

FAP 111-57-00
COMPETITIVE NEGOTIATIONS

1. A Contract may be awarded by competitive negotiation, if under regulations issued by the secretary of the FAC, the purchasing officer determines in writing that the use of competitive sealed bidding is not practical.
2. OPS shall use a Request for Proposals (RFP) for Solicitations by competitive negotiation. The RFP shall include comprehensive performance requirements, technical provisions, cost provisions and evaluation criteria for evaluating offers. When it is anticipated that the resulting contract will disclose "personal information" as defined by KRS 61.931(6) to a "non-affiliated third party" defined by KRS 61.931(5), the solicitation shall include provisions requiring compliance with the Personal Information Security and Breach Investigation Procedures and Practices Act (KRS 61.931 – KRS 61.933).
3. All responsive, responsible bidder's Solicitation responses shall be evaluated in accordance with the specifications and terms and conditions of the Solicitation, and in accordance with all applicable state laws, to include the reciprocal preference for Kentucky resident bidders (KRS 45A.494) and preferences for a qualified bidder or the Department of Corrections, Division of Prison Industries (200 KAR 5:410; KRS 45A.470). Each Contract shall be awarded from a Bid Evaluation in the state's eProcurement system. The Bid Evaluation shall contain a record of all bidders' responses.
4. An agency needing to purchase services or commodities by RFP shall follow these procedures:
 - a. The agency shall forward a Requisition (RQS) and a copy of the supporting documentation electronically to OPS.
 - b. The supporting documentation shall include, at a minimum, information on specifications, performance requirements and evaluation criteria. An agency shall contact OPS to receive a copy of the standard RFP format as soon as possible after identifying the requirement for an RFP.
 - c. OPS shall review the RQS and supporting materials and return the draft document to the requesting agency with comments, if clarifications, revisions or additions are needed.
 - d. OPS shall put the material in the final RFP format and distribute the RFP to prospective offerors. Posting the RFP to the state's eProcurement system shall satisfy the distribution requirement. The notice shall be published a minimum of seven (7) days prior to the proposal opening date.
 - e. The requesting agency shall nominate a technical evaluation committee, and if applicable, a cost evaluation committee for the project and submit the nomination to OPS for confirmation. The committee(s) shall be comprised of members who are state employees, unless approval for appointment of non-state employees is granted by the executive director of the OPS.
 - f. Vendors shall submit all responses to RFPs to OPS. Following receipt of responses to an RFP, OPS shall determine which offers have met the general conditions of the RFP and are susceptible for award. The technical proposals for those offers determined susceptible for award shall be transmitted to the technical evaluation committee for evaluation. The evaluation committee(s) shall review and evaluate all offers determined to be susceptible for award in accordance with the criteria set forth in the RFP.
 - g. Upon review of the evaluations and scores, OPS and the evaluation committee(s) shall conduct negotiations and determine if "Best and Final Offers" are appropriate. If used, the call for "Best and Final Offers" shall be sent in accordance with the RFP. After the Best and Final Offers are received and re-evaluated with criteria included in the Best and Final Offer instructions, OPS and the requesting agency may conduct negotiations. After successful negotiations are concluded, OPS shall award the Contract in accordance with the award methodology stated in the RFP.
5. An agency having a procurement that may be best handled by competitive negotiation shall contact OPS as early as possible for further coordination and guidance on procedures.

Relates to: KRS 45A.085; KRS 45A.470; KRS 45A.494;
KRS 61.931 – KRS 61.933; 200 KAR 5:307 and 200 KAR 5:410