

## SECTION 00515

# AWARD AND EXECUTION OF CONTRACTS

### PART 1 GENERAL

#### 1.1 RELATED SECTIONS

- A. Section 00570: Definitions.

#### 1.2 CONSIDERATION OF BID PROPOSALS

- A. The Department opens and reads the Bid Proposals, then compares them on the basis of the summation of the products of the quantities and the unit bid prices.
  - 1. Department makes the results of the comparisons available to the public.
  - 2. The unit bid prices govern if a discrepancy exists between unit bid prices and extensions.
- B. The Department reserves the right to reject any or all Bid Proposals, waive technicalities, advertise for new Bid Proposals or proceed to do the work.
- C. The bidder can request withdrawal of a bid after bid opening by:
  - 1. Submitting a notarized affidavit within 24 hours after bid opening that declares a clerical or mathematical error in bid preparation.
  - 2. Submitting accompanying declaration with original work sheets used in bid preparation.
  - 3. Describing specific error(s) in detail.
  - 4. Verifying that error is of a significant monetary effect in the amount of 3 percent of the bid or greater.
- D. Judgmental errors are not grounds for requesting bid withdrawal.

#### 1.3 AWARD OF CONTRACT

- A. The Department awards the Contract to the lowest responsible bidder within 30 calendar days.
- B. The Department may withhold award beyond the 30 days with the approval of the successful bidder.

- C. If the award is not made within 30 calendar days, the bidder may withdraw the Bid Proposal without liability.
- D. The Department notifies the successful bidder by letter mailed to the address shown on the Bid Proposal that the bid has been accepted and that the Contract has been awarded.

#### 1.4 CANCELLATION OF AWARD

- A. The Department reserves the right to cancel the award of any Contract before execution without liability.

#### 1.5 RETURN OF PROPOSAL GUARANTY

- A. All Proposal guaranties are returned after a substantial contract bond has been furnished and the Contract has been executed.
- B. A bidder is not released from the bidding obligation because of an alleged error in the preparation of the Bid Proposal unless the Department returns the proposal guaranty.

#### 1.6 CONTRACT BONDS

- A. The Department furnishes necessary bond forms to the successful bidder.
- B. Execute and return forms to Department as required by the Utah Procurement Code.
  - 1. **Payment Bond** secures the payment of the claims of laborers, mechanics or materialmen employed on the work under the Contract.
  - 2. **Performance Bond** guarantees the faithful performance of the Contract.
- C. Each bond must equal 100 percent of the contract price.
- D. Underwriting Limitation is stated in the United States Department of Treasury Circular 570; "Surety Companies Acceptable on Federal Bonds." Only companies listed in the Department of Treasury Circular 570 are acceptable.

- E. The Department declares a bidder's Bid Proposal non-responsive if its surety company is not listed in the Department of Treasury Circular 570 or if co-insurance, reinsurance, or other acceptable method is not provided when a company's underwriting limitation is deemed insufficient.
- F. The Department may make alterations, extensions of time, extra and additional work, and other changes authorized by the Contract without securing the consent of the surety or sureties on the contract bonds.
- G. If a Contractor's surety is unable to provide payment, the Department cancels all work on the Contract, unless the Department determines it is in the public interest to continue the work.
- H. As an alternate contract bond, furnish a cash bond of two cashier's checks, each in the amount of Contractor's bid amount.
  - 1. The Department holds the cash bond and uses it when needed for correction of any non-performance or non-payment.
  - 2. Upon release by the Engineer for substantial completion of the work, one half of the cash bond minus any cost against the bond will be returned to the Contractor.
  - 3. If no payment claims have arisen within 90 days after release by the Engineer, the Department releases the remaining cash bond.
  - 4. The Department holds the cash bond until the non-performance and non-payment issues are resolved. Contractor accrues no liability during this time.
  - 5. The Department decides the need for withholding the cash bond.

## **1.7 EXECUTION AND APPROVAL OF CONTRACT**

- A. Return the signed Contract and contract bonds to the Department within 15 calendar days of notice of award.
  - 1. The bidder can withdraw the bid proposal without penalty if the Department does not execute the Contract within 30 calendar days after receiving signed Contracts and Bonds.
  - 2. The Contract is not considered in effect until executed by all parties.

## **1.8 MATERIALS GUARANTY**

- A. The successful bidder must:
  - 1. Furnish a complete statement of the origin, composition, and manufacturer of material proposed for use in the construction.
  - 2. Furnish samples to be tested and inspected for meeting the Contract.
  
- B. Contractor may be required to furnish a written guaranty covering certain items of work for varying periods of time from the date of acceptance of the Contract.
  - 1. Department specifies in the Contract the work to be guaranteed, the form, and the time limit of the guaranty.
  - 2. Sign and deliver the guaranty to the Engineer before acceptance of the Contract in accordance with Section 00570, line A of article entitled "Completion."
  - 3. Upon completion of the Contract, the required Performance Bond may be reduced to conform to the total amount of the contract bid prices for the items of work to be guaranteed. This amount continues in full force and effect for the duration of the guaranty period. Refer to this Section, article, "Contract Bonds."

## **1.9 FAILURE TO EXECUTE CONTRACT**

- A. The Department can cancel the notice of award and keep the proposal guaranty if the successful bidder fails to execute the Contract and file acceptable Bonds and insurance certificates evidencing coverage within 15 calendar days after the date of the Notice of Award.
  
- B. The Department may then award the Contract to the next lowest responsible bidder, or may re-advertise the work.

**PART 2 PRODUCTS** Not used

**PART 3 EXECUTION** Not used

END OF SECTION