# BIDDING REQUIREMENTS AND CONDITIONS FOR CONTRACT PROPOSALS

Updated: 12/27/2023

Replace Article 102.01 of the Standard Specifications with the following:

“Prequalification of Bidders. When prequalification is required and the Awarding Authority for contract construction work is the County Board of a County, the Council, the City Council, or the President and Board of Trustees of a city, village, town or township, each prospective bidder, in evidence of competence, shall furnish the Awarding Authority a certified or photostatic copy of a "Certificate of Eligibility" issued by the Department of Transportation, according to the Department's "Prequalification Manual". Additionally, evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor’s Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. (Evidence of graduation rates are not required for apprentice able crafts dedicated exclusively to the transportation of material and equipment to and from the Public Works project.)

The two low bidders must file, within 24 hours after the letting, a sworn affidavit showing all uncompleted contracts awarded to them and all low bids pending award for Federal, State, County, Municipal and private work, using the blank form made available for this affidavit.

Issuance of Low Bidder Awarded Contract

Disqualifying Actions to Proposal for Work. The Awarding Authority reserves the right to refuse to open a bid for work, from any bidders, for any of the following reasons:

(a) Lack of competency and adequate machinery, plant, and other equipment, as revealed by the financial statement and experience questionnaires required in the prequalification procedures.

(b) Uncompleted work which, in the judgment of the Awarding Authority, might hinder or prevent the prompt completion of additional work awarded.

(c) False information provided on a bidder’s “Affidavit of Availability”.

(d) Failure to pay, or satisfactorily settle, all bills due for labor and material on former contracts in force at the time of issuance of proposal forms.

(e) Failure to comply with any prequalification regulations of the contract and the Responsible Bidders Ordinance (RBO) bid submission requirements.

(f) Default under previous contracts.

(g) Unsatisfactory performance record as shown by past work for the Awarding Authority, judged from the standpoint of workmanship and progress.

(h) When the Contractor is suspended from eligibility to bid at a public letting where the contract is awarded by, or requires approval of, the Awarding Authority.

(i) When any agent, servant, or employee of the prospective bidder currently serves as a member, employee, or agent of a governmental body that is financially involved in the proposal work.

(j) When any agent, servant, or employee of the perspective bidder has participated in the preparation of plans or specifications for the proposed work.

Interpretation of Quantities in the Bid Schedule. The quantities appearing in the bid schedule are approximate and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished according to the contract. The scheduled quantities of work to be done and materials to be furnished may be increased, decreased, or omitted as hereinafter provided.

Examination of Plans, Specifications, Special Provisions, and Site of Work. The bidder shall, before submitting a bid, carefully examine the provisions of the contract. The bidder shall inspect in detail the site of the proposed work, investigate and become familiar with all the local conditions affecting the contract and fully acquaint themselves with the detailed requirements of construction. Submission of an electronic bid shall be a conclusive assurance and warranty the bidder has made these examinations and the bidder understands all requirements for the performance of the work. If his/her bid is accepted, the bidder shall be responsible for all errors in the proposal resulting from his/her failure or neglect to comply with these instructions. The Awarding Authority will, in no case, be responsible for any costs, expenses, losses, or change in anticipated profits resulting from such failure or neglect of the bidder to make these examinations.

The bidder shall take no advantage of any error or omission in the proposal and advertised contract. Any prospective bidder who desires an explanation or interpretation of the plans, specification, or any of the contract documents, shall submit a question online through BidNet to the Awarding Authority, in sufficient time to allow an online reply through BidNet by the Awarding Authority that can reach all prospective bidders before the question acceptance deadline. Any reply given a prospective bidder concerning any of the contract documents, plans, and specifications will be furnished to all prospective bidders on the BidNet platform including, but not limited to, an addendum, if the information is deemed by the Awarding Authority to be necessary in submitting bids or if the Awarding Authority concludes the information would aid competition. Oral explanations, interpretations, or instructions given before the submission of bids, unless at a prebid conference, will not be binding on the Awarding Authority.

Preparation of the Proposal. Bidders must submit their proposals electronically via BidNet. The proposal shall be executed properly, and bids shall be made for all items indicated in the proposal, except when alternate bids are asked, a bid on more than one alternate for each item is not required, unless otherwise provided. The bidder shall indicate in figures, a unit price for each of the separate items called for in the solicitation. The unit prices should be entered directly into BidNet; a paper form is not required.

When prequalification is required, the proposal shall be submitted by an authorized bidder in the same name and style as shown on the “Contractor’s Statement of Experience and Financial Condition” used for prequalification.

Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor’s Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project shall be submitted with the bid proposal. (Evidence of graduation rates are not required for apprentice able crafts dedicated exclusively to the transportation of material and equipment to and from the Public Works project.)

Rejection of Proposals. The Awarding Authority reserves the right to reject any proposal for any of the conditions in “Issuance of Proposal Forms” or for any of the following reasons:

(a) More than one proposal for the same work from an individual, firm, partnership, or corporation under the same name or different names.

(b) Evidence of collusion among bidders.

(c) Unbalanced proposals in which the bid prices for some items are, in the judgment of the Awarding Authority, out of proportion to the bid prices for other items.

(d) If the proposal does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items or lump sum pay items.

(e) If the proposal is other than that furnished by the Awarding Authority; or if the form is altered or any part thereof is detached.

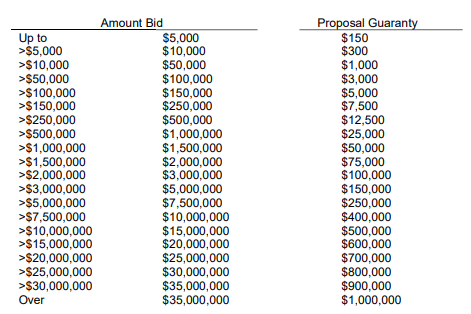
(f) If there are omissions, erasures, alterations, unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning.

(g) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

(h) If the proposal is not accompanied by the proper proposal guaranty.

(i) If the proposal is not submitted electronically, or otherwise fails to meet the requirements of the above "Preparation of the Proposal" section.

Proposal Guaranty. Each proposal shall be accompanied by a bid bond on the Illinois Department of Transportation form contained in the proposal, executed by a corporate surety company satisfactory to the Awarding Authority, by a bank cashier’s check or a properly certified check for not less than five percent of the amount bid, or for the amount specified in the following schedule:



If the bidder chooses to provide a bank cashier’s check or a properly certified check (as opposed to the Certified Local Agency Proposal Bid Bond) as part of the proposal submittal, the certified check must be delivered to the Kane County Division of Transportation (41W011 Burlington Rd, St. Charles, IL 60175) prior to the solicitation closing date (and time).

In the event that one proposal guaranty check is intended to cover two or more proposals, the amount must be equal to the sum of the proposal guaranties which would be required for each individual proposal.

Bank cashier's checks or properly certified checks accompanying proposals shall be made payable to the Treasurer of Kane County, when a County is the Awarding Authority; or the City, Village, Town or Township Treasurer, when a city, County, village, town or township is the Awarding Authority.

The proposal guaranty checks of all, except the two lowest responsible, will be returned promptly after the proposals have been checked, tabulated, and the relation of the proposals established. Proposal guaranty checks of the two lowest bidders will be returned as soon as the contract and contract bond of the successful bidder have been properly executed and approved. Bid bonds will not be returned.

After a period of three working days has elapsed after the date of opening proposals, the Awarding Authority may permit the two lowest bidders to substitute for the bank cashier's checks or certified checks submitted with their proposals as proposal guaranties, bid bonds on the Illinois Department of Transportation forms executed by corporate surety companies satisfactory to the Awarding Authority.

Submittal of Proposals. Electronic submittal of all bid packet proposal items is required. If you have questions or problems while submitting bid packet proposal items, please call the BidNet Support Team at 800-835-4603 for direct assistance. All proposals must be submitted to the BidNet system prior to the specified closing date and time, in order to be considered for the solicitation.

Withdrawal of Proposals. Proposals may be withdrawn at any time from the Bidnet platform prior to the specified closing date and time.

Opening of Proposals. ‘Unofficial’ proposal results will be posted in BidNet, after the advertisement closing date. Once all submitted documentation has been verified, ‘As Read’ proposal results will be uploaded. As a registered Vendor in BidNet, you will receive automatic notification when any results have been posted.

Consideration of Proposals. After the proposals are opened, they will be compared on the basis of the summation of the products of the quantities shown in the bid schedule by the unit bid prices. In awarding contracts, the Awarding Authority will, in addition to considering the amounts stated in the proposals, take into consideration the responsibility of the various bidders as determined from a study of the data required under "Prequalification of Bidders", and from other investigations which it may elect to make.

The right is reserved to reject any or all proposals, to waive technicalities, or to advertise for new proposals, if in the judgment of the Awarding Authority, the best interests of the Awarding Authority will be promoted thereby.

Award of Contract. The award of contract will be made once authorization has been provided by the Awarding Authority to the lowest responsible and qualified bidder whose proposal complies with all the requirements prescribed. The successful bidder will be notified of intent that his/her bid has been accepted, and subject to the following conditions, the bidder will then be the Contractor.

An approved contract executed by the Awarding Authority is required before the Awarding Authority is bound. An award may be cancelled any time by the Awarding Authority prior to execution in order to protect the public interest and integrity of the bidding process or for any other reason if, in the judgment of the Awarding Authority, the best interests of the Awarding Authority will be promoted thereby.

If a contract is not awarded within 120 days after the opening of proposals, bidders may file a written request with the Awarding Authority for the withdrawal of their bid, and the Awarding Authority will permit such withdrawal.

Requirement of Contract Bond. If the Awarding Authority requires a Contract Bond, the Contractor or Supplier shall furnish the Awarding Authority a performance and payment bond with good and sufficient sureties in the full amount of the contract as the penal sum. The surety shall be acceptable to the Awarding Authority, shall waive notice of any changes and extensions of time, and shall submit its bond on the form furnished by the Awarding Authority.

Execution of Contract. The contract shall be executed by the successful bidder and returned, together with the Contract Bond, within 15 days after the contract has been mailed to the bidder.

If the bidder to whom the award is made is a corporation organized under the laws of a State other than Illinois, the bidder shall furnish the Awarding Authority a copy of the corporation's Certificate of Authority to do business in the State of Illinois with the return of the executed contract and bond. Failure to furnish such evidence of a Certificate of Authority within the time required will be considered as just cause for the annulment of the award and the forfeiture of the proposal guaranty to the Awarding Authority, not as a penalty, but in payment of liquidated damages sustained as a result of such failure.

Failure to Execute Contract. If the contract is not executed by the Awarding Authority within 15 days following receipt from the bidder of the properly executed contracts and bonds, the bidder shall have the right to withdraw his/her bid without penalty.

Failure of the successful bidder to execute the contract and file acceptable bonds within 15 days after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of the Awarding Authority, not as penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and constructed under contract, or otherwise, as the Awarding Authority may decide.