

Contract require the Contractor to suspend construction operations; 3) days with inclement weather that prevent prosecution of the scheduled work; 4) days from December 16 to March 15 inclusive. On inclement weather days that result in partial prosecution of the work, partial working days will be charged as determined by the Engineer. Partial working days will be charged in one-quarter day increments. If the Contractor receives permission from the Engineer to work on any Sunday or holiday, full working days will be charged, weather permitting. No time charge will be assessed if the Contractor elects to work on Saturdays. Should the Contractor prepare to begin work on any day on which inclement weather prevents the work from beginning at the usual starting time and the crew is dismissed as a result, the Contractor will not be charged for a working day whether or not conditions change during the day and the rest of the day becomes suitable for construction operations.

101.92 Working Drawings. Stress sheets, shop drawings, erection plans, false-work plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data which the Contractor is required to submit to the Engineer for approval.

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Section 102 - Bidding Requirements and Conditions

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102.01 Registration of Bidders. Prospective bidders must obtain registration status prior to submitting a proposal. In order to obtain registration status, prospective bidders must provide the Department with the following information:

1. Legal title, address, Federal Employer Identification Number, and phone number of organization.
2. Type of organization (corporation, partnership, etc.).
3. If organization is a corporation, name the parent company and all subsidiary or affiliated companies, if applicable, and list all stockholders who own shares of stock equal to or more than 10% of the organization's stock.
4. List the name and title of corporate officers authorized to

sign Contract documents, change orders, estimates, and other pertinent Contract forms.

Upon receipt of this information, the prospective bidder will be listed on the Department's Registry of Highway/Bridge/Building/Construction Contractors. Contractors registered on the Department's registry will receive mailed notification of all public works contracts advertised by the Department. It is the responsibility of all registered contractors to provide the Department on a continuous basis any changes to the information contained in the registry. Failure to provide current information may result in the loss of bidding privileges.

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102.02 Contents of Proposal. The proposal will state the location and description of the contemplated construction, show the estimate of the various pay item quantities, and show the kinds of work to be performed or materials to be furnished. A schedule of items for which unit prices are invited will be included along with the specified time in which the work must be completed, amount of the proposal guaranty, and the date, time, and place of the opening of bid proposals. If the basis of proposal comparisons by the Department is to be other than total cost, the comparison basis to be used will be defined. The bid proposal will also include or designate any Supplemental Specifications, Special Provisions, and any other specifications or requirements that vary from or are not contained in the Standard Specifications.

All papers bound with or attached to the bid proposal are considered as part of the proposal. The Plans, Specifications, and other documents designated in the bid proposal will be considered a part of the proposal whether attached or not.

102.03 Issuance of Proposal. The Department reserves the right to refuse to issue a proposal to a bidder for any of the reasons stated in [Subsection 102.12](#).

The prospective bidder will be required to pay the Department a non-refundable sum stated in the advertisement for each copy of the proposal.

Bid proposals without plans, marked "Duplicate", will be made available at a cost established by the Department. Such "Duplicates" are not valid for use in the submission of bids.

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102.04 Interpretation of Quantities in Bid Proposal Form. The quantities appearing in the Bid Proposal Form are estimates used for the bid comparison. Payment to the Contractor will be made for the actual quantities of work performed and accepted, or for materials furnished in accordance with the Contract. The estimated quantities of work to be done and materials to be furnished may be increased, decreased, or eliminated in their entirety.

102.05 Examination of Plans, Specifications, Bid Proposal, and Site of Work. The bidder is required to examine the site of the proposed work, the bid proposal, and all items designated in the bid proposal before submitting a proposal. If no site investigation is performed, the bidder assumes responsibility for all site conditions that should have been discovered had a reasonable site investigation been performed. The submission of a proposal will be considered conclusive evidence that the bidder is aware of and accepts the conditions to be encountered in performing the work and the requirements of the proposed Contract.

Boring logs and other records of subsurface investigations, when such investigations have been performed, are available for inspection by bidders. It is understood that such information was obtained and used for Department design and estimating purposes only. They are made available to bidders so that all bidders have access to subsurface information identical to that available to the Department and to other bidders, and are not intended as a substitute for the personal investigation, interpretations, and judgment of the bidders.

The Department will not be bound by any statement or representation concerning conditions or descriptions of the work unless they are included or designated in the bid proposal. Oral explanations or instructions given before the bid of the Contract by Department employees or agents will not be binding.

Any request for explanation of the meaning or interpretation of the proposal or items designated in the bid proposal shall be submitted, in writing, to the administrative manager no less than six business days prior to the proposal opening date. Interpretations or explanations made by the Department in response to such requests will be issued as an addendum to the bid proposal, and will be furnished to all prospective bidders in writing before the time set for opening of the proposals.

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102.06 Preparation of Proposal. The bidder shall submit the proposal either upon the Bid Proposal Forms, or magnetic media and the hard copy generated thereof, provided. The Bid Proposal Forms shall be detached from the bid proposal. Specify a unit price in figures for each Contract item for which a quantity is given and show the product of the respective unit price and quantities typewritten in figures in the column provided. The total amount of the proposal is to be obtained by adding the amounts of the several Contract items. The figures shall be typewritten. In case of a discrepancy between the typewritten unit prices and the typewritten bid amount, the typewritten unit prices shall govern. In case of a discrepancy between the unit prices contained on the magnetic media and the unit prices on the hard copy generated by the magnetic median, the hard copy unit prices shall govern.

Last minute handwritten substitutions of the typewritten unit prices on the typewritten Bid Proposal Forms or hard copy generated by the magnetic media shall be executed by striking a single line

through the figure being substituted and legibly writing in ink the new unit price. Each last minute substitution shall be initialed by the bidder authorizing the substitution. Legibility of the substitution shall be solely determined by the Department.

When the proposal permits an alternate to be used by the bidder, the bidder shall indicate on the Bid Proposal Form the alternate that is the basis of the bid submitted.

All Department addenda to the bid proposal must be acknowledged in the certification and shall be submitted with the modified Bid Proposal Forms. The proposal submitted must be signed in ink by a representative of the bidder authorized to execute proposals. The name and address of the individual signing the proposal is to be provided as well as the following names and addresses as applicable:

- Type of Bidder Names and Office Addresses Required
- Individual Individual
- Partnership Each member of the partnership
- Joint Venture Each member or officer of firms represented in the joint venture
- Corporation Corporation officer, corporation name, and corporate address
- Bid proposals, Bid Proposal Forms and magnetic media are serially numbered and are not transferable.

Unless otherwise provided in the proposal, joint ventures may submit a proposal for a joint venture of bidders qualified for that project on a bid proposal issued to the joint venture or on a bid proposal issued to any one of the joint participants. The proposal must be signed by each covenant followed by the title "Joint Venturer".

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102.07 Irregular Proposals. Proposals shall be considered irregular and shall be rejected as non-responsive for any of the following reasons:

1. The proposal is on a form (or in a format if computer generated) other than that approved by the Department, or if the form is altered or any part detached or incomplete.
2. There are unauthorized additions, conditional bids, or irregularities of any kind that may tend to make the proposal incomplete, indefinite, or ambiguous.
3. The bidder adds provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

4. If the bidder specifies a unit price of zero or fails to provide a unit price for every pay item indicated except in the case of authorized alternate pay item.
5. The proposal does not include the bid documentation in a sealed container and the affidavit of bid documentation if required by the Contract.
6. The proposal is materially unbalanced.
G. The proposal is not properly signed.
7. If any last minute hand written substitution of any unit price is illegible, as determined by the Department, or is not initialed by the bidder authorizing the substitution.
8. The Contractor fails to provide a properly executed proposal guaranty.
9. The bidder fails to sign the non-collusive bidding certification.
10. The proposal fails to comply with any other material requirements of the invitation for bids.
11. A bid shall be held to be non-responsive and not considered if specific DBE information is not provided at the time of bid: Good Faith Effort Documentation; failure to present written and notarized assurance that the goals on the Contract will be met; and, failure to present written copies of all DBE subcontracts within 10 calendar days after the bid opening.

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102.08 Proposal Guaranty. All bids shall be accompanied by a deposit of either a good and sufficient bond to the State for the benefit of the agency involved, with a corporate surety authorized to do business in this State or a security of the bidder assigned to the Department. The form of the bond and the surety to be used, must be approved by the Department. The sum of the proposal guaranty must be equal to at least 10% of the bid. The bid bond need not be for a specific sum, but may be stated to be for a sum equal to 10% of the bid to which it relates and not to exceed a certain stated sum, if said sum is equal to at least 10% of the bid. "Securities" shall include certified checks, cashier's checks, treasurer's check, and other negotiable or transferrable instruments evidencing an unconditional debt to the State or Department.

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102.09 Delivery of Proposals. The proposal shall be placed in the sealed envelope provided, and plainly marked to indicate its contents, including the Contract designation and the name and address of the bidder. Proposals shall be delivered prior to the time and place specified in the advertisement. Bidder bears the risk of delays in delivery. Proposals received after the specified time will be returned to the bidder unopened. Proposals forwarded by the United

States Postal Service or other delivery service must be addressed as follows:

Administrative Manager or Administrative Manager
Office of Administration Office of Administration
Department of Transportation Department of
Transportation
P.O. Box 778 800 Bay Road
Dover, DE 19903 Dover, DE 19901

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102.10 Withdrawal or Revision of Proposals. A bidder may withdraw or revise a proposal after it has been delivered to the Department, provided the request for withdrawal or revision is received by the Department in writing or in person with proper identifications before the time set for receipt of proposals. When the proposals have been read, any low bidder may withdraw any other unopened proposal which it may have submitted for another contract.

Any bidder exercising the privilege of so withdrawing its bid or bids waives all claims that may arise should it be found that its opened proposal is irregular or for any reason is unacceptable to the Department.

102.11 Public Opening of Proposals. Proposals will be opened and read publicly at the place and time set for opening of proposal.

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102.12 Disqualification of Bidders. Any of the following reasons may be considered sufficient for the disqualification of a bidder and the rejection of a proposal for future work until reinstated as a registered bidder.

1. The bidder has defaulted on previous contract(s).
2. Unsatisfactory past performance evaluations(s) as determined and documented by the Department.
3. Failure to submit required Contract release documents, such as Certification of Payment (CN-91), Release of Contractor (CN-102), Release of Subcontractors (CN-103), Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds (FHWA 47), or failure to sign a contract final change order for completed contracts.

The Department requires all releases within 90 calendar days after the date of the final change order or date of the acceptance of the Contract, whichever is later, or within 30 calendar days following the resolution of any Contract claims.

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102.13 Rejection of Proposal Any of the following reasons may be

considered sufficient for the rejection of a proposal.

1. More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
2. Participants in collusion among bidders.
3. Uncompleted work which, in the judgment of the Department, might hinder or prevent the timely completion of further work, if awarded.
4. Failure to pay or satisfactorily settle all bills due for labor and materials on contracts current at the time of bidding.

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102.14 Materials Guaranty. The successful bidder may be required to furnish a complete statement of the origin, composition, and manufacture of materials used in the construction of the work, together with a sample to be tested for conformance with the Contract provisions.

102.15 Non-Collusive Bidding Certification. Every proposal submitted to the Department shall contain the following statement subscribed to and affirmed by the bidder as true under the penalties of Law. This statement, in the form of a certification, shall be signed by the bidders and submitted with the bid documents.

Non-Collusive Bidding Certification

By submission of this proposal, each bidder and each person signing on behalf of any bidder, certifies as to its own organization, under penalty of perjury, that to the best of each signer's knowledge and belief:

1. The prices in this proposal have been arrived at independently without collusion, consultation, communication, or Agreement with any other bidder or with any competitor for the purpose of restricting competition.
2. Unless required by law, the prices which have been quoted in this proposal have not been knowingly disclosed and will not knowingly be disclosed by the bidder, directly or indirectly, to any other bidder or competitor prior to the opening of proposals.
3. No attempt has been made or will be made by the bidder to induce any other person, partnership, or corporation to submit or not to submit a proposal for the purpose of restricting competition.

A bid proposal will not be considered for award nor

will any award be made where there has not been compliance with 1., 2., and 3. above.

If the bidder cannot make the foregoing certification, the bidder shall so State and shall furnish with the proposal a signed statement which sets forth in detail the reasons why the certification cannot be made. Where 1., 2., and 3. above have not been complied with, the proposal will neither be considered for award nor will any award be made unless the Department determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder has 1) published price lists, rates, or tariffs covering items being procured, 2) informed prospective customers of proposed or pending publication of new or revised price lists for such items, or 3) sold the same items to other customers at the same prices being bid does not constitute a disclosure within the meaning of 1. above.

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Section 103 - Award and Execution of Contract

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103.01 Consideration of Bids. After the proposals are opened and read, the Department will compare the proposals on the basis of the summation of the products of the quantities and the unit prices unless otherwise defined in the bid proposal. The results of the comparison will be available to the public upon award of the Contract. In the event of a discrepancy between unit prices and extensions, the unit price shall govern. The Department reserves the right to reject proposals, waive technicalities, proceed to do the work otherwise, or advertise for new proposals. Unit bid prices may also be affected by maximum price provisions noted elsewhere in these Specifications.

103.02 Award of Contract. The award of the Contract will be made within 30 days after the opening of the proposals to the responsible bidder who submits the lowest responsive proposal. The successful bidder will be notified in writing, mailed to the address indicated on the proposal, of the acceptance of the proposal and the award of the Contract. By mutual consent, the Department and the lowest