

## BUSINESS AND NONINSTRUCTIONAL OPERATIONS

### Competitive Negotiations/Awards/Small Professional Service Contracts

#### A. Generally

##### 1. Definition of Competitive Negotiations

Competitive negotiation is a method of source selection which involves individual discussions between the ~~S~~school ~~d~~Division and the offeror on the basis of responses to the ~~s~~School ~~d~~Division's request for proposals. The source selection method of competitive negotiation incorporates the applicable provisions of the Virginia Public Procurement Act, ~~Virginia Code of Virginia~~ § 2.2-4300, *et seq.*, as amended, in addition to the provisions outlined in this Policy, related policies and regulations and the ~~S~~school ~~d~~Division's Business Services Purchasing Manual.

##### 2. Requests for Proposals

Requests for proposals (RFP) shall be in writing and indicate in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. If a numerical scoring system will be used in evaluating the proposal, the point system used for such evaluation shall be made part of the RFP or provided through public notice no later than the final date for submission of the response to the RFP.

##### 3. Public Notice

At least ten (10) days prior to the date set for receipt of proposals, public notice shall be given by posting in a public area normally used for posting of public notices and by publication in a newspaper of general circulation in the area in which the contract is to be performed, or both. In lieu of public notice in a newspaper of general circulation, the School Division may post the public notice to the Virginia Department of General Services central electronic procurement website. The ~~S~~school ~~s~~Division may, but is not required to, post public notices on applicable websites or other forms of social media. In addition, proposals may be solicited directly from potential contractors.

##### 4. Evaluation Factors and Award

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the

request for proposals, including price, if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be ~~considered, but~~ considered but need not be the sole determining factor. After negotiations have been conducted with each offeror, the sSchool dDivision shall award the contract to the offeror which, in the sSchool dDivision's opinion, has made the best proposal. Should the sSchool dDivision determine in writing and in its sole discretion that only one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

## **B. Contracting for Professional Services by Competitive Negotiation**

### **1. Generally**

Professional services (accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, dentistry, optometry, pharmacy or professional engineering) shall be procured by competitive negotiation in accordance with applicable law~~the Virginia Public Procurement Act, Virginia Code § 2.2-4300, et seq.~~ in addition to the provisions outlined in this Policy, related policies and regulations and the sSchool dDivision's Business Services Manual.

### **2. Discussion and Award**

**a.** The purchasing authority shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project as well as alternative concepts. These discussions may encompass nonbinding estimates of total project costs, including where appropriate, design and construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed.

**b.** In accordance with law, proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined herein, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the purchasing authority shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Sschool Bboard can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the purchasing authority determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

### 3. Exemptions

Single or term contracts for professional services shall not be subject to the requirement of competitive negotiation where the aggregate or the sum of all phases is not expected to exceed \$ 30,000; however, the purchasing authority shall provide for competition wherever practicable.

#### *Editor's Note*

*For competitive sealed bidding/awards see School Board Policy 3-35.*

*For emergency/small/small professional service contracts/sole source purchases see School Board Policy 3-32.*

*For competitive negotiations and awards for the procurement of professional architectural awards and engineering services see School Board Policy 3-39.*

### Legal Reference

Code of Virginia § 2.2-3700, et seq., as amended. Virginia Freedom of Information Act.

Code of Virginia § 2.2-4300, et seq., as amended. Virginia Public Procurement Act., ~~Virginia Code § 2.2-4300, et seq., as amended.~~

Code of Virginia § 2.2-4302.2, as amended. Process for competitive negotiation.

Code of Virginia § 2.2-4342.2, as amended. Public inspections of certain records.

Code of Virginia § 11-9.8, as amended. Construction of certain terms of offer to contract; used of experience modification factor prohibited.

### Related Links

School Board [Policy 3-32](#)

School Board [Policy 3-35](#)

School Board [Policy 3-39](#)

Adopted by School Board: February 16, 1993

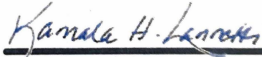
Amended by School Board: August 2, 2000

Amended by School Board: September 3, 2002

Amended by School Board: August 13, 2019

Amended by School Board: 2020

APPROVED AS TO  
LEGAL SUFFICIENCY

  
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