

## **SECTION 102 BIDDING REQUIREMENTS AND CONDITIONS**

### **102.1 Prequalifying Bidders**

- (1) The department will provide, upon request, information regarding departmental policy and procedures for prequalification of a bidder.
- (2) Furnish a dated prequalification statement on the department's form at least 5 calendar days before the time set for opening proposals. Include certificates for insurance Types 1, 2 and 3 as required in 107.26.
- (3) The prequalification statement establishes proof of the prospective bidder's competency and responsibility to perform work. The department will evaluate each prospective bidder based on verified information in the prequalification statement and on other relevant information the department may have. The department will assign ratings, honoring all limitations requested by the bidder, as provided in the departmental policy. The department will maintain the bidder's ratings for a period of time provided in the departmental policy.
- (4) The department will indicate, in the notice to contractors, if a contract does not require prequalification.

### **102.2 Bidding Proposal Content**

- (1) The bidding proposal is the department-required form the prospective bidder must use to prepare and submit bids for the work. The department will provide the bidding proposal that includes:
  1. The name and bidder identification number of the prospective bidder.
  2. Location and description of the project.
  3. Estimate of quantities and type of work to be performed or materials to be furnished.
  4. Time to complete the work.
  5. Amount of the proposal guaranty.
  6. Department's deadline for receiving completed proposals.
  7. Schedule of items.
  8. Contract requirements not contained in the standard specifications.
  9. Special provisions.
- (2) Documents bound with or attached to the bidding proposal are a part of the proposal. Do not detach or alter bound documents when submitting the proposal. The plans, standard specifications, and other documents designated in the bidding proposal are a part of the proposal, whether attached or not, and need not be returned when the proposal is submitted.

### **102.3 Issuing Bidding Proposals**

#### **102.3.1 General**

- (1) The department will provide, upon request, information regarding departmental policy and procedures for obtaining bidding information, submitting a bid, obtaining sample proposal forms, and purchasing plans.
- (2) To obtain the bidding proposal, the prospective bidder shall prequalify as specified in 102.1 unless the department indicates in the notice to contractors that prequalification will not be required. Submit a written request for a bidding proposal on the department's request for proposal form.

#### **102.3.2 Department May Not Issue**

- (1) The department may refuse to issue bidding proposals to a prospective bidder for one or more of the following reasons:
  1. The department's estimate of the cost of the proposal, together with the value of the prospective bidder's uncompleted contract work, exceeds the prospective bidder's established ratings, as determined in 102.1, at the time set for receiving proposals.
  2. The prospective bidder owes the department for previously issued plans.
  3. The prospective bidder has work under way or has performed work not up to the proper standard of progress or quality. The prospective bidder may request, in writing, that the department review its refusal to issue a bidding proposal as provided in the department's prequalification policy.
  4. The award of additional work, in the department's opinion, would preclude the satisfactory performance of the additional work or work already under way. The prospective bidder may request, in writing, that the

department review its refusal to issue a bidding proposal as provided in the department's prequalification policy.

5. Any of the causes for disqualification of a bidder specified in 102.13.2.

### 102.3.3 Department Will Not Issue

- (1) The department will refuse to issue bidding proposals to 2 or more prospective bidders on the same contract who are affiliated with each other, or for one or more of the following reasons:
  1. The prospective bidder has been suspended or debarred from bidding on department contracts under Trans 504 of the Wisconsin administrative code.
  2. The prospective bidder does not supply, on the department's request for proposal form, the required information on all incomplete work.

### 102.4 Interpreting Bid Proposal Quantities

- (1) Submit unit bid prices for the estimated quantities as given in the schedule of items. These quantities are approximate and the department only uses them for the comparison of bids. Do not plead misunderstanding or deception because of these quantities as to the character, location, or other conditions pertaining to the work.
- (2) The department will only pay the contractor for the actual quantities of the work performed or materials furnished under the contract. The department may increase or decrease the contractor's scheduled quantities of work as provided in 109.3 without invalidating the bid prices.

### 102.5 Examining Contract Documents and Work Site

- (1) Carefully examine the contract documents and perform a reasonable site investigation before submitting a proposal. Submitting a proposal is an affirmative statement that the bidder has examined the contract documents, investigated the site, and is satisfied as to the character, quality, quantities, and the conditions the bidder will encounter in performing the work that the bidder could determine by walking the project site. A reasonable site investigation also includes investigating borrow sites, hauling routes, and all other locations related to the performance of the work.
- (2) Before the department's execution of the contract, obtain a permit from the department before performing excavations, borings, or other activities within the highway right-of-way. Obtain the necessary permit request forms from the region operations engineer.
- (3) The department may include in the contract documents, or make available for the bidder's review at the department's region or other offices, one or more of the following:
  1. As built drawings.
  2. Available information relative to subsurface exploration, borings, soundings, water levels, elevations, or profiles.
  3. The results of other preliminary investigations.
- (4) The department provides information under 102.5(3) for the bidder's general knowledge only. This information is not a substitute for the bidder's own investigation, interpretation, or judgment. The information provided is applicable only to the locations and at the times indicated.

### 102.6 Preparing the Proposal

- (1) Submit completed proposals on the department's bidding proposal described in 102.2. Submit legible information only. Write everything in ink, by typewriter, or by computer-controlled printer. Provide all dollar amounts in dollars and cents, in numerals. Attach all addenda to the submitted proposal.
- (2) Properly execute the proposal. Place the required signatures, in ink, in the space provided on the bidding proposal as indicated below:

ENTITY SUBMITTING PROPOSAL

REQUIRED SIGNATURE

- |                      |   |
|----------------------|---|
| <b>Individual</b>    | The individual or a duly authorized agent.                                      |
| <b>Partnership</b>   | A partner or a duly authorized agent.   |
| <b>Joint venture</b> | A member or a duly authorized agent of at least one of the joint venture firms. |

**Corporation** An authorized officer or duly authorized agent of the corporation. Also show the name of the state chartering that corporation and affix the corporate seal.

**Limited liability company** A manager, a member, or a duly authorized agent.

- (3) Instead of using the schedule of items provided on the department's bidding proposal, the bidder may submit a substitute schedule with the proposal. Use a format for the substitute schedule conforming to the department's guidelines for approval of a bidder-generated schedule of items. Obtain the department's written approval before using a substitute schedule.
- (4) Provide a unit price for each bid item listed in the schedule of items. Calculate and show, in the bid amount column, the products of the respective unit prices and quantities. For a lump sum bid item, show the same price in the unit price column and in the bid amount column pertaining to that bid item. Show the total bid obtained by adding the values entered in the bid amount column for the listed bid items.
- (5) If a unit price or lump sum bid already entered in the proposal needs to be altered, cross out the entered unit price or lump sum bid with ink or typewriter and enter the new price above or below and initial it in ink.
- (6) A change that the bidder makes in the proposal is not an alteration if the bidder makes that change as directed in a specific instruction contained in an addendum.

## **102.7 Irregular Proposals**

### **102.7.1 Department Will Correct**

#### **102.7.1.1 All Schedules of Items**

- (1) The department will correct arithmetic errors or omissions found in the completed schedule of items as follows:
  1. Discrepancy between a unit price and the corresponding bid amount, or in the absence of a bid amount: the department will use the unit price to determine the correct bid amount.
  2. Bidder leaves the unit price column or the bid amount column blank for a lump sum bid item: the department will use the single value shown to obtain the correct unit price and the correct bid amount for that bid item.
  3. Discrepancy between the total bid and the sum of the correct bid amounts, or in the absence of a total bid: the department will use the correct bid amounts to determine the correct total bid.

#### **102.7.1.2 Bidder-Generated Schedules of Items**

- (1) The department will also correct errors in bidder-generated schedules of items as follows:
  1. Quantity is incorrect, and both the bid item number and description are correct: the department will correct the quantity and recalculate the bid amount.
  2. Item number is correct and the description is incorrect: the department will correct the description.
  3. Item number is incorrect and the description is correct: the department will correct the bid item number.
  4. Item number is correct but out of sequence and the description is correct: the department will ignore the error.

### **102.7.2 Department May Reject**

- (1) Proposals are irregular and the department may reject them for one or more of the following reasons:
  1. The proposal contains unauthorized alterations of format, words, or figures.
  2. The schedule of items contains errors, alterations, or omissions in, bid item numbers, quantities, descriptions, or units of measure, that cannot be corrected as specified in 102.7.1.
  3. The proposal is not prepared as specified in 102.6.
  4. There are unauthorized alterations, additions, conditional or alternate bids, amendments, attachments, or irregularities that may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
  5. There are unauthorized erasures or alterations appearing on the designation of the party to whom the department issued the bidding proposal.
  6. The award of the bid, together with the value of the bidder's uncompleted contract work, exceeds the bidder's established ratings, as determined in 102.1, at the time set for awarding the work.
  7. A single entity, under the same or different names, or affiliated entities submit more than one proposal for the same work. The submitting entity may be an individual, partnership, joint venture, corporation, or limited liability company.

### **102.7.3 Department Will Reject**

- (1) Proposals are irregular and the department will reject them if the bidder:
  1. Does not furnish the required proposal guaranty in the proper form and amount as specified in 102.8.
  2. Does not submit a unit price for each bid item listed, except for lump sum bid items where the bidder may show the price in the bid amount column for that bid item.
  3. Includes conditions or qualifications not provided for in the department-supplied bidding proposal.
  4. Submits a bid on a bidding proposal issued to a different bidder without obtaining departmental authorization to do so.
  5. Submits a bid that contains unauthorized revisions in the name of the party to whom the bidding proposal was issued.
  6. Submits a schedule of items with illegibly printed bid item numbers, descriptions, or unit prices.
  7. Submits a schedule of items for the wrong contract.
  8. Submits a bidder-generated schedule of items with an incorrect bid item number and incorrect description for a single bid item.
  9. Omits a bid item or bid items on a bidder-generated schedule of items.
  10. Submits a materially unbalanced bid.
  11. Does not sign the proposal.

### **102.8 Proposal Guaranty**

- (1) The department will reject and will not read a proposal submitted without a proposal guaranty in the amount designated and payable to the party designated in the notice to contractors. Submit the required proposal guaranty in one of the following forms:
  1. Properly executed proposal bid bond submitted on the department's form.
  2. Properly executed annual bid bond submitted on the department's form.
  3. Certified check drawn on the account of the bidder submitting the proposal.
  4. Bank's check.
  5. Cashier's check.
  6. Postal money order.
- (2) When submitting a bid bond, ensure that the surety is licensed to do business in Wisconsin and has an equivalent A.M. Best rating of A- or better.
- (3) If the department invites alternate bids and the bidder elects to bid more than one alternate, the bidder may submit one proposal guaranty in the amount required for a single alternate. The proposal guaranty covers each individual proposal bid.
- (4) If the department invites combined bids and the bidder elects to bid one or more individual proposal in addition to the combined proposal, the bidder must submit a proposal guaranty in the amount required for the combined proposal. The combined proposal guaranty covers each individual proposal bid.

### **102.9 Proposal Delivery**

- (1) Place each proposal, together with the proposal guaranty, in a sealed envelope, furnished by the department. On each envelope, indicate the proposal number and the name of the bidder. For mailed submittals, mark the sealed proposal as indicated above and enclose in an additional envelope. The department will accept proposals at the place, until the hour, on the date designated in the notice to contractors. The department will return proposals received after the designated time to the bidder unopened.

### **102.10 Withdrawing or Returning Proposals**

- (1) Provide a written request to withdraw a proposal already filed with the department. Submit the withdrawal request before the deadline set for receiving proposals. The bidder named on a withdrawn proposal cannot subsequently bid on that contract unless the department issues a new invitation for bids.

- (2) The department may withdraw a bidding proposal already issued or return unopened a proposal already filed with the department if, after issuing the bidding proposal, the bidder is found to be ineligible to bid on that contract.

### **102.11 (Vacant)**

### **102.12 Public Opening of Proposals**

- (1) The department will publicly open proposals at the time and place indicated in the notice to contractors. The department will read the total bid for each proposal except as specified in 102.8. If a proposal has no total bid shown, the department will announce "no total."
- (2) Bidders or their authorized agent and other interested persons are invited to be present.
- (3) The department may postpone the receipt of bids time or the opening of bids time due to emergencies or unforeseen conditions. If the department changes the hour or the date of the receipt of bids time or the opening of bids time, the department will issue an addendum or public notice to notify prospective bidders.

### **102.13 Disqualification of Bidders**

#### **102.13.1 General**

- (1) If the department disqualifies a bidder, the department will notify that bidder in writing. The department will give the reason for disqualification, the term of disqualification, and instructions for reestablishing eligibility to bid on departmental contracts.

#### **102.13.2 Department May Disqualify**

- (1) The department may disqualify the bidder from further bidding for a period of time determined by the department for one or more of the following reasons:
  1. The department has notified the bidder that it has initiated a debarment or suspension action against the bidder under Trans 504 of the Wisconsin administrative code.
  2. Developments, subsequent to establishment of a bidder's competency and qualifications, which in the department's judgment affect the responsibility of the bidder.
  3. Not complying, within a reasonable time, with the department's request to update a prequalification statement.

#### **102.13.3 Department Will Disqualify**

- (1) The department will disqualify the bidder from further bidding, for a period of time the department determines, if the bidder has been suspended or debarred from bidding on department contracts under Trans 504 of the Wisconsin administrative code.