

1201 PREQUALIFICATION OF BIDDERS

The Department will not require prequalification of the Bidders before submission of Proposals, but the Department may require a written statement from the apparent low Bidder before Award. If the Department requires a written statement, the statement shall include the following:

- (1) Bidder experience,
- (2) Bidder certifications,
- (3) Bidder licenses, and
- (4) The amount of capital and equipment available for performance of the proposed Work.

1202 CONTENTS OF PROPOSAL PACKAGE

The Proposal Package will include the following:

- (1) The location and description of the proposed construction;
- (2) The Bid Schedule;
- (3) The Contract Time;
- (4) The amount and nature of the required Proposal Guaranty;
- (5) The basis for comparison of proposals, if other than by total cost;
- (6) The date, time, and place for opening Proposals (also defined in the Advertisement for Bids);
- (7) Any Special Provisions and other supplementary requirements; and
- (8) The Plans, Specifications, and other documents included in the Proposal Package.

Do not alter the contents of the Proposal Package, unless otherwise authorized by the Department. The Department considers alterations to include any unauthorized additions, deletions, or changes.

1203 ACCESS TO PROPOSAL PACKAGE

The Department will provide Bidders with access to the Proposal Package through the online E-Plan Room. The Department may require a fee for Bidders to purchase and download copies of the Proposal Package.

1204 INTERPRETATION OF QUANTITIES IN BID SCHEDULE

The quantities in the Bid Schedule are estimates only. The Department will use these quantities to compare Proposals in accordance with 1301, "Consideration of Proposals."

During the Project, the Department may increase, decrease, or eliminate quantities of Contract Items in accordance with 1402, "Contract Revisions;" and will measure and pay for accepted quantities of Contract Items in accordance with 1901, "Measurement of Quantities."

1205 EXAMINATION OF PROPOSAL PACKAGE AND SITE OF WORK

1205.1 PROPOSAL PACKAGE AND SITE OF WORK

Before submitting a Proposal, the Bidders shall carefully examine the Proposal Package and perform a reasonable investigation of the site of Work. Submitting a Proposal is considered an affirmative statement that the Bidder has examined the Proposal Package and performed a reasonable investigation of the site of Work, and is satisfied as to the character, quality, quantities, and conditions to be encountered in performing the Work. A reasonable site investigation includes investigating or reviewing the following:

- (1) Project Site;
- (2) Borrow sites;
- (3) Haul routes;
- (4) Utility property in accordance with 1507, "Utility Property and Service;"
- (5) All other locations related to the performance of the Work, and
- (6) Any additional information the Department makes available in accordance with 1205.2, "Additional Information."

Immediately notify the Department of any apparent defect in the Proposal Package. The Department will determine if a defect exists and, if necessary, will issue an Addendum to all prospective Bidders to address the correction.

1205.2 ADDITIONAL INFORMATION

When available, the Department may make the following additional information available to Bidders:

- (1) All Department boring logs and other records of subsurface investigation,
- (2) Record drawings,
- (3) Results of other preliminary investigations, or
- (4) Other documents.

A review of this additional information is not a substitute for a Bidder's own evaluation, interpretation, or judgment in preparing a Proposal. Bidders shall understand that this additional information is not part of the Proposal Package and will not become part of the Contract. The Department makes this additional information available for the Bidders' information only and warns the Bidders not to rely on any included estimates or quantities. Bidders are solely responsible for all assumptions, deductions, and conclusions that they may reach. The Department does not make or imply a warranty as to the accuracy, sufficiency, or reliability of this additional information.

If the Department has taken test borings on the Project, the Department may or may not include the test boring information on the Plans. If the Department includes test boring information on the Plans, the Bidders shall understand the following with regard to the test boring information:

- (1) The Department takes borings by ordinary and conventional methods and with care deemed adequate for the Department's design purposes.
- (2) The logs of the borings may have been edited or abridged and may not reveal all information that might be useful or of interest to the Contractor.
- (3) The Department will make any field logs and laboratory logs relating to the borings available to the Bidders, or Contractor.
- (4) The Department may have taken some borings to gather information for purposes other than those related to the construction of the Project.
- (5) The Department does not warrant that the information is complete, but believes that the information as to the conditions and materials reported within each test hole was accurate at the time the boring was taken.
- (6) The Department does not warrant that conditions adjacent to test borings will necessarily be the same as shown on the logs because subsurface conditions outside of each individual test hole are unknown to the Department, and soil, rock, and water conditions cannot be relied upon to be consistent and uniform.
- (7) The Department will not be responsible for any interpretations made by the Contractor.
- (8) The absence of notations on the logs regarding water does not necessarily mean that the borings were dry or that the Contractor will not encounter subsurface water during the course of construction.

1206 PREPARATION OF PROPOSAL

1206.1 PREPARATION

For Proposals greater than \$150,000.00, the Bidder shall use the electronic submittal process. The Bidder shall submit the electronic Proposal in accordance with AASHTO "Expedite Bid" software and the "Bid Express" website (www.bidx.com). The Bidder must sign the Proposal in accordance with MN Statute § 161.32, subd. 1b. If using the electronic submittal process, the Department will not require the Bidder to submit a hard copy of the Proposal or the Bid Schedule.

1206.2 ALLOWABLE SUBSTITUTIONS

For Proposals less than \$150,000.00, the Bidder may use one of the following methods instead of the electronic submittal process:

- (1) Create a disk Proposal using AASHTO "Expedite Bid" and EBS files. The Bidder shall label the disk with the company name and the project number. The Bidder shall submit a printed copy of the Bid Schedule file with the Proposal. In the case of a discrepancy, the hard copy will prevail.
- (2) Submit a Proposal on the Bid Schedule forms provided by the Department. The Bidder shall:
 - (2.1) Submit a Unit Price in numeric figures for each Pay Item for which a quantity is shown. Assume a numeric quantity of "1" for each "Lump Sum" Pay Item, except as not required in the case of alternate Pay Items,
 - (2.2) Show the extensions resulting from Unit Prices multiplied by the shown quantities in the specified column, and
 - (2.3) Add the extended Pay Item amounts to show the total amount of the Proposal.

The Bidder shall write the figures in ink or provide typed or computer printed figures. In the case of a discrepancy between a Unit Price and extension in a Proposal, the Unit Price will govern.

If a Bidder fails to provide a Unit Price for any Pay Item on the Bid Schedule, except for "Lump Sum" Pay Items, the Department will reject the Proposal.

If a Pay Item in the Proposal requires the Bidder to choose an alternate Pay Item, the Bidder shall indicate its choice in accordance with the Specifications for that Pay Item.

An authorized representative of the Bidder must sign the Proposal.

1206.3 ALTERATIONS

For Proposals submitted in accordance with 1206.2, "Allowable Substitutions," the Bidder's attention is directed to MN Statute § 161.32 subd. 1c , which provides, among other things, that the Department will reject a Proposal if it contains any alterations or erasures that the Bidder fails to correct as follows:

- (1) The Bidder shall cross out and correct the alteration or erasure in ink, or the Bidder shall type or use a computer to print the correction adjacent to the alteration or erasure, and
- (2) The individual authorized by the bidder shall initial the correction in ink.

The Department will not consider any alteration or erasure made by the Bidder in the Proposal, in accordance with a specific instruction contained in an "Addendum," as an "alteration or erasure" within the meaning of the Statute.

1207 IRREGULAR PROPOSALS

The Department may reject irregular Proposals. The Department will consider a Proposal to be irregular for any of the following reasons:

- (1) The Bidder submits its Proposal on a form other than the Proposal Form;
- (2) The Bidder alters the contents of the Proposal Package, as defined in 1202, "Contents of Proposal Package;"
- (3) The Proposal contains irregularities that may make the Proposal incomplete, indefinite, or ambiguous as to the meaning;
- (4) The Proposal contains unauthorized alternate bids;
- (5) The Proposal is a conditional Proposal that reserves the Bidder's right to enter into the Contract pursuant to an Award, except for that allowed in 1211, "Conditional Proposals;" or
- (6) Any Unit Prices in the Proposal are unbalanced in excess of or below the reasonable cost analysis values.

In accordance with 1206, "Preparation of Proposal," the Department will reject any Proposal in which the Bidder fails to provide a Unit Price for any Pay Item or work on the Proposal Form, except for "Lump Sum" Pay Items.

1208 PROPOSAL GUARANTY

The Bidder shall include with its Proposal a Proposal Guaranty that meets the following requirements:

- (1) Equal to 5 percent of the total amount of the Proposal;

- (2) Made payable to the Department; and
- (3) In the form of a certified check, a cashier's check, or a bond.

If providing a Proposal Guaranty in the form of a bond, the bond must meet the following requirements:

- (1) Issued by a corporation authorized by the Minnesota Department of Commerce to contract as a surety in the State of Minnesota; and
- (2) Conditioned on execution of the Contract in accordance with 1306, "Execution and Approval of Contract."

1209 DELIVERY OF PROPOSALS

If submitting a Proposal electronically, the Bidder shall submit its Proposal by the date and time for opening Proposals. The Bidder shall submit the Proposal Guaranty electronically or file a hard copy of the Proposal Guaranty with the Department by the same date and time.

If submitting a Proposal in accordance with 1206.2, "Allowable Substitutions," the Bidder shall deliver the Proposal and the Proposal Guaranty in a sealed envelope. The Bidder shall mark the sealed envelope with the name of the Bidder, the Project number, and the letting date. The Bidder shall deliver the sealed envelope to the Department as specified in the Advertisement for Bids as follows:

- (1) To the address specified,
- (2) In care of the official receiving the Proposals, and
- (3) By the date and time for opening Proposals.

The Bidder shall return paper copies of the following with the submitted Proposal:

- (1) Proposal title sheet;
- (2) The complete "Schedule of Prices," with all changes made in ink and initialed;
- (3) Form 21126D, "Proposal Signature Page" attached to the back of the Proposal, with signatures and all Addenda acknowledged;
- (4) Form CM 32-34, "EEO Clause;"
- (5) Non-collusion affidavit;
- (6) Form 21816, "Bid Bond Form," cashier's check, or certified check; and
- (7) Any other forms included in the Proposal Package.

If the Department receives a Proposal after the date and time for opening Proposals, the Department will return the Proposal to the Bidder unopened.

1210 REVISION OF PROPOSAL PACKAGE OR WITHDRAWAL OF PROPOSALS

If submitting a Proposal electronically, the Bidder may revise its Proposal an unlimited number of times and may withdraw its Proposal before the date and time for opening Proposals.

If submitting a Proposal in accordance with 1206.2, "Allowable Substitutions," the Bidder may revise or withdraw its Proposal after delivery to the Department, if the Department receives the Bidder's written request for withdrawal or revision before the date and time for opening Proposals.

The Department reserves the right to revise the Proposal Package at any time before the date and time for opening Proposals. The Department will issue a numbered and dated Addendum for any revision of the Proposal Package. The Department will electronically post each Addendum as announced in an e-mail notification to each Bidder on the Department's list of Bidders. The Department will include each Addendum with all Proposal Forms issued to the Bidder after the date of the Addendum.

If revisions made by an Addendum require change to Proposals, or reconsideration by the Bidder, the Department may postpone opening Proposals. If the Department postpones opening Proposals, the Department will specify the new date and time for opening Proposals in the Addendum.

The Bidder shall acknowledge receipt of each Addendum, as follows:

- (1) In the Bidder's electronic Proposal,
- (2) In the space provided on the Proposal Form of a hard copy Proposal, or
- (3) By submitting a letter to the Department before the date and time for opening Proposals.

1211 CONDITIONAL PROPOSALS

The Department will accept conditional Proposals only as authorized by the Department in this section. The Department will award the Contract to a Bidder with a conditional Proposal if doing so is in the best interest of the Department.

If the Bidder submits Proposals on multiple Projects and the amount of the Proposals for the multiple Projects is more than the Bidder is able to perform, the Bidder may complete and include the following statement with each Proposal to limit the amount of Projects awarded:

“This Bidder can only enter into a contract or contracts totaling \$_____, and hereby authorizes the Department to determine which Proposal or Proposals to award and which to reject.”

With each statement, the Bidder shall provide all Project numbers for which the statement applies.

1212 RECEIVING OF PROPOSALS

The Department will open Proposals at the time, date, and place defined in the Proposal Package and the Advertisement for Bids. The Department will electronically post Proposal results after the opening.

1213 DISQUALIFICATION OF BIDDERS

The Department may disqualify a Bidder and reject the Bidder's Proposal for any of the following reasons:

- (1) If an individual, firm, or corporation, either under the same or different name, submits more than one Proposal for the same Project.
- (2) The Department finds evidence of collusion among Bidders.
- (3) The Bidder failed to perform on a previous contract with the Department.