

MSBA Furniture, Fixtures, and Equipment Seminar

FFE Procurements
November 7, 2017



Proprietary Specifications

- Proprietary specifications are simply specs that use brand names.
- Have the effect of restricting the procurement to only one brand
- Brand name or proprietary specifications are generally discouraged. Only to be used if “no other manner of description suffices.” (M.G.L. c. 30B, section 14).
- You must provide a written justification for your decision and keep this document in the procurement file.
- Attempt to describe the features that you are seeking without stating the brand name.
- Use “or equal” clauses sparingly if at all-It is better to explain what you want “equaled.” Attempt to use dimensions, capabilities, materials, compatibility and features without using a brand name.

Avoiding Proprietary or Brand Name Specifications

- For example, your jurisdiction would like to purchase a specific type of classroom chair that Acme makes. It needs to be 3 feet tall, and two feet wide, made of cloth, red in color with an adjustable seat. Everyone calls it the “Acme” chair.
- Do you put it in your bid document as the “Acme” chair? No! Describe it. Use dimensions, capabilities (ergonomic/pneumatic), materials, and features instead.



Rule for Award

- Are you going to award a lump sum contract for all items to the overall lowest responsible and responsive bidder?
- Or, are you going to award on an “item-by-item” or “category” basis? (may wind up with multiple vendors)
- Either way, your rule for award should be stated in the IFB or RFP.

Communications with Vendors

- Refrain from communicating with vendors pre-bid award—there must be no discussion about price before the bid opening.
- The only exception to this is when you detect a clear typographical or clerical error (.10/unit vs.\$10.00/unit). If such an error occurs, the awarding authority (school district) must cure such a minor informality and notify the bidder upon correction. This notification is THE ONLY circumstance when the law permits an awarding authority or its consultant to contact a bidder prior to a bid opening.
- Can negotiate price after bid opening with the lowest responsible & responsive bidder only.

Bidding Practices

You may never:

- withhold bid sheets once an IFB due date has passed. Bidders are allowed by law to see the bids and bid sheets immediately *upon opening* in an IFB process.
- call a bidder after a bid is submitted and before award and suggest they change their bid for any reason.
- accept a bid from the Statewide Contract (Off #38) when the vendor or manufacturer is not permitted to sell that product on the statewide contract. (i.e. the item offered by the vendor/manufacturer was not part of the universe of items that OSD authorized as part of the contract).



Any questions? Don't forget the 30B Hotline: (617)722-8838

THANK YOU!