

09 NCAC 06B .0302 METHODS OF SOURCE SELECTION

Purchases governed by general delegation or statute shall be solicited, and offers evaluated, in accordance with the following best value methods:

- (1) The purchasing agency shall use the following steps for best value procurements;
 - (a) The purchasing agency determines the appropriate best value bidding method through development of one of the solicitations set forth in Sub-item (1)(b) of this Rule;
 - (b) The following types of solicitations are available from the State CIO or other types as may be approved by the State CIO pursuant to applicable laws and regulations:
 - (i) Requests for Information (RFI), used for gathering information to prepare a solicitation for offers;
 - (ii) Invitations for Bid (IFB), used when the best value recommendation for award is based on the lowest priced or highest qualified and technically acceptable selection method;
 - (iii) Requests for Quotation are used to contract with a single vendor or a limited group of vendors for purchases of specific goods and services or small purchases of goods, or pursuant to a waiver of competition that satisfies Rule .0901 of this Subchapter;
 - (iv) Requests for Proposal (RFP), used for purchases when the State needs to solicit solutions-based offers, where negotiations with one or more vendors may be needed, or when the best value recommendation for award is based on ranking all offers and will not be based solely on the lowest priced-technically acceptable source;
 - (v) One-Step solicitation, used when both the technical step one offer and price step two offer are submitted at the same time;
 - (vi) Two-Step solicitation, used when the technical step one offer and price step two offer are submitted and evaluated separately;
 - (c) The purchasing agency shall develop, advertise, and publish its solicitation for offers in accordance with the rules of this Subchapter;
 - (d) The purchasing agency shall hold any scheduled conferences or site visits in accordance with standard solicitation document language established by the State CIO;
 - (e) The purchasing agency shall receive offers in response to its solicitation and it shall then conduct a public bid opening and prepare a tabulation of all offers received. For solicitations that allow for negotiation after receipt of offers, only the names of offerors shall be disclosed at the public bid opening or on the tabulation of offers received;
 - (f) The purchasing agency's evaluation committee shall evaluate offers in accordance with the stated solicitation selection method and evaluation criteria. For solicitations that include a best value ranking process, the purchasing agency shall rank offers by using any consistent rating or scoring methodology, which may include adjectival, numerical, or ordinal rankings. The purchasing agency's evaluation shall document relative strengths, deficiencies, weaknesses, and risks supporting its award recommendation. Best-Value evaluation shall include evaluating quality factors such as:
 - (i) State's total cost of ownership, meaning summation of the State's total cost for acquiring, operating, maintaining, and supporting a product or service over its projected lifetime to include competitive price data; evaluation of the offeror's cost for actual and anticipated components comprising its quotation, as applicable; and value-added conditions or additional services included in the offer;
 - (ii) Technical merit of the offer including as applicable, consideration for consistency and compatibility of the proposed solution with the State's strategic program direction; maximum facilitation of data exchange or systems integration; effectiveness of business solution and approach to solicitation's specific purpose or objective; delivery and implementation schedules; and guarantees, warranties, and return policies; and
 - (iii) Probability of the offeror performing the work as stated in the solicitation on time, in a manner that accomplishes the stated intent and business objectives, and that maintains compliance with industry standards including, as applicable,

consideration of the offeror's financial stability; program or industry experience; past performance with the State; expertise with similar projects, solutions, or technologies; its proven development methodologies and tools, innovative use of technologies; or key personnel and depth of additional resources, compared to scope and intent of business need stated in the solicitation; etc.;

- (g) The purchasing agency may communicate with offerors after receipt of offers and in accordance with instructions, procedures and terms set forth in the solicitation as well as those procedures appropriate to the designated method of source selection. If negotiation is permitted in the solicitation, the purchasing agency may also allow offerors to submit best and final offers subsequent to negotiated changes in the initial offer or previous offer;
 - (h) The purchasing agency evaluation committee shall determine a final ranking of all offers under consideration using only the criteria set forth in the solicitation. The purchasing agency evaluation committee shall rank all responsive and responsible offerors from most advantageous to least advantageous to the State, and document such in its final award recommendation;
 - (i) Award must be made to the responsive and responsible offeror whose offer is determined to be the most advantageous and best value to the State, using all evaluation criteria set forth in the solicitation (e.g., if the lowest price or highest qualified technically acceptable method is designated in the solicitation, then award must be made to the responsive and responsible offeror with the lowest price or highest qualified technically accepted method.)
- (2) A trade off method of source selection may be utilized when it is in the best interest of the State to award a contract using a comparative evaluation of technical merit and costs. For a solicitation that designates the trade-off source selection method, the following shall apply:
- (a) All factors that will affect the contract award recommendation and the relative importance of each shall be stated as evaluation criteria in the published solicitation;
 - (b) The solicitation shall state the importance or numerical weight of all evaluation criteria including consideration of price and total cost of ownership;
 - (c) Offers shall be ranked according to the evaluation criteria stated in the solicitation. The relative overall ranking of any offer may be adjusted up or down when considered with, or traded-off against, other non-price factors. For example, an offer with the lowest price when compared to other offers would receive the best ranking in the price evaluation category. However, if other non-price evaluation factors received low rankings, the overall ranking of the offer would be reduced;
 - (d) Clarifications are permitted;
 - (e) If permitted in the solicitation terms, the purchasing agency may also use negotiations, or other communications, after receipt of an offer.
- (3) The lowest priced or highest qualified technically acceptable source selection method may be used when best value is expected to result from selection of the highest qualified or technically acceptable offer with the lowest evaluated price. When this method is designated in a solicitation, the following shall apply:
- (a) The factors that establish the requirements for technical acceptability shall be set forth in the solicitation's evaluation criteria. Evaluation criteria shall specify that the award will be made on the basis of the lowest evaluated price or most highly qualified technically acceptable of those offers that meet or exceed the acceptability requirements for non-price factors;
 - (b) Trade-offs between price and non-price factors are not permitted;
 - (c) Proposals are evaluated for acceptability but are not ranked using the non-price factors.
 - (d) Clarifications are permitted;
 - (e) Negotiations are permitted with this selection method for purchases over the purchasing agency's general delegation, when so specified in the published solicitation. The purchasing agency may negotiate with a potential vendor(s) in an effort to acquire the quality of good or service needed at the best possible price, delivery, or terms and conditions.

- (4) Other competitive best value source selection methodologies may be used if they are determined to be advantageous to the state and are approved for use by the State CIO.

*History Note: Authority G.S. 143-135.9; 143B-1322(c); 143B-1343; 143B-1350; 143B-1355;
Temporary Adoption Eff. January 1, 2000;
Eff. August 1, 2000;
Amended Eff. September 1, 2013;
Readopted Eff. March 1, 2016.*