

## Chapter Adm 7

### SOLICITATION OF BIDS AND PROPOSALS

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**Adm 7.01 Standard terms and conditions.** Unless waived by the department, requests for bids and proposals shall contain all standard contractual terms and conditions as published by the department.

**Note:** The standard contractual terms and conditions of bids may be obtained from the Department of Administration, Bureau of Procurement, P.O. Box 7867, Madison, Wisconsin 53697.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.02 Special conditions of bid.** The requests for bids shall contain all special conditions of bid that are unique to the particular bid involved. Special conditions may include but are not limited to the following:

- (1) Pricing information.
- (2) Delivery dates, methods, and schedules.
- (3) Product sample requirements.
- (4) Allowance for alternative bidding and applicable provisions.
- (5) Method of award.
- (6) Method of ordering.
- (7) Method of bid.
- (8) Bidder qualifications.
- (9) Rental and lease agreements.
- (10) Bond and surety requirements.
- (11) Form requirements.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.03 Specifications. (1) SPECIFICATIONS REQUIREMENT.** All requests for bids, to the extent possible, shall contain specifications which define the product and the time for performance. Specifications shall include all of the following:

- (a) Concise language clearly identifying the desired product;
- (b) Basis for award to the lowest responsible bidder;
- (c) Performance criteria that do not unnecessarily limit competition, but that do clearly define the need to be filled.

**(2) SPECIFICATIONS.** Standard specifications shall be prepared as provided in s. 16.72 (2) (a), Stats. Nonstandard specifications shall be prepared as provided in s. 16.72 (2) (b), Stats.

**(3) CONTRACT SPECIFICATIONS.** Specifications contained in the requests for bids shall be specifications that will be contained in any contract that results from the request for bids. Additional contract provisions may be added or specifications may be deleted or modified if the changes would not have provided a significant competitive advantage at the time the bids were taken.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.04 Amendments to requests for bids or proposals.** Amendments to requests for bids or proposals must be provided to all known recipients of the request for bids or proposals. To assure that the bidder or proposer has received the notice of the change, the procuring agency may require the bidder or proposer to acknowledge receipt of the amendment in the bid or proposal response. If appropriate, an extension of time on requests for

bids or proposals will be given to all identified recipients after the amendment is made to the request for bids or proposals.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.05 Bidders list. (1) REQUIREMENTS.** The department and all procuring agencies delegated purchasing authority under s. 16.71, Stats., shall maintain bidders lists for commodities on which bids are solicited. Responsible bidders requesting placement on a bidders list shall be added to the list. Bidders lists shall identify small and minority businesses and sheltered workshops.

**(2) REMOVAL.** Bidders may be removed from bidders lists for cause including, but not limited to:

- (a) Repeated failure to bid;
- (b) Reported failure to bid according to specifications;
- (c) Failure to meet the awarded contract specifications;
- (d) Failure to render satisfactory contract performance, or;
- (e) Furnishing false or erroneous information to obtain listing on a bidders list.

**(3) REINSTATEMENT.** A bidder who has been removed may request reinstatement. If the bidder provides sufficient evidence to show that the reason for removal has been eliminated, the bidder may be reinstated. Reinstatement may be probationary, for a specific period of time.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.06 Publication of notice. (1) NEWSPAPER PUBLICATION.** Publication of notice of requests for bids and proposals shall meet the requirements provided in s. 16.75 (1) (b), Stats.

**(2) PROCUREMENTS \$10,000 OR OVER.** Publication of requests for sealed bids, requests for proposals, noncompetitive negotiation procurements, and general waivers over \$10,000 shall be in the legal notice column of the official state newspaper. A minimum of 7 days shall be allowed between the publication of the last notice and the date bid and proposal submissions are due.

**(3) ADDITIONAL SOLICITATION.** If practicable, publication of requests for sealed bids and proposals shall also be in other newspapers, trade publications, civic or social publications, and such other publications as will attract small, minority, or sheltered workshop business bidders or proposers and will attract the maximum number of bidders or proposers.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.07 American-made materials. (1) REQUIREMENTS.** Pursuant to s. 16.754 (2), Stats., when all other factors are substantially equal, the state shall purchase materials which are manufactured to the greatest extent in the United States. The state policy on the purchase of American-made materials shall be included in the requests for bids or requests for proposals. Manufactured in the United States means that materials are manufactured in whole or in substantial part within the United States, or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States.

**(2) APPLICATION.** To insure that preference in purchasing is given to American-made products:

(a) Specifications shall be as broadly written as possible so as not to exclude American-made materials from consideration; and

(b) Requests for bids or requests for proposals shall indicate that the state will give preference to American-made materials only when the bids are tied or the proposal scores are equal.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.08 Bonds and sureties. (1) REQUIREMENTS.** The department may require under any of the conditions listed below, bonds or sureties in order to secure performance of the bid contract. Sureties may be in the form of certified or cashier's checks, cash, irrevocable letters of credit, bonds or other equivalent sureties. Bonding or insurance companies issuing bonds shall be authorized by the commissioner of insurance to do business in this state.

(a) A bid surety may be required when failure to sign a contract may result in serious harm to the agency.

(b) A payment surety may be required to ensure payment to subcontractors.

(c) A performance surety may be required when failure to perform the contract on the part of the contractor will result in damages to the program, agency, state, or award.

**(2) APPLICATION.** If sureties are required on a bid or award, the requirement shall be applied to all bidders and contractors on that bid.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.09 Competitive negotiation. (1) REQUEST FOR PROPOSAL.** The procuring agency develops a request for proposal (RFP) written clearly and concisely; defining the problem to be solved; stating the desired outcomes or goals; and stating the evaluation factors and the relative importance of each.

**(2) EVALUATION COMMITTEE.** Before a request for proposal is distributed to prospective proposers, the procuring agency shall establish an evaluation committee. Each committee shall consist

of 3 or a larger number of members, depending on the complexity and scope of materials, supplies, and equipment being procured.

**(3) CLARIFICATION.** For purposes of clarification, discussions may be held with any proposer and any proposal shall be permitted to be revised to ensure its responsiveness to the stated requirements.

**(4) NOTICE OF INTENT.** When the competitive negotiation process is used to procure materials, supplies, and equipment \$10,000 and over, a letter of intent to contract shall be sent by the procuring agency to the selected proposer. Copies of the letter of intent shall be sent to all other proposers in the evaluation process. All letters of intent shall be sent at least 5 days before the intended date of award.

**(5) AWARD.** Upon completion of the evaluation process, an award shall be made to the successful proposer based on the results of the evaluation and any subsequent negotiations except that any or all proposals may be rejected if such rejection is in the best interests of the state.

**(6) EXCEPTION.** Competitive negotiation does not apply to the procurement of stationery and printing materials under s. 16.75 (7) or 16.82 (4), Stats.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**Adm 7.10 Noncompetitive negotiation. (1) NONCOMPETITIVE PROCUREMENT.** A procuring agency may use noncompetitive negotiation when it is determined in the state's best interest, that a product is only available from a specific source. The procuring agency shall demonstrate that a noncompetitive situation exists, the price is equitable, that the situation requires procurement in this manner, and that it is in the best interests of the state to proceed on a noncompetitive basis.

**(2) EXCEPTION.** Noncompetitive negotiation does not apply to the procurement of stationery and printing materials under s. 16.75 (7) or 16.82 (4), Stats.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86.