



Ohio Administrative Code Rule 123:5-1-07 The invitation to bid process.

Effective: [March 9, 2020](#)

(A) At a minimum, the invitation to bid ("ITB") will include the following information:

- (1) Instructions and information to bidders concerning submission of bid responses, including the name of the agency, office, institution, board or commission requesting to purchase products, supplies and/or services;
- (2) Instructions governing communications, including but not limited to instructions for submitting questions and posting answers electronically;
- (3) A description of products, supplies and/or services to be purchased;
- (4) Complete and detailed specifications pertaining to the products, supplies and/or services to be purchased which may include, among others, the quantity to be purchased, submission of samples, descriptive literature, technical data, or other material deemed necessary to properly evaluate the bid response;
- (5) The factors and criteria to be used in evaluating bid responses, and a description of the evaluation procedures to be followed for award of a contract;
- (6) The contract terms and conditions including any requirement for acceptable financial assurances;
- (7) The date, time and place for delivery of the response;
- (8) Documents that may be incorporated by reference provided the ITB specifies where such documents can be obtained and the documents are readily available to all bidders;

(B) Notice of invitation to bid



(1) The department shall post all invitations to bid on the department's website or eProcurement solution. All invitations to bid shall state the date and time by which bidder responses must be received by the department, and the date and time the bids will be opened.

(2) For ITBs set aside pursuant to section 125.081 of the Revised Code, the invitation to bid shall be posted on the department's website or eProcurement solution, and shall be sent electronically to the last known email address of those competing persons whose names appear on the certified minority business enterprise listing maintained by the department.

(C) The department may conduct conferences to discuss an ITB in the following manner:

(1) Pre-bid conferences may be conducted prior to issuance of the ITB to discuss proposed bid specifications. Information discussed may be used in the planning of the ITB. Notice of pre-bid conferences shall be provided on the department's website or eProcurement solution.

(2) Bid conferences may be conducted after issuance of the ITB to explain the procurement requirements. Notice of a bid conference shall be provided on the department's website or eProcurement solution. Nothing stated at the bid conference shall change the ITB unless a change is made by written amendment.

(D) Amendments to the ITB shall reference the portions of the ITB it changes and shall be posted on the department's website or eProcurement solution. Amendments shall be posted within a reasonable time to allow prospective bidders to prepare bid responses. Amendments may extend the time and date of bid opening.

(E) The department shall consider the following upon receipt of a bid response:

(1) Upon receipt, each bid response shall be time and date stamped but not opened and shall be stored in a secure place until the time and date set for bid opening.

(2) All timely bid responses shall be opened at the time, date, and place designated in the ITB. Pursuant to section 9.28 of the Revised Code, opened bid responses shall not be available for public inspection until the department announces the award of a contract based on the competitive



solicitation. As set forth in paragraph (E)(3) of this rule, material designated by the bidder as a confidential trade secret shall accompany the bid and shall be readily separable from the bid response in order to facilitate public inspection of the non-confidential portion of the bid response. Prices, makes, model, catalog numbers of the items offered, deliveries, and terms of payment shall be available for public inspection pursuant to section 9.28 of the Revised Code regardless of any designation to the contrary.

(3) Any requests by the bidder for nondisclosure of trade secrets or assertions by the bidder that information in its proposal, or the entire proposal, is a trade secret shall be examined by the department to determine the validity of the request or assertion. Bidder requests or assertions must be in writing. If the department and bidder do not agree upon the information identified or asserted as a trade secret, the bidder shall be informed in writing by the department regarding what portions of the proposal shall be disclosed. The bidder may withdraw its proposal at any time prior to award of a contract. Bid responses shall be open to public inspection, excluding trade secrets agreed upon by the department and bidder, upon award of a contract.

(F) Any bid response received after the time and date set for receipt of bid responses is late. Unless permitted or requested by the department during evaluation, any withdrawal or modification of a bid response received after the time and date set for opening of bid responses at the place designated for opening is late. No late bid response, late modification, or late withdrawal will be considered unless received before contract award, and the bid response, modification, or withdrawal would have been timely but for the action or inaction of the state. When deemed as late, a bid response, modification, or withdrawal shall be marked as "late", remain sealed and shall be retained in the bid file.

(G) Mistakes in ITBs

(1) Correction or withdrawal of a bid response may be permitted due to an inadvertent mistake. If the mistake is attributable to an error in judgment, the bid response may not be corrected. Bid correction or withdrawal by reason of an inadvertent mistake is permissible but only if it does not affect the amount of the bid response or otherwise give the bidder a competitive advantage.

(2) A bidder may correct mistakes discovered before the time and date set for bid opening by



withdrawing or correcting the bid response.

(3) When the department knows or has reason to conclude that a mistake has been made, the department will request the bidder to confirm the bid response. Situations in which confirmation will be requested include obvious, apparent errors on the face of the bid response, or a bid response unreasonably lower than other bid responses submitted, or a clarification of terms, conditions or specifications offered by the bidder.

(H) The department of administrative services may award a contract in whole or in part to one or multiple bidders. Notice of any potential partial and/or multiple bidder award shall be provided in the ITB.

(I) The department reserves the right to reject any and all responses to an ITB in whole or in part, cancel, and/or reissue the ITB when:

(1) The products, supplies or services are not in compliance with the requirements, specifications, and terms and conditions set forth in the ITB; or

(2) Pricing offered is determined to be excessive in comparison with existing market conditions, or exceeds the available funds of the procuring entity; or

(3) It is determined that awarding of any or all items will not be in the best interest of the state.

(J) Notice of award shall be provided to the successful bidder. An apparent low bidder found not to be responsive and responsible shall be notified of that finding and the reasons for it pursuant to section 9.312 of the Revised Code. Notice of award shall be posted on the department's website or eProcurement solution.