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**PURCHASING REGULATIONS  
REGULATION 7- REQUESTS FOR PROPOSALS FOR CONSTRUCTION**

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- 1     **SCOPE.** This regulation applies to all procurements for construction that are made by competitive sealed proposals.
- 2     **EFFECTIVE DATE.** December 1, 2004, unless a later date is cited at the end of a section or paragraph.
- 3     **DEFINITION.** As used in this regulation:  
  
          **Competitive sealed proposals for construction** means a process for objectively awarding a contract for construction using quality, price and other important factors that are each assigned numerical weight by the Director of Purchasing or designee.
- 4     **INCORPORATION OF 6 UPR.** The existing University of New Mexico Purchasing Regulation governing competitive sealed proposals, 6 UPR, is incorporated by reference in this regulation to the extent that 6 UPR does not conflict with this regulation.
- 5     **COMPETITIVE SEALED PROPOSALS FOR CONSTRUCTION**

**5.1     Conditions for use.**

**13-1-111. Competitive sealed proposals, conditions for use (2003 amendment).**

Except as provided in Subsection G of Section 13-1-119.1 NMSA 1978, when a state agency or a local public body is procuring professional services or a design and build project delivery system, or when the state purchasing agent, a central purchasing office or a designee of either officer makes a written determination that the use of competitive sealed bidding for items of tangible personal property or services is either not practicable or not advantageous to the state agency or a local public body, a procurement shall be effected by competitive sealed proposals. Competitive sealed proposals may also be used for contracts for construction and facility maintenance, service and repairs. Competitive qualifications-based proposals shall be used for procurement of professional services of architects, engineers, landscape architects, construction managers and surveyors who submit proposals pursuant to Sections 13-1-120 through 13-1-124 NMSA 1978.

- 5.2     **Decision by Director of Purchasing.** The Director of Purchasing will decide whether to utilize competitive sealed proposals to procure construction services or whether another process provided for under the State Procurement Code will be followed. For each construction project undertaken, the Director of Purchasing will select the option providing best overall value for the University.

## 6 NOTICE

### 6.1 Public Notice

#### **13-1-112. Competitive sealed proposals; public notice.**

Public notice of the request for proposals shall be given in the same manner as provided in Section 77 [13-1-104 NMSA 1978] of the Procurement Code.

#### **13-1-104. Competitive sealed bids; public notice.**

- A. The invitation for bids or a notice thereof shall be published not less than ten calendar days prior to the dates set forth for the opening of bids. In the case of purchases made by the state purchasing agent, the invitation or notice shall be published at least once in at least three newspapers of general circulation in this state; in addition, an invitation or notice may be published electronically on the state purchasing agent's web site that is maintained for that purpose. In the case of purchases made by other central purchasing offices, the invitation or notice shall be published at least once in a newspaper of general circulation in the area in which the central purchasing office is located. These requirements of publication are in addition to any other procedures which may be adopted by central purchasing offices to notify prospective bidders that bids will be received, including but not limited to publication in a trade journal, if available. If there is no newspaper of general circulation in the area in which the central purchasing office is located, such other notice may be given as is commercially reasonable.
- B. Central purchasing offices shall send copies of the notice or invitation for bids involving the expenditure of more than ten thousand dollars (\$10,000) to those businesses that have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services and which have paid any required fees. A central purchasing office may set different registration fees for different categories of services, construction or items of tangible personal property, but such fees shall be related to the actual, direct cost of furnishing copies of the notice or invitation for bids to the prospective bidders. The fees shall be used exclusively for the purpose of furnishing copies of the notice or invitation for bids of proposed procurement to prospective bidders.
- C. A central purchasing office may satisfy the requirement of sending copies of a notice or invitation for bids by distributing the documents to prospective bidders through electronic media. Central purchasing offices shall not require that prospective bidders receive a notice or invitation for bids through electronic media.
- D. As used in this subsection "prospective bidders" includes persons considering submission of a bid as a general contractor for the construction contract and persons who may submit bids to the general contractor for work to be subcontracted pursuant to the construction contract. Central purchasing

offices shall make copies of invitations for bids for construction contracts available to prospective bidders. A central purchasing office may require prospective bidders who have requested documents for bid on a construction contract to pay a deposit for a copy of the documents for bid. The deposit, less delivery charges, shall be refunded if the documents for bid are returned in usable condition within the time limits specified in the documents for bid, which time limits shall be no less than ten calendar days from the date of the bid opening. All forfeited deposits shall be credited to the funds of the applicable central purchasing office.

**6.2 RFP for Construction.** The RFP for construction, or notice thereof, will be published no less than fourteen (14) calendar days prior to the date set for receipt of proposals. Depending on the nature of the project, the Director of Purchasing or designee may determine that more than fourteen days is needed for offerors to prepare responses in which case the Director or designee will set a reasonable notice period.

## **7 PROPOSAL SUBMISSION REQUIREMENTS**

**7.1 Two-part proposal submissions.** In addition to any requirements imposed by University Purchasing Regulation 6, Requests for Proposals, or otherwise specified in the Request for Proposal document, RFP's issued under this regulation shall instruct offerors to submit two-part, two-volume written proposals. Each volume shall be submitted in a separate sealed envelope or package and offerors shall be instructed to clearly label each volume with their name, address and date of submittal and prominently identify each as: "Volume I: Price Proposal" and "Volume II: Technical Proposal."

**7.2 Restrictions regarding opening of proposals.** Price proposals shall remain sealed until the University of New Mexico Purchasing Department has completed its evaluation of the technical proposals for all offerors and has prepared final technical scores as required by this regulation.

**7.3 Contractor Team Qualification Statements.** A general contractor or other prime contractor submitting a proposal pursuant to an RFP issued under this regulation shall be required to submit as part of its Technical Proposal a Contractor Qualification Statement and Subcontractor Qualification Statements in accordance with the requirements of this section.

**7.3.1 Use of Qualification Statements.** Contractor and Subcontractor Qualification Statements shall be submitted on forms prepared by the University of New Mexico Purchasing Department. Information provided in these statements shall be considered to evaluate and score contractors and subcontractors on technical proposals required under

this regulation. These statements shall also be considered in determining whether a contractor or subcontractor is a responsible contractor for purposes of University Purchasing Regulation 6, Section 13.7. RFP's should inform contractors and subcontractors, however, that in making such evaluations and determinations, the University is not restricted to the minimum information required for Qualification Statements and that any relevant information regarding performance from reliable sources may be considered.

7.3.2 Subcontractor Qualification Statements. The Director of Purchasing or designee may require Subcontractor Qualification Statements as deemed appropriate from any tier of subcontractors regardless of the value of the subcontract.

7.3.3 Minimum Information Required. Contractor and Subcontractor Qualification Statements required pursuant to this Section shall include, at a minimum, the following information:

7.3.3.1 a list of all projects the offeror has performed work on in past years that are similar in size and scope to the prospective procurement project, as determined by the Director or Purchasing or designee;

7.3.3.2 copies of performance evaluation reports prepared in connection with the work identified in Subsection 7.3.3.1;

7.3.3.3 a list of any court judgments, pending litigation, arbitrations and final agency decisions filed within the past five (5) years in a construction related matter in which the contractor, or any officer, is or was a party; and

7.3.3.4 the following representations regarding the offeror's present capabilities to perform the procurement contract and its prior history for a number of years immediately preceding the date of the Qualification Statement, as determined by the Director of Purchasing or designee:

7.3.3.4.1 the offeror has a current Contractor Registration, as required by Section 13-4-13.1 NMSA 1978 (2004 Cum. Supp.);

7.3.3.4.2 the offeror has all applicable business and/or contractor licenses required by State or local law;

7.3.3.4.3 the offeror possesses the necessary equipment, financial resources, technical resources, management, professional

and craft personnel resources and other required capabilities to successfully perform the procurement contract, or will achieve same through its named subcontractors;

- 7.3.3.4.4 the offeror has not had any business, trade or contracting license suspended or revoked;
- 7.3.3.4.5 the offeror has not been debarred by any government agency;
- 7.3.3.4.6 the offeror has not committed serious or willful violations of federal or state safety laws as determined by a final non-appealable decision of a court or government agency; and
- 7.3.3.4.7 disclosure by the offeror of the following most recently available safety data: Experience Modification Ratings; Total Lost Workday Incident Rates (calculated by the number of Lost Time Injuries and Illnesses x 200,000 ÷ Total Hours Worked during the prior calendar year); and Recordable Incident Rates (calculated by the number of injuries x 200,000 ÷ Total Hours Worked during the prior calendar year).

7.3.4 **Additional Performance Related Information.** The Director of Purchasing or designee may also require additional relevant information related to the offeror's past performance or present capability to perform the procurement contract.

## 8 WEIGHT ASSIGNED TO EVALUATION FACTORS

### 8.1 Evaluation factors

#### 13-1-113. Competitive sealed proposals; evaluation factors

The request for proposals shall state the relative weight to be given to the factors in evaluating proposals.

8.2 **Total available points.** The RFP shall specify the total points available for the competition (for example, 100 or 200 total points for all price and non-price technical evaluation factors) and shall assign numerical points to price and to each of the non-price evaluation factors identified in the RFP in accordance with the needs of the University and the nature of the project.

- 8.3 **Numerical points for price.** The numerical weight assigned to price shall be no greater than 70 (seventy) percent of the total evaluation points available.

## 9 RFP EVALUATION FACTORS

- 9.1 **Determination of evaluation factors.** The Director of Purchasing or designee shall determine the evaluation factors for assessing responses to the RFP. In addition to price, the evaluation factors may include, but are not limited to, some or all of the following:
- 9.1.1 Past performance, which may include budget and schedule data, performance quality and overall customer satisfaction, compliance with applicable laws and regulations, and safety performance record.
  - 9.1.2 Management plan, which may include management team, project staffing, technical approach to project, safety plan/programs, and project schedule.
  - 9.1.3 Other factors. The Director of Purchasing or designee may include additional evaluation factors such as minority and women-owned business participation, provided that any such factor is relevant to the successful completion of the project or otherwise is in the interest of the University.

## 10 COMPETITIVE PROPOSAL EVALUATION

- 10.1 **Source Selection Team.** Proposals submitted in response to RFP's issued under this regulation shall be evaluated by a Source Selection Team ("SST") of at least three persons appointed by the Director of Purchasing or designee. The team should collectively possess expertise in the technical requirements of the project, construction design and contracting.
- 10.2 **Scoring technical proposals.** When rating technical proposals, the SST shall consider only the evaluation factors stated in the RFP. The SST may consider any relevant information from any reliable source, relating to the RFP evaluation factors and the offeror's ability to successfully perform the project. Such information may be obtained from the offeror itself, prior customers, commercial and public databases and other reliable sources. To the extent the SST discovers negative performance information regarding a contractor or subcontractor outside of the University's direct experience with the firm, it may give the affected offeror an opportunity to address such information.
- 10.3 **Scoring price proposals.** Price proposals shall be initially evaluated to ensure that the price(s) offered is responsive to the RFP requirements and

instructions and is realistic in respect to the project plans and specifications. Price proposals shall be evaluated and scored on the basis of the numerical weight assigned to price in the RFP, after taking into account the New Mexico resident business preference, Section 13-4-1, *et seq.* NMSA 1978, if applicable.

- 10.4 **Evaluating new businesses.** In the event that an offeror is a new business and does not have a performance record sufficient to evaluate the firm's past performance, the University will consider the past performance of the firm's officers, management and owners or partners.

## 11 CONTRACT AWARD

- 11.1 **Basic award rule.** Contracts solicited under these procedures shall be awarded to the responsible offeror whose proposal receives the highest numerical score based on the combination of price and technical scores, provided such proposal is responsive to the requirements of the RFP. The proposal with the highest combined score shall be deemed to represent the most advantageous offer to the University.
- 11.2 **Publicizing awards.** The Director of Purchasing or designee shall promptly provide all offerors who submitted proposals written notice of the award. The written notice shall be sent via certified mail, return receipt requested. The notice shall further provide the price of the offeror selected for award and the total technical score. An offeror not selected for award may ask in writing for its total technical score and its scores on each of the main evaluation factors specified in the RFP. The Director of Purchasing or designee shall provide this information within 30 days of receiving such a request. If requested, an offeror not selected for award may meet with the Director of Purchasing or designee to review its proposal.