

26-8a-405.3 Use of competitive sealed proposals -- Procedure -- Appeal rights.

- (1)
 - (a) Competitive sealed proposals for paramedic or 911 ambulance services under Section 26-8a-405.2, or for non-911 services under Section 26-8a-405.4, shall be solicited through a request for proposal and the provisions of this section.
 - (b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).
 - (c)
 - (i) Notice of the request for proposals shall be published:
 - (A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or
 - (B) if there is no such newspaper, then notice shall be posted for at least 20 days in at least five public places in the county; and
 - (ii) in accordance with Section 45-1-101 for at least 20 days.
- (2)
 - (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.
 - (b)
 - (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.
 - (ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.
 - (c) Subsequent to the presubmission conference, the political subdivision may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the political subdivision at least 45 days before the day on which the proposal must be submitted.
 - (d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.
 - (e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.
- (3)
 - (a)
 - (i) A political subdivision may select an applicant approved by the department under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract to the most responsible offeror as defined in Section 63G-6a-103.
 - (ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the political subdivision, taking into consideration price and the evaluation factors set forth in the request for proposal.
 - (b) The applicants who are approved under Section 26-8a-405 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.
 - (c) A political subdivision may reject all of the competitive proposals.
- (4) In seeking competitive sealed proposals and awarding contracts under this section, a political subdivision:

- (a) shall apply the public convenience and necessity factors listed in Subsections 26-8a-408(2) through (6);
 - (b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;
 - (c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:
 - (i) requiring ambulance medical personnel to also be a firefighter; or
 - (ii) mandating that offerors use fire stations or dispatch services of the political subdivision;
 - (d) shall require an applicant to submit the proposal:
 - (i) based on full cost accounting in accordance with generally accepted accounting principals; and
 - (ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e) (i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and
 - (e) shall set forth in the request for proposal:
 - (i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;
 - (ii) guidelines established to further competition and provider accountability; and
 - (iii) a list of the factors that will be considered by the political subdivision in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include such things as:
 - (A) response times;
 - (B) staging locations;
 - (C) experience;
 - (D) quality of care; and
 - (E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).
- (5)
- (a) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, the provisions of Title 63G, Chapter 6a, Utah Procurement Code, apply to the procurement process required by this section, except as provided in Subsection (5)(c).
 - (b) A procurement appeals panel described in Section 63G-6a-1702 shall have jurisdiction to review and determine an appeal of an offeror under this section.
 - (c)
 - (i) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror may appeal under the provisions of Subsections (5)(a) and (b).
 - (ii) A procurement appeals panel described in Section 63G-6a-1702 shall determine whether the solicitation or award was made in accordance with the procedures set forth in this section and Section 26-8a-405.2.
 - (d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6a-1705.

Amended by Chapter 91, 2012 General Session

Amended by Chapter 347, 2012 General Session

Amended by Chapter 347, 2012 General Session, (Coordination Clause)