

Sam Houston State University
A Member of The Texas State University System

Finance & Operations Procurement and Business Services Policy FO-PUR-10
Solicitation Advertisement and Invitation for Bids

All solicitations, regardless of type or dollar amount, are done by Procurement in BearKatBuy Sourcing Director. Sam Houston State University “advertises” by posting Invitations for Bids (IFB) or Request for Proposals (RFP) on BearKatBuy Sourcing Director and sending an e-mail invitation to those vendors recommended by the department or listed on the bid list for the specific commodity. For solicitations over \$25,000 a notice is also posted on the State Electronic Business Daily (ESBD).

Buyers are subject to ethical standards and laws concerning fraud. Improper actions on the part of the buyer could result in disciplinary action or criminal prosecution.

For purchases with a total value greater than \$15,000 but less than \$50,000, Procurement and Business Services may obtain informal bids or choose to do a formal bid depending on need and time requirements of the solicitation. Regardless of whether the solicitation is informal or formal, all solicitations are done in BearKatBuy Sourcing Director.

For purchases exceeding \$50,000, Procurement and Business Services will solicit formal Invitations for Bids to bidders listed for a specific commodity. Purchasers in the Procurement and Business Services Department are solely authorized to solicit informal and formal Invitations for Bids. Representatives of other academic and administrative departments are not authorized to solicit informal or formal IFBs or RFPs, and any bids obtained in such a manner will not be considered for award.

BID OPENING DATE FOR IFBs

For purchases with a total value greater than \$15,000 but less than \$25,000, the bid opening date should normally be five (5) to ten (10) calendar days from the date the Invitation for Bids are solicited. However, if the specifications are complex or more time is likely to be needed, then a longer period may be used. Please note that a minimum of two weeks is requested to prepare IFBs over \$25,000. Requisitions requiring solicitation must be submitted with complete specifications in BearKatBuy and are worked first in/first out by the Procurement and Business Services Department.

An advertisement period of less than five (5) days may be authorized by the Executive or the Assistant Director of Procurement and Business Services, in cases of an emergency or when the need is otherwise urgent.

In cases in which a bid opening date was set and no bids were received, a new Invitation for Bids will be prepared and posted on BearKatBuy Sourcing Director by the Procurement and Business Services Department. These Invitations for Bids will have a new set opening date and time.

For purchases with a total value of \$25,000 or more, the minimum bid opening date shall be twenty-one (21) calendar days from the date the Invitation for Bids is solicited/advertised on BearKatBuy Sourcing Director.

BID OPENING TIME

All bids must be submitted in BearKatBuy Sourcing Director and once submitted by the vendor shall remain unopened until the bid opening time for that solicitation. The bids shall remain “electronically sealed” until the date and time specified in the solicitation.

The Procurement and Business Services Office BearKatBuy Sourcing Director clock will determine the time of day in the event that any question arises.

At the specified time, BearKatBuy will “open” all bids properly received for Procurement review. BearKatBuy Sourcing Director will not accept any bids submitted after the specified time.

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COPIES OF BIDS

Vendors or any member of the public may request a copy of one or more bids. Their request must be in writing and on their company letterhead. Copies of bids will be made available as prescribed by law. A summary of the bids received will be available upon written request after the contract is awarded. See also the link to SHSU Open Records policy: <http://www.shsu.edu/dept/office-of-the-president/documents/PRE20OpenRecords2016Updated.pdf>.

TABULATION

All bids will be electronically tabulated (recorded) in BearKatBuy Sourcing Director at the time the solicitation is opened. This tabulation will include:

- Name of each bidder;
- Total price
- Bidder point-of-contact.

AWARDS

An award is made to the bidder submitting the lowest and best bid meeting or exceeding the bid specifications. Complying with the specified time limit for submission of written data, samples, or models, on or before bid opening time, is essential to the acceptability of a bid.

In determining the lowest and best bid, the safety record of the bidder may be considered. If considered, an adopted written definition and criteria for accurately determining the safety record of a bidder must be provided to prospective bidders in the bid specifications. The criteria must not be arbitrary and capricious.

Any of the following criteria may be considered as long as provisions are outlined in the detailed specification. Evaluation criteria must be in place in the solicitation when it goes out and should specifically outline what will be considered and what weight it will carry. Any criteria must have objective definitions and identified measures. An evaluation team should be utilized including individuals with working and industry knowledge regarding the procurement.

To determine the best bid, in addition to price, best value criteria may be considered if set forth in the solicitation:

The quality, availability, and adaptability of the supplies, materials, equipment, or contractual services to the particular use required:

- The number and scope of conditions attached to the bid;
- The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- Whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;
- The character, responsibility, integrity, reputation, and experience of the bidder;
- The quality of performance of previous contracts or services;
- Any previous or existing noncompliance by the bidder with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;
- The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; and
- The ability of the bidder to provide future maintenance, repairs parts, and service for the use of the contract.

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AIDS TO EVALUATION

The WRITTEN DATA RULE applies as follows:

1. The purchaser may request written data in order to evaluate bids. A bid invitation that expressly requires the submission of written data with the bid must include the following statement or its substantial equivalent. A bid may be disqualified if data is not submitted with the bid. "Failure to provide the required information with the bid response may disqualify the bid from consideration for award in connection with this transaction."
2. When evaluating bids, primary consideration will be given to the written data already held out to the public.

The following are options when considering an award:

AWARD

A bidder is selected which meets all the specifications of the bid with the lowest price. **Note:** The bidder which meets all the specifications of the bid with the lowest price has the option to lower his price.

NO AWARD

A no award is based on (1) no bidders responded to bid request; (2) no bidders met the specifications of the bid; or (3) agency decides it does not wish to make an award due to (a) budgetary constraints or (b) change in agency requirements.

RE-AWARD

An award may be made to the next lowest bidder meeting the specifications if the original vendor cannot meet the conditions of the purchase order, or written permission is granted by the vendor to cancel the purchase order.

FRANCHISE TAXES

Prior to making an award, the purchaser must verify that the company has paid their franchise taxes and is in "good standing" with the state of Texas. This requirement can be met by accessing the Comptroller website at <https://mycpa.cpa.state.tx.us/coa/> Follow on-screen instructions from there.

PREFERENCES

Source Preferences – The following source preference is used when applicable goods or services can be supplied by these entities:

Products by Persons with Disabilities – A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary purpose is training and employing persons with mental or physical disabilities, if the products or services meet state specifications as to quantity, quality and price. Competitive bids are not required for purchases of blind-made goods or services offered as a result of efforts by **The Texas Council for Purchasing from People with Disabilities –WorkQuest**. When employing treasury funds, and the purchase(s) or service(s) can be provided by WorkQuest, they will be purchased through WorkQuest or justify in writing the reason for the rejection and attach the rejection letter to the requisition in BearKatBuy.

TIE-BID PREFERENCES

The following five preferences listed below are used in breaking tie bids. Priority is given in the sequence they are listed below. To claim a preference, a bidder must state the preference they are claiming when submitting their bid, if not a preference will not be granted.

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- **Texas Agricultural Products Agricultural**

Products grown in Texas shall be given preference over comparable products grown outside Texas when the cost and quality of the goods are equal. Agricultural products are considered "grown in Texas" if they contain any amount grown in Texas.

In case of tie bids between agricultural products claiming the preference, the bidder whose product contains the greatest percentage of the product grown in Texas shall prevail. For the purpose of this preference, agricultural products include, among other things, textiles, and fiber products, processed and unprocessed foods, feed, lumber, and forestry products, live animals, plants, flowers, and nursery stock.

- **Texas Produced Supplies, Materials, or Equipment**

Supplies, materials, or equipment produced in Texas shall be given preference over comparable goods produced outside Texas when the cost and quality of the goods are equal. Supplies, materials, and equipment are considered to be produced in Texas if they are manufactured in Texas; "manufactured" does not include the work of packaging or repackaging.

- **Texas Resident Bidder**

A Texas resident bidder shall be given preference over a nonresident bidder when the cost and quality of the goods or services are equal.

- **U.S. Produced Supplies, Materials, or Equipment**

Supplies, materials, equipment, or agricultural products produced or grown in the United States shall be given preference over foreign products when the cost and quality are equal, if comparable goods of equal cost and quality produced or grown in Texas or offered by Texas bidders are not available.

- **Historically Underutilized Businesses**

A preference shall be given to a certified Historically Underutilized Business (HUB) when the cost and quality of goods or services are equal. In breaking the tie bids, the ordering entity must use the preference claimed by the bidder on the bidding documents/Invitation for Bids. In accordance with current statutes, priority is given in the sequence listed above (bullets).

If two bidders bid the same bid price and preferences, the bid is awarded by drawing lots, by tossing a coin, or drawing names with two witnesses (SHSU employees) to oversee actual occurrence and initial bid tabulation. If two bidders bid the same price and the preferences checked are different, then the award is based on the priority listed above. In other words, the vendor with the higher-ranking preference would be awarded the bid.

PROTEST PROCEDURES

Any vendor wishing to challenge the purchase award made by an authorized buyer of the Department of Procurement and Business Services, must make a written request to the Executive Director of Procurement and Business Services to review the transaction.

- In the request it must state a specific identification of the statutory or regulatory provisions that the act or omission being complained of alleged to have violated;
- A specific description of each act or omission alleged to have violated;
- A precise statement of the relevant facts and the identification of the issues or issue to be resolved.

Such request may be made at any time, but if any change in the award is to be affected, the request for review must be made within five working days of the notification of award. (It is the responsibility of the vendor to check when the award(s) were made.) The Executive Director of Procurement and Business Services will review the award with the buyer and department and provide a written explanation of the

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decision to the vendor making the request. In the event the Executive Director of Procurement and Business Services discovers any significant deviation from the rules, the award may be changed at the discretion of the Executive Director of Procurement and Business Services. A vendor who does not agree with the decision of the Executive Director of Procurement and Business Services may request a meeting with the Executive Director of Procurement and Business Services. Following the testimonies of all parties, the Executive Director will render a decision and report the decision to the CFO and Sr. Vice President for Operations. If the vendor does not agree with the decision of the Executive Director of Procurement and Business Services, the vendor may follow this appeal channel. Purchases made may be appealed to the President of Sam Houston State University through the CFO and Sr. Vice President for Operations. The decision of the President will be final.

Reviewed by: Tessy Rappé, AVP Finance & Operations
 Reneé Starns, Exec. Director Procurement & Business Services

Review Date: September 2020

Next Review Date: August 2023