

*writing to be unreasonable as to price;*

*(4) failure to furnish a bond when required by a Request for Proposals; and*

*(5) any or all proposals when the procurement official makes a written determination that it is in the best interest of the State.*

***R7:19-11-230. Correction or withdrawal of proposals.***

*(a) The State Procurement Director or agency procurement official may waive technicalities or minor irregularities in proposals which do not affect the material substance of the Request for Proposals when it is in the State's best interest to do so.*

*(b) Amendments to proposals shall be allowed if the amendments are in writing and signed, are received prior to the date and time of the proposal opening, and clearly indicate the date and time of proposal opening and Request for Proposals number.*

*(c) If there is a suspected proposal mistake, the State Procurement Director or agency procurement official may request confirmation of a proposal and shall request the confirmation to be made in writing. The response of any bidder who fails or refuses to clarify in writing within a reasonable time any matter contained in his proposal shall be rejected. The written clarification shall become a part of the contract awarded on the basis of that proposal.*

*(d) Proposal prices shall not be increased after the date and hour of the proposal opening.*

*(e) When a mistake in a proposal is claimed by the vendor prior to award and the evidence is clear and convincing that a material mistake was made in the proposal, and that due to such mistake the proposal submitted was not the proposal intended, the bidder may be permitted to withdraw his proposal.*

***R8:19-11-230. Negotiations.***

*(a) Negotiation of Request for Proposals should be authorized in those cases where the best interests of the State are served. Negotiations are begun with the highest ranked offeror based on the scores as established in the Request for Proposals' scoring criteria. If a satisfactorily negotiated contract cannot be developed, the bidder may be declared non-responsive and time permitting, the negotiation process may be repeated with the next respondent deemed most likely to be awarded a contract.*

*(b) Prior to negotiation, the Request for Proposals file must include documentation giving the stated purpose for the negotiation and the objective to be achieved.*

(c) *An agency should investigate with the provider determined most likely to be awarded a contract, factors affecting the price, performance, and scope of services to be offered including current market conditions.*

(d) *Prior to initiating negotiations, the agency must develop a plan to include at least:*

(1) *The acceptable range of price, the desired "best" price and the highest acceptable price.*

(2) *Adjustments to the scheduled delivery of services that may have an impact on price.*

(3) *Acceptable modifications in the overall scope of work.*

(4) *A prioritized list of acceptable changes in services that may result in price reduction.*

(5) *Timetable for completion of negotiation.*

(e) *No part of any negotiation plan shall be revealed to bidder(s) or made available for public review until after a contract award.*

(f) *An acceptable negotiated contract shall list the agreed upon terms, conditions, specifications, quantities and pricing, and be signed by the agency and the provider.*

(g) *All proposals may be rejected if, after evaluation of the proposals, including consideration of any clarifying or explanatory information submitted by the bidders, it is determined by the procurement official that no satisfactory proposal has been received.*

#### **R9:19-11-230. Cancellation of the Request for Proposals.**

*A notice of cancellation of an OSP Request for Proposals shall be posted on the OSP website. The proposals may be returned if properly identified.*

#### **R10:19-11-230. Ethical standards.**

*In accordance with Ark. Code Ann. § 19-11-708(a), (b), and (c), the following statement must be conspicuously set forth in all contracts and solicitations costing more than ten thousand dollars (\$10,000): "It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business."*