**Section 310.70 Rules Governing Competitive Bidding**

a) Whenever any public utility desires to enter into contracts or arrangements pursuant to competitive bidding, the public utility shall prepare specifications, forms of proposals or contracts setting forth clearly, and so far as applicable in each case in detail, a description or descriptions of the matters and things for which bids are requested, including the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount and terms of securities offered or sought, and a full description of the supplies or other articles or things required or offered for sale, hypothecation, or purchase, and shall make and attach to the specifications such maps, drawings and illustrations, and state such other substantial facts or conditions, as are or may be necessary to a full understanding of the premises and procedure by bidders. The specifications, drawings and illustrations in each case shall be kept open at the principal office or offices of the public utility in Illinois, or made available on the public utility's website, for full examination, free of charge, by persons desiring to examine those specifications with a view to bidding. Upon request, the public utility shall furnish to any person or persons desiring them, true and correct copies of the specifications, maps, drawings and illustrations. The public utility may make a charge for copies furnished that shall not exceed the reasonable cost of making and forwarding the copies requested. In addition, the public utility shall electronically distribute a notice requesting bids in a manner reasonably designed to achieve broad circulation among prospective bidders, post a notice requesting bids to its website, or publish once a week for two consecutive weeks a notice requesting bids in at least two newspapers of general circulation, the first publication to be at least two weeks immediately preceding the day that bids are to be submitted. One newspaper shall be the official State newspaper and the other newspaper shall be one published or of general circulation in either:

1) the city or town where the principal operating office of the public utility is located; or

2) the city or town where the contract is to be performed.

b) The electronic or published notices shall describe in general the proposed contract or arrangement and the special things or matters for which bids are requested, the date and time at or before which the bids must be submitted, and the person to whom, and the office at which, the bids submitted will be received and opened. The public utility may, in the notice, reserve the right to reject any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum stated in the notice, with sufficient surety conditioned upon the faithful and prompt performance of the terms of the contract or arrangement.

c) Every bid to receive consideration shall be submitted at the place and by the time specified in the notice for the receipt of bids. The time specified may be any hour from 10:00 a.m. until 3:00 p.m. of any business day and the bids shall be opened after the specified hour and before 6:00 p.m. on the day, at the place, and by the person or persons designated in the notice. Each bidder may attend in person, or by duly authorized representative, at the opening of the bids, and shall be afforded an opportunity to examine each bid. The bids then shall be tabulated and a copy of the tabulation shall be promptly furnished to any bidder or authorized representative upon application. When required by the notice, each bid shall be accompanied by a bond in the amount and upon the conditions specified in the notice. A bond shall be required only in cases in which the notice expressly specifies a bond requirement. Each bid shall be enclosed with accompanying papers in a plain envelope, securely sealed, bearing no indication of the bidder or the amount of the bid; shall be marked "Bid under proposed contract pursuant to notice dated \_\_\_\_\_\_\_\_\_"; and shall be addressed to the officer of the public utility designated in the notice to receive the bid. Each bid shall state the name and address of the bidder and, if the bidder is a corporation, the names and addresses of its officers and directors, and of the purchasing or selling officer or agent in that transaction. If the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member and of the general manager and purchasing or selling agent in that transaction.

d) After receiving and opening bids as prescribed in subsection (c), the public utility receiving the bid shall, within 48 hours when the sale of securities is the undertaking, and within 20 days when the bids are for the purchase or sale of supplies, equipment, construction or maintenance work, or other articles or things, accept the most favorable bid considering:

1) the lowest price or prices for the purchase of supplies, equipment, construction or maintenance work, articles or things described in the advertisement, and the highest price or prices offered for any securities or property so described for sale by the public utility; and

2) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction or to pay for the securities or property described in the advertisement, giving due consideration to any bond or security accompanying the bid.

e) If so specified in the notice, all bids may be rejected and the public utility may readvertise for bids. The public utility shall notify the successful bidder of the acceptance of its bid and the bidder shall, within 10 days, execute the required contract, and if required by the notice, execution of a good and sufficient bond for the faithful and prompt performance of the contract shall be executed. If the successful bidder neglects or fails to timely execute the contract or bond, the public utility may, within 5 days after the expiration of the 10 day period, award the contract or arrangement to the next most favorable bidder. If neither the most favorable bidder nor the next most favorable bidder executes a contract and qualifies, the public utility shall readvertise for new bids.

f) Each public utility, after having made and executed a contract, shall, within 15 days, file with the Commission a statement of the transaction giving:

1) a copy of the electronic or published notice;

2) the total amount of each bid and the names of all bidders, and:

A) if the bidder is a corporation, the names and addresses of the officers and directors, and of the purchasing or selling officer or agent in that transaction; or

B) if the bidder is a partnership, firm or association, the names and addresses of the members, the general manager, and the purchasing or selling agent in that transaction;

3) the name of the bidder to whom the contract was awarded, together with a copy of the contract; and

4) if any other than the lowest or the highest bid, as the case may be, is accepted as being the most favorable to the utility, the reasons for the acceptance.

g) In the case of each bid, the public utility shall preserve and keep open for examination by the Commission, or any duly authorized representative:

1) a copy of the resolution or order of the board of directors, executive committee or officers of the public utility, specifying the purposes and terms of the contract for which the bids were invited;

2) a copy of the specifications, maps, drawings and illustrations upon which bids were made;

3) copies of the electronic or published notices, giving the dates and times of each distribution, posting or publication;

4) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the bid;

5) a copy of the contract entered into between the public utility and the accepted bidder, together with a copy of the bond, if any.

h) The files in each transaction shall be securely fastened together and marked "Transaction for competitive bidding, pursuant to notice dated \_\_\_\_\_\_\_" with a sworn statement by the president, a vice president or secretary of the public utility stating that:

1) the files contain true and complete records of all of the negotiations had in connection with the contract; and

2) the files shall not be broken or any part destroyed by the public utility or any officer or agent thereof, without written authorization of the Commission.

i) Nothing in this Section shall excuse or waive the requirement of prior approval and authorization for the issuance of securities under Article VI of the Act.

(Source: Amended at 43 Ill. Reg. 11944, effective October 1, 2019)