

INSTRUCTIONS TO BIDDERS

1. DEFINITION OF TERMS

Terms used in these Instructions to Bidders are defined in the General Conditions of the Contract. The following additional terms used in these Instructions to Bidders shall have the meaning indicated for both the singular and plural.

- 1.1 Bidder - one who submits a bid directly to the GOVERNMENT as distinct from a sub-bidder, who submits a bid to a Bidder
- 1.2 Successful Bidder - the lowest, responsible, and responsive Bidder to whom the GOVERNMENT (on the basis of the GOVERNMENT evaluation as hereinafter provided) makes an award
- 1.3 Bidding Documents - the Invitation to Bid, Instructions to Bidders, the Bid Forms, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids)

2. EXAMINATION OF SITE

Each bidder, by making its bid, represents that it has visited the site and become familiar with all conditions under which the work is to be performed. No extra compensation will be allowed by reason of any matters or things concerning which the bidder did not inform itself prior to bidding.

3. EASEMENTS

Portions of the work for this project will be constructed on private property for which easements have been secured by the GOVERNMENT. Work performed under or use of such easements shall be subject to the provisions of the easement agreements on file and open to inspection in the offices of the GOVERNMENT.

4. EXAMINATION OF BIDDING DOCUMENTS

Each bidder, by making its bid, represents that it has read and understands the bidding documents. The bidder shall include in its bid prices any and all costs that may be necessary to complete the work in accordance with the requirements of the contract documents.

5. PROJECT FUNDING

(Not used)

6. SUBSURFACE EXPLORATION DATA

6.1 Investigations of subsurface conditions at the site have been made for the purpose of design. Results are available for inspection by prospective bidders but are not part of the contract documents. The GOVERNMENT assumes no responsibility whatsoever with respect to the sufficiency or accuracy of these preliminary investigations or their interpretation. There is no guarantee, either expressed or implied, that the conditions indicated are representative of those existing throughout the site or any part of it or that unforeseen developments may not occur.

6.2 Requests for copies of results of the preliminary subsurface investigations must be made to the GOVERNMENT.

7. INTERPRETATION OF CONTRACT DOCUMENTS

The separate sections contained within these contract documents are intended to be mutually cooperative and to provide all details reasonably required for execution of the proposed work. Any person contemplating submission of a bid shall have thoroughly examined all the various parts of these documents. Questions regarding documents, discrepancies, omissions, or intent of the specifications or drawings shall be submitted in writing to the GOVERNMENT at least 10 days prior to opening of bids to allow time for issuing and forwarding an addendum. Any interpretation of the contract documents will be made in writing in the form of addenda issued by the GOVERNMENT to all registered bid document holders. The GOVERNMENT will not be responsible for any other explanations or interpretations of the contract documents.

8. MATERIAL SUBSTITUTION

Each bidder shall base its bid upon the materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. The successful contractor will not be allowed to make any substitutions on its own initiative. In each instance, the contractor will be required to obtain authorization from the GOVERNMENT before installing any materials or equipment in variance with the requirements of the contract documents.

9. APPROXIMATE QUANTITIES

For all items on which bids are to be received on a unit price basis, the quantities stated in the bid will not be used in establishing final payment due the contractor. The quantities stated, for which unit price bids are invited, are approximate only. Bids will be compared on the basis of the number of units stated in the bidding schedule. Payment on the contract on unit price items will be based on the actual number of units installed in the completed work as defined in the contract documents.

10. PREPARATION OF BID

Only bids made out on the Bid Form included in this document will be considered. Bid forms must be completed in ink. The bid form must not be separated from this document. All blanks on the Bid Form must be completed. Amounts are to be shown in both words and figures. In case of a discrepancy between words and figures, the words shall be used unless it appears in the GOVERNMENT's opinion that the words rather than the figures are clearly in error. If any portion of the bid is required to be given in unit prices and totals and if a discrepancy exists between the unit prices and totals, the unit prices shall be used unless it appears in the GOVERNMENT's opinion that the unit prices rather than the totals are clearly in error. If a discrepancy exists between the total base bid and the true sum of the individual bid items, the true sum shall be used. A bid will be rejected if it does not contain a price for each item named in the bidding schedule. Bidders are warned against making any erasures or alterations. Bids that contain omissions, erasures, conditions, alterations, or additions not called for may be rejected.

11. SIGNING OF BID

If the bidder is a corporation, the legal name of the corporation shall be set forth together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If the bidder is a co-partnership, the true name of the firm shall be set forth together with the signatures of all partners. If the bidder is an individual, his/her signature shall be inscribed. If signature is by an agent other than an officer of a corporation or a member of a partnership, a power of attorney must be on file with the GOVERNMENT prior to submitting bids; otherwise, the bid may be regarded as irregular.

12. BID SECURITY

No bid will be considered unless it is accompanied by a bid security as defined in the Invitation to Bid. The bid security is a guarantee that if the bid is accepted, the bidder will execute the agreement and file bonds and insurance as required by the contract documents within 15 days of the date of award of contract.

13. RETURN OF BID SECURITIES

The bid securities of the three lowest bidders will be retained until the successful bidder has executed the Agreement and furnished the required bonds and insurance and met the other conditions of the Notice of Award, whereupon the Bid Securities will be returned. The bid securities of all other bidders will be returned promptly after the bids have been opened and reviewed by the GOVERNMENT. If all bids are rejected, the bid securities will be returned at the time of rejection.

14. AGREEMENT, BONDS, INSURANCE

The attention of bidders is specifically directed to the forms of agreement and bonds to be executed and the types of insurance to be taken out in the event a contract award is made.

15. DESIGNATION OF SUBCONTRACTORS

Each bidder shall list on the form included in these documents the names and addresses of all subcontractors who will perform work or labor or render service to the bidder on or about the construction site for compensation in an amount in excess of two percent of the bidder's total base bid. Each bidder shall show on the form the portion of the work to be done by each subcontractor. This form shall be included with the bid at the time of bidding or the bid may be considered nonresponsive. Any change in subcontractor must be formally approved by the GOVERNMENT.

16. SALES TAX

The successful bidder shall pay sales taxes as required by the laws and statutes of the state and its political subdivisions. The estimated taxes shall be included in the lump sum and unit prices, as applicable.

17. FAILURE TO SUBMIT BID

Recipients of these bid documents not responding with bids need not return the bid documents. Instead, they should advise the GOVERNMENT in writing of whether or not they want to be considered for similar work in the future. If a recipient does not submit a bid and does not notify the GOVERNMENT of a desire to be considered for future work, the recipient's name may be removed from the GOVERNMENT's source list.

18. CERTIFICATIONS AND REPRESENTATIONS

The certifications and representations included in the bid documents shall be completed, signed, and submitted with the bid.

19. BID SUBMITTAL

19.1 Each bid, properly signed, together with the bid security and all documents bound herewith shall be enclosed in a sealed envelope addressed and entitled as specified in the Invitation to Bid and shall be delivered to the office designated in the Invitation to Bid. All addenda issued shall be included with the bid at the time of bid submittal.

19.2 Each bidder shall also submit a letter from the bidder's insurance representative acknowledging the requirements of these specifications and its commitment to provide the coverage if the bidder is awarded a contract. The required coverage shall be provided by an insurance company having a Class A policyholder's rating and, at a minimum, a Class 10 financial rating in the latest edition of "Best Insurance Guide."

20. WITHDRAWAL OF BID

Any bid may be withdrawn at any time prior to the hour fixed in the Invitation to Bid for the opening of bids, provided that a request in writing executed by the bidder or its duly authorized representative for the withdrawal of the bid is filed with the GOVERNMENT prior to the time specified for opening of bids. The withdrawal of a bid will not affect the right of a bidder to file a new bid.

21. QUALIFICATION OF BIDDERS

21.1 It is the intention of the GOVERNMENT to award a contract only to a bidder that furnishes satisfactory evidence that it has the requisite experience and ability and sufficient capital, facilities, and plants to enable it to perform the work successfully and promptly and to complete the work within the time specified in the contract documents.

21.2 Each bidder shall submit with the bid the completed bidder's qualifications and reference form contained in these documents. After the bid opening, the GOVERNMENT may require the three lowest bidders to submit additional financial data.

22. DISQUALIFICATION OF BIDDERS

22.1 More than one bid for the work described in these documents from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. Reasonable grounds for believing that any bidder is interested in more than one bid for the work will cause the rejection of all bids in which that bidder is interested. If there are reasonable grounds for believing that collusion exists among bidders, the bids of the participants in such collusion will not be considered.

22.2 Bidders shall provide full, accurate, and complete information as required by the bid documents. Failure to do so may be grounds for disqualification.

23. NON-COLLUSION AFFIDAVIT

The attention of bidders is directed to the state requirement that a non-collusion affidavit completely executed by each qualified bidder be submitted as part of the bid. The form of affidavit is included in these documents.

24. PENALTY FOR COLLUSION

If at any time it is found that the person, firm, or corporation to which the contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties, then the contract awarded shall be null and void, the contractor and its sureties shall be liable to the GOVERNMENT for all loss or damage the GOVERNMENT may suffer thereby, and the GOVERNMENT may advertise for new bids for the work.

25. LICENSE

Each bidder shall possess state and local licenses as required by law and shall furnish satisfactory proof to the GOVERNMENT upon request that the licenses will be in effect during the entire period of the contract.

26. CERTIFICATION OF NONSEGREGATED FACILITIES

26.1 Each bidder by signing its bid will be deemed to have agreed to the provisions of the certification of nonsegregated facilities contained in these documents and agrees to submit a signed copy of the certification if awarded a contract. The certification provides that the bidder does not maintain or provide for its employees facilities that are segregated on a basis of race, creed, color, or national origin either by directive or on a de facto basis. The certification also provides

that the bidder will not maintain segregated facilities. Failure of a bidder to agree to the certification of nonsegregated facilities will render the bid nonresponsive.

26.2 The successful bidder will be required to obtain from each of its subcontractors a signed certification of nonsegregated facilities prior to the award of a subcontract.

27. NONDISCRIMINATION IN EMPLOYMENT

By the submission of its bid, each bidder acknowledges that it understands and agrees to be bound by the equal opportunity requirements of U.S. EPA regulations [40 CFR Part 8, particularly Section 8.4(b)], which shall be applicable throughout the performance of work under any contract awarded pursuant to this solicitation. Each bidder agrees that if awarded a contract, it will similarly bind each subcontractor contractually. In implementation of the policies specified, each bidder further understands and agrees that if awarded a contract, it must engage in affirmative action directed at promoting and ensuring equal employment opportunity in the work force used under the contract and that it must contractually require the same effort of all subcontractors whose subcontracts exceed a value of \$100,000. The bidder understands and agrees that "affirmative action" as used herein shall constitute a good-faith effort to achieve and maintain the amount of minority employment in the on-site work force used on the project that corresponds, for each trade used, to the minority population in the serving labor market area from which workers are reasonably available for hire for the project.

28. WAGE RATE REQUIREMENTS

Wage rates for this project shall not be less than those stipulated in the prevailing wage rate determinations made by state and local authorities. In case of conflicts, the wage rates to be paid shall not be less than the highest of the prevailing wage determinations.

29. PRE-BID CONFERENCE

As stated in the Invitation to Bid, bidders are advised that a pre-bid conference will be held to explain affirmative action, equal employment opportunity, and minority business enterprise requirements for this project and to give instructions on the proper manner of filling out the required forms.

30. BID OPENING

Bids will be opened and publicly read aloud at the time and place indicated in the Invitation to Bid. Bidders or their agents are invited to be present.

31. AWARD OF CONTRACT

- 31.1 The award of any contract will be made to the lowest responsive responsible bidder. The GOVERNMENT reserves the right to reject any or all bids or to waive irregularities or informalities at its discretion.
- 31.2 This project is being financed by state and federal funds, and no award can be made until after approval has been given by the appropriate regulatory agencies. The timing of these approvals is beyond the control of the GOVERNMENT, but the GOVERNMENT will award a contract to the lowest responsive responsible bidder or will reject bids as soon as possible after receipt of approvals from the agencies.
- 31.3 It is anticipated that such approvals will be received within 60 days of opening of bids. If the approvals are not received or if the GOVERNMENT cannot award or reject bids within 90 days of the date of opening of bids, bidders shall have the right to withdraw their bids upon written notice to the GOVERNMENT.

32. EFFECTIVE DATE OF AWARD

The award of contract shall be effective when formal notice of the award, signed by the authorized representative of the GOVERNMENT, has been delivered to the intended awardee.

33. EXECUTION OF AGREEMENT

Copies of the agreement in the number stated in the form of agreement shall be executed by the successful bidder and delivered to the GOVERNMENT within 15 days of the date of the award of contract. Required bonds and insurance shall be delivered at the same time. The effective date of bonds shall be the same as or later than the date of the agreement.

34. FAILURE TO EXECUTE AGREEMENT AND FILE BONDS AND INSURANCE

Failure of a successful bidder to execute the agreement and to file required bonds and insurance within the required time shall be just cause for annulment of the award of contract. Upon failure of a successful bidder to execute the agreement and to file required bonds and insurance within the required time, that bidder shall forfeit its bid security as specified herein. Upon such annulment of an award of contract, the GOVERNMENT may then award a contract to the next lowest responsible bidder.

35. NOTICE TO PROCEED

It is expected that within 5 days but no more than 30 days of execution of the contract by both parties, a notice to proceed will be issued.

36. COMMENCEMENT AND COMPLETION OF WORK

The successful bidder shall commence work within 10 calendar days of issuance by the GOVERNMENT of a written notice to proceed. The successful bidder shall complete all work in accordance with the terms and conditions of the contract documents within 221 calendar days of the date of the notice to proceed.

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