

S T A T E

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T E N N E S S E E

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March 1, 2006

Supplemental Specifications - Section 100

of the

Standard Specifications for Road and Bridge Construction

March 1, 2006

Subsection 101.13, Second paragraph, first sentence, **Delete** “Revisions and Additions.”

Subsection 101, **Add** the following definition

“Amendment. A revision to the electronic bid file which may include adjusting a quantity, adding, deleting, or revising a pay item(s).

Subsection 101.47, Second sentence, **Replace** “Revisions and Additions” with “**Supplemental Specifications**”

Subsection 101.57, **Delete** the entire paragraph and replace with the following

“A company authorized to guarantee a bidder’s proposal and a contractor’s performance and payment obligations under a contract and which is authorized to do business in the State of Tennessee.”

Subsection 102.01, **Replace** **the entire subsection with the following:**

102.01 - Prequalification Questionnaire and Competency of Bidders. Each prospective bidder and subcontractor will be required to file a document entitled “Prequalification Questionnaire.” The foregoing shall be filed on a form provided by the Department. The form must be filled out completely, and the truth and accuracy of the information provided must be certified by a sworn affidavit signed by an officer, partner, owner or other authorized representative of the applicant who has authority to sign contracts or other legal documents on behalf of the applicant. A prospective bidder must be prequalified by and in good standing with the Department prior to the issuance of a proposal form; however this standing does not prohibit any person from requesting or obtaining a void proposal form for any purpose other than submitting a proposal to the Department. A prospective subcontractor must be prequalified by and in good standing with the Department prior to being approved as a subcontractor. Each prospective bidder or subcontractor shall notify the Department if there is any subsequent change in the name, organization or contact information provided.

Prospective bidders’ “Prequalification Questionnaire” shall be filed with the Department at least fourteen (14) days prior to the date of opening bids on any letting in which the applicant intends to submit a bid to the Department, or at least fourteen (14) days prior to the date on

which the applicant requests approval as a subcontractor under a contract awarded by the Department. Bidders intending to submit proposals consistently shall complete and submit the prequalification application annually; however, this document may be changed during such period upon submission of additional favorable reports or upon receipt by the Department of substantiated evidence of unsatisfactory performance. The Department reserves the right to request additional information and documentation to clarify and/or verify any information submitted in an applicant's prequalification application.

Prospective subcontractors will be required to pre-qualify prior to approval of the subcontracts by the Department and must also submit a prequalification application annually.

The Department reserves the right to refuse to issue a proposal form when a bidder is in default or delinquent for any of the following reasons:

- (a) When a "Prequalification Questionnaire" has not been filed with and examined by the Department or when the bidder, in the opinion of the Commissioner, is not qualified.
- (b) Default of existing contract (s).
- (c) When a bidder has an existing incomplete contract (s) with the Department which is behind schedule to the extent that it may hinder or prevent prompt completion of any additional contract (s).
- (d) When a bidder has been suspended, debarred, or otherwise excluded under the Department's rules governing contractor debarment and suspension, Chapter 1680-5-1, or under applicable Federal rules governing the suspension and debarment of contractors.

Subsection 102.09, Fourth paragraph, **Delete** the first sentence, **Replace** with the following:

“Proposals that contain the computer diskette without the CAB program generated bid item sheets will be rejected as irregular, except for Internet bids.”

Subsection 102.09, Paragraphs 8, and 9 are duplicate paragraphs

Subsection 103.01, First paragraph, section (c), **Delete** “the lowest total Contract will govern.”, **and replace with** “the internet bid will govern.”

Section 104-SCOPE OF WORK, **Add** the following to the Table of Contents “**104.02- Alterations in Plans or in Character of Construction.**”

Subsection 104.06 First sentence, **Replace** the word “sectiot”, **should read** “section”

Add the following as **Subsection 104.12** of the Standard Specifications.

104.12- Value Engineering Change Proposal (VECP).The Contractor may request a modification to the plans, the specifications or other contract requirements based on a Value Engineering Change Proposal (VECP) submitted to the Department specifying a cost reduction change. This will not apply to a proposal unless it is identified as a VECP at the time of its submittal.

Value Engineering Change Proposals (VECP) are those which would require a change in the contract and would result in an immediate net savings to the Department without impairing

essential functions and characteristics of the project, including but not limited to the service life, reliability, economy of operation, maintenance and safety features. VECP's that propose a total savings of less than \$25,000 (twenty-five thousand dollars) will normally not be considered unless there are other non-monetary savings to be realized.

The Contractor may submit for review a "VECP Concept" provided that it contains enough information to clearly define the work involved and the benefits to be realized. The "VECP Concept" shall state all applicable design criteria that will be used in the VECP design. Written notification by the Department that the review has been completed and that the "VECP Concept" appears to be favorable merely indicates that the engineering and plan development may continue for submittal of the VECP proposal and is not authorization for any construction work to begin. Should the final design not reflect the expected benefits, the Department may reject the "VECP Concept" and the VECP without recourse by the Contractor.

The following information, as a minimum, shall be submitted with each proposal to the Engineer, allowing adequate time for Department analysis and processing without interference with project schedules:

- (a) A description of the difference between the existing contract requirements and the proposed change, and the comparative advantages and disadvantages of each.
- (b) An itemized list of the contract changes required if the VECP is accepted, and any recommendation as to how to make each such change.
- (c) A separate detailed cost estimate for (1) the affected portions of the existing contract requirements and (2) the VECP.
- (d) A prediction of any effects the proposed change will have on other Department costs, such as costs of maintenance and operation.
- (e) A statement of the time by which a supplemental agreement must be issued in order to obtain the proposed cost reduction for the project, noting any effect on the contract completion time or delivery schedule.
- (f) The date(s) of any known previous or concurrent submissions of the same proposal and any previous actions by the Department.
- (g) The contract items of work affected by the proposed change, including any quantity changes.

Proposed construction changes in pavement design, right of way, relocation of bridges, etc. or changes in the environmental impact statement will not normally be considered as an acceptable VECP. The Department may determine at any point during the evaluation process that the VECP is not cost effective and summarily reject the VECP.

While a VECP is being considered by the Department, the contractor shall continue to perform the work in accordance with the requirements of the contract. The Department has no obligation but to review the VECP and shall not be liable for failure to accept or act upon any VECP or for any delays to the work due to the submitted proposal. The Department shall be the sole judge of the acceptance or rejection of a VECP, either wholly or in part. If an agreement has not been reached by the date that the contractor's VECP specifies that a decision should be made, or such other date as the contractor may have specified in writing, the VECP shall be deemed rejected.

The Contractor shall have no claim against the Department for additional costs or delays resulting from the rejection of a VECP, including but not limited to, "VECP Concept" acceptance, engineering and development costs, loss of anticipated profits, and increased material or labor costs.

The Department will not accept a VECP that is similar to a change in the plans or specifications under consideration by the Department for the project at the time the proposal is submitted; nor will the Department accept a proposal based upon, or similar to, standard specifications, general use special provisions or standard drawings adopted by the Department after the advertisement for the contract. The Department reserves the right to make such changes without compensation to the Contractor under the provisions of Subsections 104.02 and 104.03 of the standard specifications.

The Department will determine the estimated net savings from the adoption of all or any part of the VECP. In determining the estimated net savings, the Department may disregard the contract bid prices if, in the judgment of the Department, such prices do not represent a fair measure of the value of the work to be performed or to be deleted.

In the event the Department accepts the VECP the contractor thereby grants to the Department all rights to adoption of the proposal for general use on other contracts without obligation or compensation of any kind.

Acceptance of a VECP will be by supplemental agreement incorporating the changes necessary to permit the VECP, or any part of it, to be put into effect. The supplemental agreement shall also set forth the estimated net savings to the Department and further provide that the contractor be paid 50 percent of the actual net savings.

The cost to the contractor to develop and implement the VECP and any design (including redesign by a Tennessee licensed engineer, preparation of new reproducible plans, etc. and any other information requested by the Department to facilitate its review) shall be incidental to the contractor and shall in no way affect the VECP payment herein before specified. The cost to the Department to review the VECP shall be incidental to the Department and shall not affect the VECP payment.

The actual net savings will be determined when the work in the VECP and Supplemental Agreement is completed. If upon completion of the work proposed in the VECP it is determined that the supplemental agreement did not adequately address a change in quantities for other pay

items that were either increased or decreased substantially as a result of the change proposal, those additional costs or savings shall be included in the actual net savings determination. A single payment will be made to the contractor representing fifty percent (50%) of the actual net savings once all items are considered.

If the completed VECP results in an increase in cost such that there is no net savings, those costs above the original contract costs as proposed in the VECP and supplemental agreement will be reimbursed at a rate of fifty percent (50%).

The preparation of the VECP, its acceptance and performance of the work shall not extend the contract completion time unless the supplemental agreement provides an extension.

Subsection 105.13 First paragraph, **Replace** the words “sectiot”, **should read** “section”

Subsection 106.04, Fourth paragraph, **Insert** the word “notarized” in the first sentence, as follows

“A notarized Certificate of Compliance...”

Section 107-Legal Relations And Responsibility, Left out “**107.02-Load Restrictions on Projects Under Construction.**”

Subsection 107.16 Third sentence, **Change** sentence to read as follows:

The costs involved in furnishing the insurance and/or flagging specified will not be paid for directly, but shall be included in the unit price bid for other items of construction.

Subsection 109.02 **Add** the following to the end of **Subsection 109.02:**

In accordance with **TCA, Section 12-4-707**, the prime Contractor agrees to pay each subcontractor under this contract for work under its subcontract no later than 30 days from receipt of each payment the prime Contractor receives from the Department. The Contractor shall provide monthly payment certification to the Department entitled “Prompt Payment Certification Form”. An officer of the contractor shall sign the “Prompt Payment Certification Form”. TDOT will hold estimate payments if information is not submitted. Also, all required certifications must be in the field office and accepted before such work is deemed satisfactorily completed. Any delay or postponement of payment from the above referenced time frame will result in accrual of interest as provided under **TCA, Section 12-4-707(b)**.

The Contractor shall not withhold any retainage from progress payments to their subcontractors.

Subsection 109.06, **Delete** the second paragraph and **Replace** with the following:

“The department will not withhold retainage from the Contractor. No monthly estimate or partial payment will be made when the total value of the work done since the last previous monthly estimate amounts to less than \$1000.00.”