



## Ohio Revised Code

### Section 307.862 Competitive sealed proposals - procedure.

Effective: March 22, 2012

Legislation: House Bill 225 - 129th General Assembly

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(A) When a county contracting authority uses competitive sealed proposals pursuant to section 307.86 of the Revised Code, the county contracting authority shall do all of the following:

(1) Develop factors and criteria to receive and evaluate each proposal, specify the relative importance of each factor or criterion in writing, and describe the evaluation procedures the contracting authority shall follow when awarding a contract to an offeror.

(2) Solicit competitive sealed proposals through a request for proposals;

(3) Include, at a minimum, all of the information described in division (B) of this section in the request for proposals;

(4) Give notice of the request for proposals in the same manner that notice must be given for competitive bidding pursuant to section 307.87 of the Revised Code. The county contracting authority also may give notice of the request for proposals and receive proposals through a uniform, interactive, and secure electronic system in a manner consistent with Chapter 1306. of the Revised Code.

(5) Open proposals that the contracting authority receives in a manner that prevents the disclosure of contents of competing offers to competing offerors;

(6) Rank each proposal using the factors and criteria the contracting authority develops pursuant to division (A)(1) of this section;

(7) If necessary, conduct discussions with offerors for the purpose of ensuring full understanding of, and responsiveness to, the requirements specified in the request for proposals, and accord fair and equal treatment with respect to any opportunity for discussion with offerors to provide any clarification, correction, or revision of proposals;



(8) If the contracting authority determines that discussions described in division (A)(7) of this section are necessary, avoid disclosing any information derived from proposals submitted by competing offerors during those discussions;

(9) Negotiate with the offeror who submits the proposal that the contracting authority determines is the most advantageous to the county based on the rankings performed by the contracting authority pursuant to division (A)(6) of this section and including any adjustment to those rankings based on discussions conducted pursuant to division (A)(7) of this section;

(10) Conduct negotiations with only one offeror at a time;

(11) Except as provided in division (F) of this section, award a contract in accordance with division (E) of this section.

(B) A contracting authority shall include, at a minimum, all of the following information in the contracting authority's request for proposals:

(1) The name and address of the department, office, institution, board, or commission that is requesting to purchase supplies, services, or both;

(2) Instructions for offerors to follow when submitting proposals;

(3) Instructions governing communications between an offeror and the contracting authority, including, but not limited to, the name, title, and telephone number of the person to whom questions concerning the request for proposals should be directed;

(4) A description of the scope of work that the contracting authority requests an offeror to perform or supplies the contracting authority plans to purchase;

(5) To the extent possible, a description of the performance criteria the contracting authority shall require an offeror to satisfy, including but not limited to, the quantity of the supplies, services, or both, to be purchased; the requirements the contracting authority shall follow for inspection and



acceptance of the supplies, services, or both; and the delivery schedule for each such supply or service;

(6) The factors and criteria the contracting authority shall consider in evaluating proposals received;

(7) Any terms and conditions that the contracting authority is required by law to include in the contract the contracting authority awards, including any requirement for a bond and the amount required for that bond;

(8) The date and time by which, and the place to which an offeror must deliver the offeror's proposal to the contracting authority in order to be considered for the contract;

(9) A list of any documents that the contracting authority incorporates by reference in the request for proposals, provided that the contracting authority specifies in the request for proposals that the documents are readily available to all offerors and the location where an offeror may obtain those documents;

(10) A statement that includes all of the following information:

(a) That the contracting authority reserves the right to reject any proposal in which the offeror takes exception to the terms and conditions of the request for proposals; fails to meet the terms and conditions of the request for proposals, including but not limited to, the standards, specifications, and requirements specified in the request for proposals; or submits prices that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceed the available funds of the contracting authority;

(b) That the contracting authority reserves the right to reject, in whole or in part, any proposal that the county contracting authority has determined, using the factors and criteria the contracting authority develops pursuant to division (A)(1) of this section, would not be in the best interest of the county;

(c) That the contracting authority may conduct discussions with offerors who submit proposals for the purpose of clarifications or corrections regarding a proposal to ensure full understanding of, and



responsiveness to, the requirements specified in the request for proposals.

(11) Information concerning any potential partial or multiple party awards that the contracting authority may include in the contract, and a description of the supplies, services, or both that may be subject to a partial award or multiple awards;

(12) Any additional information the contracting authority considers necessary for its purposes in determining to whom to award the contract.

(C) In order to ensure fair and impartial evaluation, proposals and any documents or other records related to a subsequent negotiation for a final contract that would otherwise be available for public inspection and copying under section 149.43 of the Revised Code shall not be available until after the award of the contract.

(D) An offeror may withdraw the offeror's proposal at any time prior to the award of a contract. A contracting authority may terminate negotiations with an offeror at any time during the negotiation process if the offeror fails to provide the necessary information for negotiations in a timely manner or fails to negotiate in good faith. If the contracting authority terminates negotiations with an offeror, the contracting authority shall negotiate with the offeror whose proposal is ranked the next most advantageous to the county according to the factors and criteria developed pursuant to division (A)(1) of this section.

(E) A county contracting authority may award a contract to the offeror whose proposal is determined to be the most advantageous to the county, taking into consideration the evaluation factors and criteria developed pursuant to division (A)(1) of this section and set forth in the request for proposals. A contracting authority may award a contract in whole or in part to one or more offerors. The contracting authority shall include a written statement in the contract file stating the basis on which the award is made.

The contracting authority shall send a written notice to the offeror to whom it wishes to award the contract and shall make that notice available to the public. Within a reasonable time period after the award is made, the contracting authority shall notify all other offerors that the contract has been awarded to another offeror.



(F) A contracting authority may cancel or reissue a request for proposals if any of the following apply:

(1) The supplies or services offered through all of the proposals submitted to the contracting authority are not in compliance with the requirements, specifications, and terms and conditions set forth in the request for proposals;

(2) The prices submitted by the offerors are excessive compared to existing market conditions or exceed the available funds of the contracting authority;

(3) The contracting authority determines that award of a contract would not be in the best interest of the county.

(G) A county contracting authority shall not use competitive sealed proposals for contracts for construction, design, demolition, alteration, repair, or reconstruction of a building, highway, drainage system, water system, road, street, alley, sewer, ditch, sewage disposal plant, waterworks, and all other structures or works of any nature by a county contracting authority.

(H) Nothing in this section limits a county contracting authority's ability to award a contract under this section through the use of a uniform, interactive, and secure electronic system.