

FAP 111-35-00
CONTRACT AWARDS

1. Contracts shall be awarded to the responsive qualified bidder meeting all specifications and conditions of the Solicitation whose bid offers the best value to the Commonwealth.
 - a. **Time Discounts** - Time discounts shall be considered in making the award of a contract, if the Office of Material and Procurement Services or the purchasing agency deems it in the Commonwealth's best interest.
 - b. **Trade Discounts** - Trade discounts, if offered, shall be deducted by the vendor in calculating the unit price quoted, unless otherwise stated.
 - c. **Quantity Discounts** - Quantity discounts, if offered, shall be included in the price of the item. The unit price shown on the contract shall be the net price less the discount, unless otherwise stated. Tiered discounts for Master Agreements and Catalog Master Agreements may be included.
 - d. **Cash Discounts** - Cash discounts shall not be considered in making the award of the contract.
 - e. **Cost of Freight** - Freight charges, FOB destination, shall be included in the price of each item, unless otherwise specified by the Commonwealth.
 - f. **Unit Price Governs** - In case of a discrepancy in the extension of a price, the unit or item price shall govern over the total price of all items.
 - g. **Awards on an Aggregate, Group or Individual Line Item Basis** - An award may be made to a bidder for all items, a group of items, or on an individual item basis, whichever is deemed to be in the Commonwealth's best interest. The Solicitation shall state the method of award and how the bid will be evaluated.
2. A bid shall be rejected if:
 - a. The bid or proposal does not conform to the requirements of the Solicitation and the General Conditions applicable to all bids; or
 - b. The bid contains material alterations or erasures not initialed in ink by the bidder.
3. **Responsibility of the Bidder** - The Office of Material and Procurement Services may, at any time, make a supplemental investigation of the responsibility of any bidder, even though the bidder is a registered vendor. This may include investigation of the bidder's financial responsibility, capacity to produce or source of supply, performance record in the business or industry, compliance with state health rules and regulations, and any other matter relating to the bidder's probable ability to deliver in the quantity and at the time required by a contract.
 - a. If the Office of Material and Procurement Services concludes on the basis of all available evidence that a particular bidder does not appear sufficiently responsible to assure adequate performance, the bidder's response may be rejected.
 - b. If there is some doubt as to the responsibility of a bidder, but the Commonwealth's interest will be adequately protected by the filing of a performance bond, the bidder may be required to file a bond whether required by the Solicitation or not.
4. **Collusive Bids** – If it is determined in writing by the Office of the Controller there are reasonable grounds to believe that bidders have agreed to restrain competitive bidding by establishing a fixed price on commodities or equipment sought to be purchased by the Commonwealth, or by any other

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means, the bids of all such bidders shall be rejected, and the bidders barred from further bidding for a period of time considered appropriate.

- a. If collusion is suspected among any bidders or offerors, a written notice of the facts giving rise to such suspicion shall be transmitted to the Attorney General.
 - b. All documents involved in any procurement in which collusion is suspected shall be retained by the agency until the Attorney General gives notice that they may be released, and shall be made available to the Attorney General or his designee upon request.
5. **Rejection of All Bid Responses** - If it is in the Commonwealth's best interest, as determined in writing by the Office of Material and Procurement Services or the authorized purchasing agency, a Solicitation may be cancelled and a Solicitation reissued containing the same or revised specifications, terms and conditions. If time does not permit or if an emergency exists, the agency may purchase the items on a negotiated basis. The rejection of all bids and selection of the negotiated method of purchase shall be fully documented in the bid file.

(200 KAR 5:306)