

Sec. 4a-52-16. Competitive negotiation

(a) Proposals shall be evaluated only on the basis of evaluation factors stated in the request for proposals. The following factors may be appropriate to use in conducting the evaluation. The relative importance of these and other factors will vary according to the type of supplies, materials, equipment or contractual services being procured. The minimum factors are:

- (1) the plan for performing the required contractual services;
- (2) ability to perform the contractual services as reflected by technical training and education; general experience, and specific experience in providing the required supplies, materials, equipment or contractual services; and the qualifications and abilities of personnel proposed to be assigned to perform the contractual services;
- (3) the personnel, equipment, and facilities to perform the contractual services currently available or demonstrated to be made available at the time of contracting; and,
- (4) a record of past performance of similar work in regard to supplies, materials, equipment or contractual services.

(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 and modifications 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. A register of proposals shall be established which shall include for all proposals the name of each proposer, the number of modifications received, if any, and a description sufficient to identify the supplies, materials, equipment or contractual services offered. The register of proposals shall be open to public inspection only after the award of the contract.

(d) If a proposer has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the Commissioner shall examine the request in the proposal to determine its validity prior to entering negotiations. If the parties do not agree as to the disclosure of data in the contract, the Commissioner shall inform the proposer in writing what portion of the proposal will be disclosed and that, unless the proposer withdraws the proposal, the proposal will be so disclosed.

(e) The Commissioner shall evaluate all proposals submitted and may conduct discussions with any proposer in accordance with the provisions of Section 4a-52-17 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 Commissioner 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 supplies, materials, equipment or contractual services.

(h) The Commissioner shall negotiate a contract with the best qualified proposer for the required supplies, materials, equipment or contractual services at a compensation that is fair and reasonable.

(i) Contract negotiations shall be directed toward:

(1) making certain that the proposer has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required supplies, materials, equipment or contractual services;

(2) determining that the proposer will make available the necessary personnel and facilities to perform the contractual services within the required time; and,

(3) agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required supplies, materials, equipment or contractual services, and the scope, complexity, and nature of such contractual services.

(j) If compensation and other contract provisions can be agreed upon with the best qualified proposer, the contract shall be awarded to that proposer.

(k) If compensation and other contract provisions cannot be agreed upon with the best qualified proposer, a written record stating the reasons therefor shall be placed in the file and the Commissioner shall advise such proposer of the termination of negotiations which shall be confirmed by written notice within three days.

(l) Upon failure to negotiate a contract with the best qualified proposer, the Commissioner may continue the negotiation process and award such contract to the next most qualified proposer, and so on until the contract is awarded and accepted, all in accordance with the intent of the provisions of this section.

(m) Written notice of award shall be public information and made a part of the contract file.

(n) Should the Commissioner be unable to negotiate a contract with any of the acceptable proposers initially selected as the best qualified proposers, proposals may be resolicited or additional proposers may be selected based on the original, acceptable proposals in order of the respective qualification rankings, and negotiations may continue.

(o) At the conclusion of negotiations resulting in the award of the contract, the Commissioner shall prepare a memorandum setting forth the basis of award including:

(1) how the evaluation factors stated in the request for proposals were applied to determine the best qualified proposers; and,

(2) the principal elements of the negotiations including the significant considerations relating to price and other terms of the contract.

All memoranda related to the evaluation shall be included in the contract file.

(Effective September 1, 1992)