

**45A.857 Executive sessions of selection committee -- Ranking -- Interviews -- Awarding of contract.**

- (1) A selection committee shall meet in executive session to:
  - (a) Evaluate the materials with which it has been provided;
  - (b) Select the two (2) to five (5) most qualified firms based upon the weighted evaluation factors in the request for proposals; and
  - (c) Rank the firms.
- (2) In executive session, a selection committee, at its discretion by majority vote, shall determine whether not to interview and to leave the rankings in place, or to interview the two (2) to five (5) firms to arrive at new rankings. If the selection committee decides not to interview and to leave the rankings in place, the winning firm shall be chosen pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.
- (3)
  - (a) If the selection committee decides to interview the two (2) to five (5) firms, it shall do so preferably on the same day. The firms shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the firm and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the contract to the winning firm is awarded.
  - (b) After the two (2) to five (5) firms have been interviewed, the selection committee shall meet in executive session to:
    1. Rank the firms interviewed based upon the weighted evaluation factors established in the request for proposals; and
    2. Forward the rankings to the executive director.
  - (c) The winning firm shall be awarded pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.
- (4)
  - (a) For underwriter services:
    1. The name of the top-ranked underwriter firm shall be provided to the executive director. He shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection. The secretary shall order that procurement proceed under subparagraph 2. of this paragraph, or he shall order that the procurement procedure start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.
    2. The executive director of the office shall negotiate a contract with the top-ranked underwriter firm, as determined by the selection committee, at compensation which the executive director determines in writing to be fair and reasonable to the Commonwealth. In making this decision, he shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the executive director be able to negotiate a satisfactory price, the top-

ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.

3. Should the executive director be unable to negotiate a satisfactory contract with the top-ranked firm at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The selection committee shall provide the executive director the name of the second-ranked firm. The executive director shall then undertake price negotiations with the second-ranked firm. Should the executive director be able to negotiate a satisfactory price, the second-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.
4. Failing accord with the second-ranked firm, the executive director shall formally terminate negotiations. The selection committee shall provide the executive director the name of the third-ranked firm, if any. The executive director shall then undertake price negotiations with the third-ranked firm. Should the executive director be able to negotiate a satisfactory price, the third-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the price. Should the executive director be unable to negotiate a satisfactory contract with the third-ranked firm, he shall formally terminate negotiations, and the procurement procedure shall start again from the beginning pursuant to KRS 45A.843.

(b) For bond counsel services:

1. The name of the top-ranked firm shall be provided to the executive director. If the executive director does not agree with the selection recommended by the selection committee, the name of the second-ranked firm shall be submitted to the executive director.
2. The executive director shall submit the name of the first-ranked firm, or the second-ranked firm if the executive director did not agree with the first selection made by the selection committee, to the secretary of the Finance and Administration Cabinet. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection. The secretary shall order the hiring of the selected firm, or he shall order that the procurement procedure shall start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 92, sec. 4, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 139, sec. 4, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 409, sec. 6, effective July 15, 1994.