

## 00 21 13 – INSTRUCTIONS TO BIDDERS

### PART 1 - GENERAL

#### 1.01 BIDDING DOCUMENTS

- A. Bidding Documents may be obtained by Bidders and Subcontractors as described in the Invitation to Bid.
- B. Bidders of Record will be issued subsequent addenda.

#### 1.02 EXAMINATION

- A. Bidders shall carefully examine site and documents to obtain first-hand knowledge of existing conditions and Work proposed.
- B. Contractor will not be given extra payment for conditions which can be determined by examining site and documents.

#### 1.03 QUESTIONS

- A. Bidders shall submit questions about bidding documents to Designer in writing. Replies will be issued to Bidders of Record by addenda and will become part of Contract Documents. Designer and Owner will not make oral clarifications.
- B. Questions shall be received by Designer at least six calendar days before bid opening date.
- C. Normal practice is that no addenda affecting pricing will be issued less than three calendar days before bid opening date.

#### 1.04 SUBSTITUTIONS

- A. Substitution requests before receipt of bids shall be prepared in accordance with 01 25 13 Product Substitution Procedures.
- B. Substitution requests before receipt of bids shall be received ten calendar days before date set to receive bids. However, regardless of the date received, consideration of substitution requests is not an obligation of the Designer or Owner and the Designer will determine if sufficient time is available for evaluation of the request.
- C. Acceptable substitutions will be identified in addenda.
- D. Bidders submitting bids in reliance upon a substitution when the substitution has not been approved prior to bidding do so at their own risk.

#### 1.05 LICENSING AND QUALIFICATIONS

- A. Bidders shall be familiar with the Contractors Licensing Act of 1976, as currently amended (codified in Tennessee Code Annotated (TCA) § 62-6-101, et seq.). A contract will not be awarded to a bidder whose bid is in conflict with State licensing law.
- B. Bidders with five or more employees are required by TCA § 50-9-113 to submit a completed Section 00 45 21 Drug-Free Workplace Affidavit with their bid that attests they have a complying drug-free workplace program.
- C. In compliance with TCA § 50-9-114 bidders are advised that the Owner does not operate a certified drug-free workplace program that serves for compliance with TCA § 50-9-113.

## 00 21 13 – INSTRUCTIONS TO BIDDERS

- D. Bids submitted shall not include a contractor or subcontractor disqualified from participating in State Building Commission projects. The State Architect maintains a list of those that are disqualified.
- E. The bidder and its subcontractors shall not knowingly utilize the services of an illegal immigrant in the performance of the Work, and shall not knowingly utilize the services of any subcontractor, sub-subcontractor, or consultant who utilizes the services of an illegal immigrant in the performance of the Work.
- F. In compliance with the Iran Divestment Act bids submitted shall not include a contractor or subcontractor on the list created pursuant to TCA § 12-12-106.

### 1.06 BID FORM

- A. Make bids on an unaltered Bid Form. Submit one Bid Form. Failure to completely fill out Bid Form may cause bid to be rejected.
- B. To indicate availability of an Add Alternate at no additional charge, write "No Charge" in the space. Additional stipulations or qualifications on Bid Form may cause bid to be rejected.
- C. Bid Form shall be signed by person or persons legally authorized to bind Bidder to contract.

### 1.07 BID SECURITY

- A. Bid Security is required in the amount of five percent (5%) of total amount of bid, including alternates, in the form of a Bid Bond or check (certified or cashier's) made payable to State of Tennessee.
- B. Bid Bonds shall be issued by Surety company licensed to do business in Tennessee by Tennessee Department of Commerce and Insurance, and shall have certified and current Power-of-Attorney for Attorney-in-Fact attached.
- C. Owner may retain Bid Security of bidders to whom award is being considered until either (a) Contract has been executed, or (b) specified time has elapsed so that bid is not binding, or (c) bid has been rejected. If Bidder refuses to enter into Contract or fails to furnish all required attachments properly executed, the amount of Bid Security shall be forfeited to Owner as liquidated damages, not as penalty.

### 1.08 BID SUBMITTAL

- A. Submit Bid Form, with required attachments, enclosed and sealed in a 9 inch by 12 inch Bid Envelope with Bid Envelope cover information as provided in Section 00 47 13 attached to the Bid Envelope. Bidder shall fill in blank spaces on face of Envelope except the blank space provided for Designer's approval.
- B. If any work, regardless of dollar value, is required for any or of the subcontract trades listed on the Bid Envelope form, list subcontractor(s) that will perform that work. If Bidder will perform that work with Bidder's own forces, fill in Bidder's name as subcontractor. If no work is required in a category, write "None Required" in space provided for subcontractor(s). If acceptance of Alternate or combination of Alternates changes subcontractor, indicate change on Bid Envelope.
- C. Provide State contractor license number, expiration date, and applicable classifications for Bidder and listed subcontractors, as applicable by State licensing law.

## 00 21 13 – INSTRUCTIONS TO BIDDERS

- D. Bidders are solely responsible for ensuring that bids are received by the time and at the place identified for receipt of bids. The bid opening time shall be established by the timepiece of the Owner's representative. Bids received late will be returned unopened.
- E. A bid sent by mail or courier shall be enclosed in an envelope clearly marked "Bid Envelope Enclosed".

### 1.09 MODIFICATION AND WITHDRAWAL PRIOR TO CLOSE OF BIDDING

- A. Modification: Bids, once submitted, may be modified before the scheduled opening time only upon receipt of a written modification signed by a person legally authorized to bind Bidder to contract. Modification to a bid may be made as an "Add" or "Deduct" only. Modification to bid may be written on the Bid Envelope with the signature of an authorized representative of the Bidder also written on the Bid Envelope. Modification shall indicate only the amount of change, clearly identified as an "Add" or "Deduct", and not indicate either the prior or resulting bid amount.
- B. Withdrawal: Bids, once submitted, may be withdrawn before the scheduled opening time only upon receipt of a written withdrawal request signed by a person legally authorized to bind Bidder to contract.

### 1.10 POST-BID WITHDRAWAL OF BID FROM CONSIDERATION DUE TO MISTAKE

A request to withdraw a bid due to a mistake shall follow the Policy and Procedure of the State Building Commission. In addition to the requirements therein, such requests shall be delivered in writing to the Owner not later than twenty-four hours after the time fixed for receipt and opening of bids.

### 1.11 CONSIDERATION OF BIDS

- A. To be considered, bids shall be made in accordance with these Instructions to Bidders. Failure to comply with these requirements may cause bid to be rejected.
- B. The Owner reserves right to: reject Unit Prices proposed in a bid without invalidating other portions of bid; reject a bid which does not provide all required Unit Prices; waive informalities; and, reject any or all bids.
- C. It is Owner's intent to award contract based upon lowest evaluated responsive bid submitted by responsible Bidder for Base Bid plus Alternates (if any) taken in order up to, but not to exceed the Bid Target. If the Base Bid of all bidders exceeds the established Bid Target, the low Bidder is determined by the lowest Base Bid submitted by a responsible Bidder irrespective of any Alternates (if any) bid. When Alternates are included in bidding, Bid Target will be announced at bid opening prior to opening bids. Alternates may be accepted or rejected at Owner's discretion, provided that final combination of Base Bid and accepted Alternates does not change low Bidder as established by above method.
- D. In the event of tie bids, preference will be given to in-State bidder over out-of-State bidder; and, if a tie still exists, successful Bidder will be determined by chance, e.g. a coin toss.

### 1.12 POST-BID INFORMATION

Each Bidder shall be prepared, if requested by Owner or Designer, to present, within ten days of the request, evidence of experience, qualifications, and financial ability to carry out the terms of the contract.

## **00 21 13 – INSTRUCTIONS TO BIDDERS**

### **1.13 BONDS**

- A. If the initial Contract Sum as awarded exceeds \$100,000, the successful Bidder shall provide Contract Bond in an amount of 100 percent of Contract Sum and in accordance with the requirements and form exhibited as Section 00 61 13.
- B. The successful Bidder shall furnish, if applicable, a Three Year Roof Bond in an amount stipulated on the Bid Form and in accordance with the requirements and the form exhibited as Section 00 61 43.

### **1.14 EXECUTION OF THE CONTRACT**

- A. If a Bidder is presented the written Agreement form for signing, then that Bidder shall deliver to the Owner, within ten calendar days after presentation, the required number of counterparts of the signed Agreement Form, Contract Bond, Roof Bond (if required), and certificates of insurance, ACH Credits Form, and W-9 federal tax form.
- B. Failure of the Bidder to return the Agreement as stipulated above shall entitle the Owner to require forfeiture of Bid Security and to proceed with award to the next lowest responsive Bidder.

### **1.15 AWARD OF THE CONTRACT**

Presentation of Agreement form by Owner to Bidder for signature does not constitute award of Contract. Contract shall not be considered awarded until Bidder has received a fully executed Agreement.

### **1.16 DIVERSITY PARTICIPATION**

- A. It is the express desire of the Owner and the State Building Commission to include an emphasis on diversity in its contractual relationships with contractors for the construction, demolition or renovation of State projects under jurisdiction of the Commission. The Commission acknowledges that firms who demonstrate and embrace diversity within their programs and policies are assisting the State in achieving its goals in building a more reflective marketplace of the community within this State.
- B. It is a requirement of all successful Bidders or proposers on projects under the jurisdiction of the State Building Commission that they report to the State the names and amounts of contracts entered into with diversity-owned businesses on their contract with the State in order for the State to collect data on such participation.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION