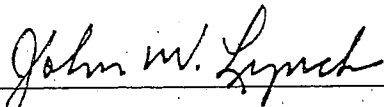


Instructions to Bidders General Conditions/ Supplemental Conditions


For State Facility Construction

Effective: July 1, 2010

Approved by:



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INSTRUCTIONS TO BIDDERS FOR WASHINGTON STATE FACILITIES CONSTRUCTION

PART 0 – GENERAL CONDITIONS

0.01 EXPLANATION TO PROSPECTIVE BIDDERS

- A. Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must submit a request in writing to the Architect/Engineer (A/E) seven (7) calendar days before the bid due date. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders by addendum to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

- B. In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW the state of Washington encourages participation in all of its contracts by MWBE firms certified by the Office of Minority and Women’s Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this invitation or as a subcontractor to a bidder. However, unless required by federal statutes, regulations, grants, or contract terms referenced in the contract documents, no preference will be included in the evaluation of bids, no minimum level of MWBE participation shall be required as a condition for receiving an award, and bids will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply.

- C. In accordance with RCW 39.04.320 the state of Washington requires 15% **Apprenticeship Participation** for all projects estimated to cost one million dollars or more. On applicable projects the bid advertisement and Bid Proposal form shall establish a minimum required percentage of apprentice labor hours compared to the total labor hours. Bidders may contact the Department of Labor and Industries, Specialty Compliance Services Division, Apprenticeship Section, P.O. Box 44530, Olympia, WA 98504-4530, by phone (360) 902-5320, and e-mail at thum235@lni.wa.gov, to obtain information on available apprenticeship programs.

0.02 PREPARATION OF BIDS – CONSTRUCTION

- A. Bids must be: (1) submitted on the bid proposal forms, or copies of forms, furnished by the Owner or the Owner’s agent, and (2) signed in ink. The person signing a bid must initial each change appearing on any bid form. If the bid is made by a corporation, it shall be signed by the corporation’s authorized designee. The address of the bidder shall be typed or printed on the bid form in the space provided.

- B. The bid form may require bidders to submit bid prices for one or more items on various bases, including: (1) lump sum base bid; (2) lump sum bid alternate prices; (3) unit prices; or (4) any combination of items 1 through 3 above.
- C. If the solicitation includes alternate bid items, failure to bid on the alternates may disqualify the bid. If bidding on all items is not required, bidders should insert the words “no bid” in the space provided for any item on which no price is submitted.
- D. Substitute bid proposals will not be considered unless this solicitation authorizes their submission.

0.03 BID GUARANTEE

- A. When the sum of the base bid plus all additive bid alternates is \$35,000.00 or less, bid security is not required.

When the sum of the base bid plus all additive alternates is greater than \$35,000.00, a bid guarantee in the amount of 5% of the base bid amount is required. Failure of the bidder to provide bid guarantee when required shall render the bid non-responsive.

- B. Acceptable forms of bid guarantee are: A bid bond or postal money order, or certified check or cashier’s check made payable to the Washington State Treasurer.

The Owner will return bid guarantees (other than bid bond) to unsuccessful bidders as soon as practicable, but not sooner than the execution of a contract with the successful bidder. The successful bidder’s bid guarantee will be returned to the successful bidder with its official notice to proceed with the work of the contract.

- C. The bidder will allow 60 days from bid opening date for acceptance of its bid by the Owner.

The bidder will return to the Owner a signed contract, insurance certificate and bond or bond waiver within 15 days after receipt of the contract. If the apparent successful bidder fails to sign all contractual documents or provide the bond and insurance as required or return the documents within 15 days after receipt of the contract, the Owner may terminate the award of the contract.

- D. In the event a bidder discovers an error in its bid following the bid opening, the bidder may request to withdraw its bid under the following conditions:

- 1. Written notification is received by the Owner within 24 hours following bid opening.

2. The bidder provides written documentation of the claimed error to the satisfaction of the Owner within 72 hours following the bid opening.

The Owner will approve or disapprove the request for withdrawal of the bid in writing. If the bidder's request for withdrawal of its bid is approved, the bidder will be released from further obligation to the Owner without penalty. If it is disapproved, the Owner may retain the bidder's bid guarantee.

0.04 ADDITIVE OR DEDUCTIVE BID ITEMS

The low bidder, for purposes of award, shall be the responsive bidder offering the low aggregate amount for the base bid item, plus additive or deductive bid alternates selected by the Owner, and within funds available for the project.

The bidder agrees to hold all bid alternate prices for sixty (60) days from date of bid opening.

0.05 ACKNOWLEDGEMENT OF ADDENDA

Bidders shall acknowledge receipt of all addenda to this solicitation by identifying the addenda numbers in the space provided for this purpose on the bid proposal form. Failure to do so may result in the bid being declared non-responsive.

0.06 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK

The bidder acknowledges that it has taken steps necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and road; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during the work. The bidder also acknowledges that it has satisfied itself as to character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including exploratory work done by the Owner, as well as from the drawings and specifications made a part of this contract. Any failure of the bidder to take the actions described and acknowledged in this paragraph will not relieve the bidder from responsibility for estimating properly the difficulty and cost of successfully performing the work.

0.07 BID AMOUNTS

- A. The bid prices shown for each item on the bid proposal shall include all labor, material, equipment, overhead and compensation to complete all of the work for that item.

- B. The actual cost of building permit (only) and the public utility hookup fees will be a direct reimbursement to the Contractor or paid directly to the permitting agency by the Owner. Fees for these permits should not be included by the Bidder in the bid amount.
- C. The Bidder agrees to hold the base bid prices for sixty (60) days from date of bid opening.

0.08 TAXES

The bid amounts shall not include Washington State Sales Tax (WSST). All other taxes imposed by law shall be included in the bid amount. The Owner will include WSST in progress payments. The Contractor shall pay the WSST to the Department of Revenue and shall furnish proof of payment to the Owner if requested.

[NOTE: Contractor must bond for contract amount plus the WSST.]

0.09 SUBMISSION OF BIDS

- A. Bid Proposals must be submitted on or before the time specified in the Advertisement for Bids.
- B. If the base bid and the sum of the additive alternates is one million dollars or more, the Bid Proposal shall comply with the following requirements:
 - 1. Pursuant to RCW 39.30.060, if the base bid and the sum of the additive alternates is one million dollars or more, the Bidder shall provide names of the Subcontractors with whom the Bidder will subcontract for performance of heating, ventilation and air conditioning (HVAC), plumbing, and electrical.
 - 2. The Bidder can name itself for the performance of the work.
 - 3. The Bidder shall not list more than one Subcontractor for each category of work identified UNLESS Subcontractors vary with bid alternates, in which case the Bidder must indicate which Subcontractor will be used for which alternate.
 - 4. Failure of the Bidder to submit as part of the bid the NAMES of such Subcontractors or to name itself to perform such work shall render the Bidder's bid nonresponsive and, therefore, void.
- C. The Bid Proposal shall be submitted in a sealed envelope addressed to the office specified in the Advertisement for Bids. The envelope shall have printed on the outside:

1. The project number and description.
 2. The name and address of the bidder.
 3. Identification as Bid Proposal.
- D. Prior to the bid opening, the Owner's representative will designate the official bid clock. Any part of the bid proposal or bid modification not received prior to the times specified, per the designated bid clock, will not be considered and the bid will be returned to the bidder unopened.
- E. A bid may be withdrawn in person by a bidder's authorized representative before the opening of the bids. Bidder(s) representative will be required to show ID and sign on bid summary sheet before it will be released.
- F. People with disabilities who wish to request special accommodation, (e.g., sign language interpreters, Braille, etc.) need to contact the Owner ten (10) working days prior to the scheduled bid opening.

0.10 BID RESULTS

After the Bid Opening, Bidders may obtain bid results from the office of E&AS by calling (360) 902-7272 or by logging on to E&AS' web site: <https://fortress.wa.gov/ga/apps/BidResults/default.aspx> . Bid results may also be obtained from the A/E.

0.11 LOW RESPONSIBLE BIDDER

- A. **Mandatory Responsibility Criteria:** Before award of a public works contract, a bidder must meet the following mandatory responsibility criteria under RCW 39.04.350 (1) to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:
1. At the time of bid submittal, have a certificate of registration in compliance with chapter [18.27](#) RCW;
 2. Have a current state unified business identifier number;
 3. If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title [51](#) RCW; an employment security department number as required in Title [50](#) RCW; and a state excise tax registration number as required in Title [82](#) RCW;
 4. Not be disqualified from bidding on any public works contract under RCW [39.06.010](#) or [39.12.065](#)(3); and
 5. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW [39.04.320](#), not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter [49.04](#)

RCW for the one-year period immediately preceding the date of the bid solicitation.

6. Until December 31, 2013, not have violated the “Off-site Prefabrication” reporting requirement more than one time as determined by the Department of Labor and Industries.

B. Supplemental Responsibility Criteria: In addition to the mandatory bidder responsibility, the Owner may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet (RCW 39.04.350 (2)).

1. If applicable, the Owner shall consider an overall accounting of the attached supplemental criteria for determining bidder responsibility “DIVISION 00 RESPONSIBILITY CRITERIA”.
2. At least seven (7) days prior to the bid submittal deadline, a potential bidder may request that the Owner modify the supplemental responsibility criteria. The Owner will evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the Owner will issue an addendum to the bidding documents identifying the new criteria.
3. Upon Owner’s request, the apparent low bidder must supply the requested responsibility information within two (2) business days of request by Owner. Withholding information or failure to submit all the information requested within the time provided may render the bid non-responsive.
4. If the Owner determines that the apparent low bidder is not responsible, the Owner will notify the bidder of its preliminary determination in writing.
5. Within three (3) days after receipt of the preliminary determination, the bidder may withdraw its bid or request a hearing where the bidder may appeal the preliminary determination and present additional information to the Owner.
6. The Owner will schedule a hearing within three (3) working days of receipt of the bidder’s request. The hearing members will include a Client Agency Representative, EAS Assistant Director or designee, Deputy Assistant Director or designee, and Project Manager.
7. The Owner will issue a Final Determination after reviewing information presented at the hearing.
8. If the Owner determines a bidder to be not responsible, the Owner will provide, in writing, the reasons for the determination. If the final determination affirms that the bidder is not responsible, the Owner will not execute a contract with any other bidder until two (2) business days after the bidder determined to be not responsible has received the final determination.
9. The Owner’s Final Determination is specific to this project, and will have no effect on other or future projects.

C. Reporting Off-Site, Prefabricated, Non-Standard, Project Specific Items

1. For contracts entered into between September 1, 2010 and December 31, 2013, all **“Off-Site Prefabricated Non-Standard Project Specific Items”** shall be identified for projects valued at one million dollars or more. "Off-site, prefabricated, nonstandard, project specific items" means products or items that are:
 - a) Made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work;
 - b) Produced specifically for the public work and not considered to be regularly available shelf items;
 - c) Produced or manufactured by labor expended to assemble or modify standard items;
 - d) Produced at an off-site location outside of Washington.

2. The Contractor or Subcontractor(s) contracting for “Off-Site Prefabricated Non-Standard Project Specific Items” shall comply with the Department of Labor and Industries reporting requirements and instructions on the affidavit of wages paid form. The information to be provided to the Department of Labor and Industries shall include:
 - a) The estimated cost of the public works project;
 - b) The name of the awarding agency and the project title;
 - c) The contract value of the off-site, prefabricated, nonstandard, project specific items produced outside Washington, including labor and materials;
 - d) The name, address and federal employer identification number of the contractor that produced the off-site, prefabricated, nonstandard, project specific items.

The Contractor or Subcontractor directly contracting for the off-site prefabricated items must submit this information as part of the affidavit of wages paid form filed with the Department of Labor and Industries. Contractors found to be out of compliance with the Department of Labor and Industries may be rejected as non-responsible.

The Owner may direct the Contractor, at no additional cost to the Owner, to remove and substitute any Subcontractor(s) found to be out of compliance with the “Off-Site Prefabricated Non-Standard Project Specific Items” reporting requirements more than one time as determined by the Department of Labor and Industries.

0.12 CONTRACT AWARD

- A. The Owner will evaluate bids responsiveness and responsibility.
1. A bid will be considered responsive if it meets the following requirements:
 - a) It is received at the proper time and place.
 - b) It meets the stated requirements of the bid proposal.
 - c) It is submitted by a licensed/registered contractor within the state of Washington at the time of bid opening and is not banned from bidding by the Department of Labor and Industries.
 - d) It is accompanied by a bid guarantee, if required.
 2. A bid will be considered responsible if it meets the following requirements:
 - a) It meets the mandatory responsibility criteria established in RCW 39.04.350 and an overall accounting of the supplemental responsibility criteria established for the project.
- B. The Owner reserves the right to accept or reject any or all bid proposals and to waive informalities.
- C. The Owner may negotiate bid price adjustments with the low responsive bidder, including changes in the contract documents, to bring the bid within the available funding per RCW 39.04.015.
- D. The apparent low bidder, for purpose of award, shall be the responsive and responsible bidder offering the low aggregate amount for the base bid plus selected additive or deductive bid alternates and meeting all other bid submittal requirements.
- E. The Contract will only become effective when signed by the Owner. Prior to the Owner's signature, any and all costs incurred shall be the sole responsibility of the bidder.

0.13 DOCUMENTS (ATTACHED)

- A. Advertisement for Bids
- B. Responsibility Criteria (if applicable)
- C. Bid Proposal
- D. Washington State Prevailing Wage Rates
- E. Certificate of Insurance form

Note: AIA Payment Bond and Performance Bond forms (A312) are required. These forms will not be provided by the Owner.