. Evidence of competition in the form of quotations or summary thereof shall be noted on or attached to both the ordering agency's and the department's copy of the purchase order. If the nature of the purchase precludes solicitation of competitive bids or proposals, the notation "non-competitive" shall be made on both the ordering agency's and the department's copy of the purchase order.

(f) While direct purchase authority permits an agency to make specific types of purchases without prior approval of the department, no agency shall be prevented from submitting its requirements to the department for solicitation of bids or proposals.

(g) Non-conformance in the application of any direct purchase authority by any agency may result in the withdrawal of the delegation or direct purchasing authority granted to such agency.

(Adopted effective August 9, 2004)

Sec. 4d-3-3. Public notice of invitation to bid and request for proposals

The CIO shall invite bids or proposals from prospective suppliers in accordance with the provisions of section 4a-57 of the general statutes.

(Adopted effective August 9, 2004)

Sec. 4d-3-4. Submission of bids and proposals

(a) Bids or proposals shall be submitted in a manner approved by the department.

(b) The time and date bids or proposals are to be opened is given in each ITB or RFP issued. Bids or proposals received after the specified time and date of opening given in each ITB or RFP shall not be considered. All bids or proposals shall be sealed in envelopes, boxes or other suitable packaging. All bids or proposals shall be addressed to the department, as indicated in the ITB or RFP. Bids and proposals shall clearly indicate the bid or proposal number as well as the due date of the bid or proposal. The name and address of the bidder or proposer shall appear in the upper left-hand corner of the envelope, box or other suitable packaging.

(c) Amendments to previously submitted bids or proposals, if received by the CIO after the time specified for opening bids or proposals, shall not be considered. A person duly authorized to sign bids or proposals on behalf of the bidder or proposer shall sign all bids or proposals. Unsigned bids or proposals may be rejected. All signatures shall be original signatures unless there is specific authorization from the CIO or other legal authority for the use of other forms of signature. The person signing the bid or proposal or his authorized designee shall initial and date all erasures, alterations or corrections on both the original and copy of any documentation submitted to the department. Failure to do so may result in rejection of the bid or proposal for those items erased, altered or corrected and not initialed.

(d) All information required in bid or proposal forms shall be provided in order to constitute a responsive bid or proposal. Failure to provide such complete information may result in rejection of the bid or proposal as non-responsive.

(e) Conditional bids or proposals are subject to rejection in whole or in part.

(f) Bids and proposals may be submitted for all or any part of total quantities or for any or all agency requirements listed in the invitation to bid, or request for proposal, unless otherwise specifically indicated.

(g) Alternate bids or proposals are subject to rejection in whole or in part.

(h) Multiple bids or proposals are subject to rejection in whole or in part.

(i) Unless otherwise specified, the use of the name of a manufacturer or of any particular make, model or brand in describing an item shall not restrict bidders or proposers to that manufacturer or specific articles; the name so used merely serves to indicate the character or quality of the article desired. The article offered shall be of such character and quality and include any applicable options, or accessories, as shall meet all of the specifications shall serve equally the purposes for which it is to be used as well as that specified, and shall be so warranted by the bidder or proposer. Bids or proposals on comparable items shall clearly state the exact article being offered, including any and all applicable options or

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accessories, and the bidder or proposer shall furnish such other information concerning the article being offered as shall be helpful in evaluating its acceptability for the purpose intended. If the bidder or proposer does not indicate that the article is other than as specified, it shall be understood that the bidder or proposer is offering the article exactly as specified.

(j) Prices shall be extended in decimals, not fractions, and shall include transportation and delivery charges fully prepaid by the contractor to the destination specified in the bid or proposal, and subject only to a cash discount.

(k) Because the state is exempt from the payment of excise, transportation and sales taxes imposed by the federal government and the state, such taxes shall not be included in bid or proposal prices. Federal excise exemption certificates shall be furnished, on request, by either the ordering agency or the department.

(l) In the event of a discrepancy between the unit price and the extension price, the unit price shall govern. Any discrepancy between the two copies of the proposed schedule submitted may result in rejection of bids or proposals for the items so affected, except in the event of bids or proposals awarded on a total basis in which case the lower total price shall be considered in making the award.

(m) The bid or proposal shall declare that the bid or proposal is without collusion or fraud.

(n) The CIO shall have the right to amend or cancel an invitation to bid or request for proposal prior to the award of a contract.

(Adopted effective August 9, 2004)

Sec. 4d-3-5. Guaranty or surety

(a) When requested by the department and, if so, within 10 days after the execution date of a contract or the issuance of the contract award, a bidder or proposer shall deliver to the department a performance guaranty. A guaranty may be submitted in any one of the following forms, each in such amount as the CIO determines to be appropriate:

- (1) annual bond or warranty bond;
- (2) individual bond or warranty bond; or
- (3) certified check made payable to "Treasurer, State of Connecticut.

(b) The department may require a performance surety binding the contractor faithfully to fulfill the obligations of the bid or proposal, as accepted. Such assurance in an amount up to 100 percent of each separate award may be submitted, at the department's request, in the form of a performance bond of a licensed surety company, certified check or irrevocable letter of credit from a commercial institution.

(c) Bonds shall meet the following requirements:

(1) Corporation. A duly authorized official of the corporation above his official title shall sign the bond and the corporate seal shall be affixed over his signature;

(2) Firm or Partnership. A duly authorized partner shall sign the bond in the name of the partnership;

(3) Individual. The individual owning the business, and indicating "Owner" shall sign

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the bond;

(4) The surety company executing the bond shall be licensed to do business in the state, or a company so licensed shall countersign the bond;

(5) An official of the surety company shall sign the bond and the corporate seal shall be affixed over his signature;

(6) Signature of two witnesses for both the principal and the surety shall appear on the bond; and

(7) A power of attorney for the official signing the bond for the surety company shall be submitted with the bond, unless such power of attorney has previously been filed with the department.

(Adopted effective August 9, 2004)

Sec. 4d-3-6. Specifications; samples

(a) All specifications shall be minimum standards. If any accepted sample is superior in quality to the specifications, all deliveries shall have the same identity and quality as the accepted sample.

(b) Samples, when required, shall be submitted strictly in accordance with instructions, otherwise the bid or proposal may not be considered. If samples are requested subsequent to the due date of bids or proposals, they shall be delivered as specified in the invitation to bid or request for proposals. Samples shall be furnished free of charge and shall be accompanied by descriptive memorandum invoices indicating if the bidder or proposer desires their return, provided they have not been used or made useless by tests. Samples may be held for comparison with deliveries. Samples shall be returned at the bidder's or proposer's risk and expense.

(c) When the bid or proposal indicates that an item is to be equivalent to a sample, such sample shall be on display in the department unless another location is specified. Failure on the part of the bidder or proposer to examine the sample shall not relieve them from the conditions imposed by the ITB or RFP.

(d) The CIO may amend or reject a specification at any time if the CIO determines that the amendment or rejection is in the best interest of the state.

(Adopted effective August 9, 2004)

Sec. 4d-3-7. Bid award

(a) Award shall be made to the lowest responsible qualified bidder in accordance with section 4a-59 of the Connecticut General Statutes and with the criteria set forth in the invitation to bid.

(b) The CIO reserves the right to award by item, or part thereof, groups of items, or parts thereof, or all items of the bid, to reject any and all bids in whole or in part and to waive or correct minor irregularities and omissions if, in his judgment, the best interest of the state will be served.

(c) The CIO reserves the right to make awards within 30 calendar days from the date

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bids are opened, unless otherwise specified in the invitation to bid, during which period bids shall not be withdrawn unless the bidder expressly states in the bid that acceptance must be made within a shorter specified time. Should award, in whole or in part, be delayed beyond the period of 30 days or an earlier date specified by a bidder in the bid, such awards shall be conditioned upon bidder's acceptance.

(d) A bidder shall be prepared to present evidence of experience, ability, service facilities, factory or other authorizations and financial standing necessary to meet satisfactorily the requirements set forth or implied in the invitation to bid.

(e) The quantities listed in the bid or schedule may be increased or decreased by the CIO to meet new or amended requirements of agencies between the time of invitation to bid and the time award is made, subject to the bidder's acceptance.

(f) The CIO reserves the right to correct inaccurate awards resulting from clerical or administrative errors.

(Adopted effective August 9, 2004)

Sec. 4d-3-8. Contract; rights of the state

(a) Each bid shall be submitted with the understanding that the acceptance in writing by the CIO of the offer to furnish any or all of the information technology personal property or services described therein shall constitute a contract between the bidder and the state. Such contract shall bind the bidder on his part to furnish and deliver the information technology personal property or services at the prices given and in accordance with conditions set forth in the invitation to bid, the accepted bid, and sections 4d-3-1 through 4d-3-19 of the Regulations of Connecticut State Agencies. Such contract shall bind the state on its part to order the information technology personal property or services from such contractor, except as may otherwise be provided in the invitation to bid, and subject to the availability of appropriated funds, and to pay at the contract prices all information technology personal property or services ordered and delivered. The state reserves the right to order 10 percent more or less than the quantity listed in the bid or as amended in the award.

(b) No alterations or variations of the terms of a contract shall be valid or binding upon the state unless made in writing and signed by the CIO.

(c) Contracts shall remain in force until:

(1) Terminated in accordance with the contract's terms and conditions; or

(2) Extended in accordance with section 4a-59a of the Connecticut General Statutes, and upon written authorization of the CIO and acceptance by the contractor, to permit ordering of unordered balances or additional quantities at the contract price and in accordance with the contract terms.

(d) The placing of a notice of award in the mail to the bidder's address given in the bid or the delivery of a notice of award to a bidder shall constitute notice of acceptance of the bid. Refusal to accept a contract as provided for in section 4a-59 of the Connecticut General Statutes shall subject such bidder to the provisions of subsection (h) of this section to pay

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the increased costs incurred by the State in procuring the information technology personal property or services.

(f) The contract may be canceled by the CIO upon nonperformance of the contract terms or failure of the contractor to furnish performance surety within ten business days from date of request. Any unfulfilled deliveries provided for under such contract may be purchased from other sources at the contractor's expense.

(g) Failure of a contractor to deliver information technology personal property or services within the time specified in the bid or proposal, or within a reasonable time as determined by the CIO, or failure to replace rejected supplies, materials and equipment or to fulfill unperformed services when so requested, immediately or as directed by the CIO, shall constitute authority for the CIO to terminate the contract and purchase on the open market information technology personal property or services to replace those which have been rejected, not delivered, or not performed. The CIO reserves the right to authorize immediate purchases on the open market in the case of rejections under any contract. On all such purchases, the contractor shall immediately reimburse the state for excess costs occasioned by such purchases. Such purchases shall be deducted from the contract quantities. However, should public necessity demand it, the state reserves the right to use or consume information technology personal property or services delivered which are substandard in quality, subject to an adjustment in price to be determined by the CIO.

(h) When information technology personal property or services are rejected, they shall be removed by the contractor from the premises of the agency within forty-eight hours after notification, unless public health and safety require immediate destruction or other disposal of such rejected delivery. Rejected items left longer than forty-eight hours shall be considered abandoned and the state shall have the right to dispose of them as if they were its own property.

(i) A contract or bid acceptance is not an order to ship. A contractor must have received a written purchase order before it may begin to fill any such order. All orders shall be in writing and shall bear the contract number and approval of the Comptroller. A contractor making delivery without formal written order does so at his own risk, which may include rejection of the delivery. In the event of any discrepancy between the contract and a purchase order, the terms of the contract shall prevail.

(j) No person shall be awarded a contract or amendment to a contract, if the person directly or indirectly participates in any of the following activities on behalf of the state concerning a contract for state agency information systems or telecommunication system facilities, Information technology personal property or services: preparation of the request for information or request for proposals, development of bid specifications or proposal requirements, evaluation of bids or proposals, or negotiations with potential contractors.

(Adopted effective August 9, 2004)

Sec. 4d-3-9. Contract guaranty

The contractor shall:

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- (a) Perform the contract in accordance with the specifications, terms and conditions under which the contract was awarded;
- (b) Save the state, its agents, or employees harmless from liability of any kind for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee, or licensee;
- (c) Guarantee the products against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the state's option, replace the products;
- (d) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises or equipment, to his own work or the work of other contractors;
- (e) Warrant that each information technology personal property or each developed, modified or remediated information technology personal property delivered under the contract shall:
 - (1) accurately assess, present or process date and time data (including, but not limited to, management, manipulation, processing, comparing, sequencing and other use of date data, including single and multi-century formulae and leap years) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations;
 - (2) properly exchange date and time data when used in combination with other information systems; and information technology personal property; and
 - (3) perform as a system, if so stipulated in the contract, and the warranty shall apply to those items as a system;
- (f) With respect to contracts for the provision of services, pay for all permits, licenses and fees, give all required or appropriate notices and comply with all applicable federal, state and/or municipal laws or regulations;
- (g) Carry proper insurance to protect the state from loss;
- (h) Contractual provisions ensuring the confidentiality of public records or files that the contractor has access to and are exempt from disclosure under the state's Freedom of Information Act or other applicable law. The contractual provisions shall include civil sanctions for the unauthorized disclosure of such records or files. Any contractor and its employees, agents, officers, directors, partners and authorized representatives shall be treated as state employees with respect to any civil or criminal statutes providing for civil or criminal sanctions for unauthorized disclosures; and
- (i) Neither disclaim nor modify the implied warranties of merchantability and fitness for a particular purpose.

(Adopted effective August 9, 2004)

Sec. 4d-3-10. Delivery

- (a) All information technology personal property furnished shall comply with all applicable federal and state laws and regulations.

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(b) Any information technology personal property delivered shall be standard new equipment, latest model, except as otherwise stated in the ITB or RFP. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the ITB or RFP. Where any part or nominal appurtenances of equipment are not described, it shall be understood that all equipment and appurtenances, which are usually provided in the manufacturer's stock model, shall be furnished.

(c) Delivery shall be made as ordered and in accordance with the ITB or RFP. Unless otherwise specified in the ITB or RFP, delivery shall be to a loading dock or receiving platform. The contractor or contractor's shipping designee shall be responsible for removal of information technology personal property from the carrier and placement on the agency loading dock or receiving platform. The state receiving personnel are not required to assist in this process. The decision of the CIO as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the contractor.

(d) The department shall approve any request for an extension of time of delivery from that specified, such extension applying only to the particular item or shipment.

(e) Information technology personal property shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the state unless otherwise stated in the bid or proposal.

(Adopted effective August 9, 2004)

Sec. 4d-3-11. Inspections and tests

(a) The inspection of all information technology personal property and the making of physical tests of submitted samples and samples of deliveries to determine whether or not the specifications are being complied with shall be made in the manner prescribed by the CIO.

(b) Any item, which fails in any way to meet the terms of the contract, is subject to rejection. Any decision of the CIO pertaining to any such failure or rejection shall be final and binding.

(Adopted effective August 9, 2004)

Sec. 4d-3-12. Payment

(a) Payment shall be made only after receipt of information technology personal property or services and after presentation of a properly completed invoice. All invoices shall be sent directly to the address indicated on the purchase order.

(b) All charges against a contractor shall be deducted from current obligations that are due or may become due. If collection is not made in this manner, the contractor shall pay the state, on demand, the amount of such charges. All remittances shall be made payable to "Treasurer, State of Connecticut."

(c) Payment for any used portion of an inferior delivery shall be made by the state on an

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adjusted price basis as determined by the CIO. Such determination shall be final and binding.

(Adopted effective August 9, 2004)

Sec. 4d-3-13. Saving clause; rights

(a) The contractor shall not be held liable for any losses resulting in the fulfillment of the terms of the contract which may be delayed or prevented by wars, acts of public enemies, strikes, floods, acts of God, or for any other force majeure acts not within the control of the contractor and which, by the exercise of reasonable diligence, the contractor is unable to prevent.

(b) Should the performance of any contract be delayed or prevented as set forth in subsection (a) of this section, the contractor shall give immediate written notice and explanation of the cause and probable duration of any such delay.

(c) References by contractors to sales to the state for advertising and promotional purposes without prior approval of the CIO is expressly prohibited.

(d) The state shall have and retain sole and exclusive right and title in and to the documents and materials, including intellectual property, produced for the state, including all rights to use, distribute, sell, reprint, or otherwise dispose of same. The contractor shall not copyright, register, distribute or claim any rights in or to said property or the work produced under his contract, without the state's prior written permission.

(Adopted effective August 9, 2004)

Sec. 4d-3-14. Sole source procurement

The CIO shall make, in accordance with applicable law, the determination as to whether procurement shall be made as a sole source. Such determination and the basis therefor shall be in writing. The CIO may specify the application and the duration of its effectiveness. Any request by an agency that procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

(Adopted effective August 9, 2004)

Sec. 4d-3-15. Competitive negotiation

(a) Proposals shall be evaluated only on the basis of evaluation criteria stated in the request for proposals, which may include some or all of the following criteria, the relative importance of which shall vary according to the type of information technology personal property or services being procured:

- (1) the plan for performing the required services;
- (2) ability to perform the services as reflected by technical training, education, general experience, and specific experience in providing the required information technology personal property or services;
- (3) the qualifications and abilities of personnel proposed to be assigned to perform the

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services;

(4) the availability of personnel, equipment, and facilities that are necessary or appropriate to perform the services;

(5) records of past performance of similar work in regard to information technology personal property or services;

(6) price; and

(7) standards or criteria as may be required by Chapter 61 of the Connecticut General Statutes.

(b) Pre-proposal conferences, as appropriate, may be conducted. Such conferences may be held anytime prior to the date established for the submission of proposals.

(c) Proposals shall be time-stamped upon receipt and held in a secure place until the established due date. Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of two or more procurement officials.

(d) It will not be sufficient for vendors to merely state generally that the proposal is proprietary in nature and not therefore subject to release to third parties. Any proposal that makes such a general or overarching claim may be subject to disqualification. Those particular sentences, paragraphs, pages or sections, which a vendor believes to be exempt from disclosure under the Freedom of Information Act (FOIA), must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA, must accompany the proposal. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Vendor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. Between the vendor and the State, the final administrative authority to release or exempt any or all material so identified rests with the State. All such material shall be submitted in a separate sealed envelope and marked 'confidential'. This includes any information requested in an electronic format.

(e) The CIO shall evaluate all proposals submitted and may conduct discussions with any proposer in accordance with the provisions of section 4d-3-16 of the Regulations of Connecticut State Agencies.

(f) Proposals may be modified or withdrawn at any time prior to the conclusion of discussions.

(g) After the conclusion of the validation of qualifications, evaluation, and discussion as provided in subsections (e) and (f) of this section, the CIO shall select, in the order of their respective qualification rankings, no fewer than three acceptable proposers (or such lesser number if less than three acceptable proposals were received) deemed to be the best qualified to provide the required information technology personal property or services.

(h) The CIO shall select from the best qualified proposers the proposer whose proposal the CIO deems to be the most advantageous to the State and negotiate a contract for the required information technology personal property or services.

(Adopted effective August 9, 2004)

Sec. 4d-3-16. Proposal discussions with individual proposers

- (a) Discussions may be held to:
 - (1) promote understanding of the state's requirements and the content of the proposals;
 - (2) determine in greater detail the proposer's qualifications;
 - (3) explore with the proposer the scope and nature of the required services, the proposer's proposed method of performance, and the relative utility of alternate methods of approach; and,
 - (4) facilitate arriving at a contract that will be most advantageous to the state taking into consideration price and the other evaluation factors set forth in the request for proposals.
- (b) If during discussions there is a need for any substantial or substantive clarification of or change in the request for proposals, the request for proposals shall be amended to incorporate such clarification or change. Any clarification of a proposal shall be reduced to writing by the proposer.
- (c) If the department requires best and final proposals, then the CIO shall establish a date and time for submission. The best and final proposals shall be submitted only once; provided however, the CIO may make a written determination that it is in the state's best interest to conduct additional discussions or change the state's requirements and require another submission of the best and final proposals.

(Adopted effective August 9, 2004)

Sec. 4d-3-17. Evaluation of bids and proposals

- (a) The evaluation shall be based on the evaluation factors set forth in section 4a-59 of the Connecticut General Statutes and in the invitation to bid or request for proposals. Numerical rating systems may be used but are not required. Factors not specified in section 4a-59 of the Connecticut General Statutes, in section 4d-3-1 to 4d-3-19, inclusive, of the Regulations of Connecticut State Agencies, in the invitation to bid or request for proposals shall not be considered.
- (b) For the purpose of conducting discussions under section 4d-3-16 of the Regulations of Connecticut State Agencies, proposals shall be initially classified as:
 - (1) acceptable;
 - (2) potentially acceptable, that is, reasonably susceptible of being made acceptable; or,
 - (3) unacceptable.

Proposers whose proposals are unacceptable shall be notified promptly that their proposal is rejected.

(Adopted effective August 9, 2004)

Sec. 4d-3-18. Minor irregularities

- (a) The CIO may waive any minor irregularities or allow the bidder or proposer to correct them, depending on which is in the best interest of the state. The CIO shall state the reasons for any such waiver or correction in writing and include such statements in the contract file.
- (b) If in the case of a mistake, the intended correct bid or proposal is clearly evident on

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the face of the bid or proposal document, the bid or proposal shall be corrected to reflect the intended correct bid or proposal. Examples of mistakes that are clearly evident on the face of the bid or proposal document include but are not limited to, typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(Adopted effective August 9, 2004)

Sec. 4d-3-19. Emergency purchases

(a) Emergency purchases shall be limited to those information technology personal property or services necessary to meet the emergency.

(b) Any agency may make emergency procurements consistent with the agency's statutory authority when an emergency condition arises and the need cannot be met through normal procurement methods.

(c) The procedure used for selection shall be such as to assure that the required information technology personal property or services are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained.

(Adopted effective August 9, 2004)