**Section 500.430 Responsibility**

a) Application

Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the OAG's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards of Responsibility

1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:

A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements (the Procurement Officer may designate a level below which the vendor will be deemed "not responsible");

B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;

C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;

D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or that create a reasonable inference or appearance of a lack of integrity on the part of the vendor may be declared not responsible for the particular procurement;

E) is a legal entity prior to submitting the bid, offer or proposal and is authorized to transact business or conduct affairs in Illinois prior to execution of the contract;

F) has supplied all necessary information in connection with the inquiry concerning responsibility;

G) has a current Public Contracts number from the Illinois Department of Human Rights, pursuant to 44 Ill. Adm. Code 750.210, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;

H) pays prevailing wages, if required by law; and

I) is current in payment of all State of Illinois taxes, including the unemployment insurance tax.

2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of the vendor. The OAG may supplement this information from other sources and may require additional documentation at any time. If the vendor fails to supply the requested information, the Procurement Officer shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

c) Written Determination of Nonresponsibility Required

If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Procurement Officer. The final determination shall be made part of the procurement file.

d) Bond for Responsibility

Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of these vendors.

e) Affiliated Companies

Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined not to be responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of nonresponsibility.

(Source: Amended at 42 Ill. Reg. 3193, effective February 16, 2018)