

**56.8169 Requests for proposals -- Procedures for awarding built-to-suit leases.**

- (1) In conducting the built-to-suit process, the commissioner of the Department for Facilities Management, after consultation with the agency or agencies for whose use the space is sought, shall arrive at a request for proposals.
- (2) The request for proposals shall indicate the relative importance of evaluation factors.
- (3) A request for proposals may be amended at any time prior to the deadline for the submission of proposals.
- (4) In soliciting the interest of firms to carry out a built-to-suit, the department shall comply with the procedures established in this subsection.
  - (a) The department shall provide adequate public notice of a request for proposals and notice of the materials that the department will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the proposal evaluation sheet to be used by the selection committee. The notice shall also set a time and date for a written response to the notice.
  - (b) The Department for Facilities Management may use any means available to notify firms that a notice has been given.
- (5) To respond to a notice, a firm, or its representative, shall respond on or before the time and date designated in the notice. The response shall be in a form determined by the department and shall provide the firm's name and address.
- (6) All written responses submitted on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department. A firm which fails to meet the deadline shall be barred from the procurement process.
- (7) The department shall transmit to all firms that responded in time a request for proposals.
- (8) After the request for proposals have been transmitted, but before written proposals are submitted, the commissioner, and his staff, may hold any meetings, discussions, or negotiations that they deem appropriate with the firms.
- (9)
  - (a) The commissioner shall invite each firm to submit a written proposal, on a form created by the department, on or before the time and date set forth in the invitation. A form shall be provided to each firm.
  - (b) A firm that does not submit a written proposal, on a form created by this department, on or before the deadline shall be barred from the procurement process.
  - (c) Employees of the department and the members of the selection committee shall keep the written proposals confidential until the lease is awarded.
- (10) The commissioner shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the public notice and a written proposal on a form created by the department. The designated employee shall create a list of the firms which have done so and certify the list.

- (11) The department shall organize the selection committee's first meeting. At that meeting, the selection committee shall:
  - (a) Elect from its members a chairman and a vice chairman who shall hold their positions for the duration of the selection process;
  - (b) Be provided with:
    1. The certified list of firms;
    2. The firms' written proposals submitted in response to a request for proposals;
    3. The request for proposals;
    4. The notice of request for proposals;
    5. The proposal evaluation sheets; and
    6. A notice from the commissioner informing the committee that the selection process is governed by KRS 56.800 to 56.823 and 56.990; and
  - (c) Discuss the future conduct of its affairs.
- (12) The selection committee shall meet to:
  - (a) Evaluate the materials with which it has been provided;
  - (b) Select, but not rank, the three (3) most qualified firms, based upon the evaluation factors set forth in the request for proposals; and
  - (c) Notify the department of the three (3) finalists.
- (13) The department shall notify each firm which responded to the request for proposals, informing the firm of:
  - (a) The three (3) finalists; and
  - (b) The rest of the procedure that will be followed in the awarding of the built-to-suit lease.
- (14) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview.
- (15) The selection committee shall meet to:
  - (a) Rank the three (3) finalists based on the weighted evaluation factors in the request for proposals; and
  - (b) Forward the ranking to the department.
- (16) (a) The commissioner shall:
  1. Award the built-to-suit lease to the top ranked finalist; or
  2. Request best-and-final offers.
- (b) The commissioner shall request best-and-final offers only of the three (3) finalists. The commissioner's written request shall include his reason for requesting best-and-final offers, and shall state a time and date by which all best-and-final offers will have to be received. A firm that does not submit a

best-and-final offer by the deadline shall not be awarded the built-to-suit lease.

- (c) Employees of the department and the members of the selection committee shall keep the best-and-final offers confidential until the lease is awarded.
  - (d) The selection committee shall meet to assess all the materials with which it was provided pursuant to subsection (11)(b) of this section, as well as the request for best-and-final offers and best-and-final offers. The committee shall rank the best-and-final offers of the three (3) finalists based on the weighted evaluation factors in the request for proposals. If the committee determines that the top ranked best-and-final offer is adequate, the committee shall forward the name of the firm that submitted the top ranked best-and-final offer to the department. If the committee determines that the top ranked firm's best-and-final offer is inadequate, the process shall end.
  - (e) The commissioner shall award the built-to-suit lease to the firm chosen by the selection committee.
- (17) After the best firm has been selected, the department shall notify the finalists, informing them of:
- (a) Which firm has been selected for the proposed lease; and
  - (b) The rest of the procedure that will be followed in the awarding of the lease.
- (18) KRS 61.878 shall govern the procurement process set out in this section.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 176, sec. 6, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 120, sec. 30, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 54, sec. 5, effective July 14, 1992.