

102.15-FREE COMPETITIVE BIDDING AFFIDAVIT:

Prior to the approval of Federal-Aid Contracts, a sworn statement in the form of an affidavit shall be executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded. This affidavit must be sworn to before a Notary Public who must affix their seal thereto if outside the State of West Virginia.

The affidavit, with accompanying endorsement and acknowledgment sections, is contained in the contract Proposal.

102.16-PRE-CONSTRUCTION DATA:

Prospective bidders may review files at the West Virginia Division of Highways, Capitol Complex, Charleston, West Virginia. These files may contain additional information not included in the contract documents including, but not limited to, old plans, old shop drawings, geotechnical information, environmental documents, permit applications, permits, asbestos reports, hazardous waste reports and other data. Copies may be obtained upon request and payment of printing fees.

SECTION 103 AWARD AND EXECUTION OF CONTRACT

103.1-CONSIDERATION OF PROPOSALS:

After the Proposals are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the bid schedule by the unit bid prices. The results of such comparisons will be made immediately available to the public. In the event of discrepancy between unit bid prices and extensions, the unit bid price shall govern.

The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals if, in the judgment of the Commissioner, the best interests of the State will be promoted.

If Proposals for more than one project are issued to a bidder, which projects individually would be within the bidder's qualification established provided in 102.1, but a combination of more than one, considering also the work under contract and incomplete, would be in excess of their qualification, the right is reserved to consider only such Proposal or Proposals as, in the opinion of the Commissioner, are most advantageous to the Division.

103.2-AWARD OF CONTRACT:

The award of Contract, if it be awarded, will be made within 30 calendar days after the opening of Proposals to the lowest responsible and prequalified bidder. The Commissioner may, with the agreement of the successful bidder, withhold award for any length of time. The successful bidder will be notified by letter, mailed to the address shown on their Proposal, that their bid has been accepted and that they have been awarded the Contract.

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103.3-CANCELLATION OF AWARD:

The Division reserves the right to cancel the award of any Contract at any time before the execution of the Contract documents by all parties without any liability against the Division.

103.4-RETURN OF PROPOSAL GUARANTY:

All proposal guaranties, except those of the two lowest bidders, will be returned immediately following the opening and checking of the Proposals. The retained proposal guaranty of the unsuccessful of the two lowest bidders will be returned within 10 days following the award of Contract, and that of the successful bidder will be returned after a satisfactory bond has been furnished and the Contract has been executed.

103.5-REQUIREMENT OF CONTRACT BOND:

At the time of the execution of the Contract, the successful bidder shall execute and deliver to the Division a good and sufficient surety or collateral bond payable to the State of West Virginia in the amount of 100 percent of the contract price.

As an alternate, the successful bidder may deposit with the State Treasurer cash bond, United States treasury bonds, United States treasury notes, United States Treasury certificates of Indebtedness, United States treasury bills or West Virginia Road Bonds in the amount of 100 percent of the contract amount. A safe keeping receipt from a bank located in the State of West Virginia may be deposited with the State Treasurer in lieu of any of the definitive securities.

The State Treasurer shall, on a regular basis, collect all interest or income on the obligations so deposited and shall pay same, when and if collected, to the Contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the State Treasurer shall deliver each coupon as it matures to the Contractor.

103.6-INSURANCE REQUIREMENTS:

The Contractor shall be required, in addition to any other form of insurance or bonds required under the terms of the Contract and Specifications, to procure and maintain during the life of the Contract the following types of insurance in the amounts set forth:

All such policies of insurance shall be occurrence policies and the Certificate of Insurance provided to the Division shall so specify. The policies must provide coverage for all damages arising out of injury to persons or property which allegedly occurred during the life of the contract regardless of when the claim is filed subject to statute of limitations.

103.6.1-Contractor's Public Liability and Property Damage Liability Insurance: The Contractor shall furnish an ACORD Form 25-S or its equivalent as evidence of insurance with a 30-day notice of cancellation

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provision that the contractor has in place, an Insurance Devices Office (CGL) Commercial General Liability Insurance Form CG0001, 01-96 issue date or later. The limits of insurance required by the Division for contractor are as follows:

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage	\$50,000
Medical Expense Limit	\$5,000

The CGL policy issued on behalf of the Contractor shall not include exclusions for blasting, collapse, or underground liability. The CGL policy issued for the Contractor shall include endorsements that extend the aggregate limits of insurance to each construction project separately.

103.6.2-Contractor's Protective Public Liability and Property Damage Liability Insurance: The Contractor shall furnish evidence to the State that, with respect to the operations performed for them by subcontractors, the Contractor carries in their own behalf (1) regular Contractor's Protective Public Liability Insurance providing for a limit of not less than \$250,000 for all damages arising out of bodily injuries to or death of one person and subject to that limit for each person, a total limit of \$500,000 for all damages arising out of bodily injuries to or death of two or more persons in any one accident; and (2) regular Contractor's Protective Property Damage Liability Insurance providing for a limit of not less than \$100,000 for all damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, a total (or aggregate) limit of \$500,000 for all damages arising out of injury to or destruction of property during the life of the Contract. The policy shall be written or endorsed to cover the hazards of blasting, operation of mechanical equipment on streets and highways, and collapse.

The contractor shall also give evidence of insurance for Employer's Liability Insurance, with a 30-day notice of cancellation. The Employer's Liability policy must include coverage to protect the contractor for claims brought under Section 23-4-2 of West Virginia Code. The limits of insurance under this section shall be as follows:

Each accident	\$500,000
Each disease	\$500,000
Each disease/employee	\$500,000

Evidence of this coverage can be set forth on the ACORD 24-S specified in Subsection 103.6.1.

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103.6.3-Automobile Insurance: The Contractor shall furnish evidence, with a 30-day notice of cancellation, to the state that it maintains an Insurance Services Office Commercial Automobile Liability insurance policy Form CA0001 or its equivalent. The policy shall include coverage for owned, non-owned, and hired vehicles.

The limits for liability insurance must be at least \$1,000,000 combined single limit. Evidence for the coverage shall be set forth on an ACORD Form 25-S Certificate of Liability Insurance.

103.6.4-Steam Boiler Insurance: In event steam boilers are used on the work, the Contractor shall furnish evidence that the Contractor carries in their own behalf standard Steam Boiler Insurance having an aggregate limit of not less than \$250,000.

The insurance specified shall be carried until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance of the State.

103.6.5-Countersignature of Resident West Virginia Agent: The policy or policies of Insurance required must be countersigned by a Resident Agent of the State of West Virginia, in accordance with the applicable statute of the State of West Virginia.

All certificates of insurance used to verify the policies issued must be endorsed by a West Virginia Licensed Resident Agent. Such endorsement must include the printed name, street address, city and zip code of the Resident Agent.

103.7-SPECIAL BONDS AND INSURANCE:

When the work is of such nature that special bond or insurance is required, the special requirements will be detailed and included in the Proposal for the project. This coverage could include, but not be limited to, builder's risk, installation floater, maritime exposures, environmental exposures, and professional liability.

103.8-EXECUTION OF CONTRACT:

The Contract shall be executed by the bidder to whom the Contract has been awarded, the bond executed by the principal and the sureties, and the Contract and bond returned to the Division within 20 days after the date of the notice of the award.

103.9-FAILURE TO EXECUTE CONTRACT:

Failure by the bidder to execute the Contract and file acceptable bond within 20 days after notice of award shall be just cause for the annulment of the award; and it is understood by the bidder, in the event of such an annulment of award or the Contract, that the amount of the guaranty deposited with the Proposal will be retained by the Division and deposited in the Division of Highways Fund, not as a penalty, but as liquidated damages. Award may then

be made to the next lowest responsible bidder, or the work may be re-advertised and constructed under contract or otherwise, as the Division may decide.

103.10-PRECONSTRUCTION CONFERENCE:

As soon as possible after the award of each Contract a preconstruction conference will be arranged by the Division. The Contractor, their superintendent, or an authorized agent shall be present at the conference and shall present the proposed schedule of work, list of proposed subcontractors, if any, and a list of suppliers from whom materials are anticipated to be purchased. The information so presented shall be on forms submitted to the Contractor with the letter of contract award. The Division will make arrangements for utility representatives to be present.

SECTION 104 SCOPE OF WORK

104.1-INTENT OF CONTRACT:

The intent of the Contract is to provide for the construction and completion in every detail of the work described. The Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the Plans, Specifications, and terms of the Contract.

Should any misunderstanding arise as to the intent or meaning of the Contract, or any discrepancy appear, the decision of the Commissioner shall be final.

104.2-ALTERATION OF PLANS OR CHARACTER OF WORK:

Under no circumstances shall alterations of Plans or the nature of the work involve work beyond the termini of the proposed construction except as may be necessary to satisfactorily complete the project.

In addition to the above, alterations in Plans or increased quantities of items may be made necessary at a time when the contract or the items involved in the operations are substantially completed, the related contractor organization demobilized, and related equipment essentially removed from the project.

Under these circumstances, if it is demonstrated that the unit cost to the Contractor has increased, additional compensation may be allowed by the Engineer and the additional work performed as prescribed in 104.3 as "Extra Work."

Any adjustment in compensation because of a change(s) resulting from one or more of the conditions described above will be made in accordance with the provisions of 109.3. Any adjustment in contract time because of such change(s) will be made in accordance with the provisions of 108.6.

104.3-EXTRA WORK:

The Contractor shall perform unforeseen work for which there is no price included in the Contract, whenever it is deemed necessary or desirable in order