

### **1301 CONSIDERATION OF PROPOSALS**

After opening Proposals, the Department will compare the Proposals based on the correct summation of the products of the scheduled quantities and unit bid prices. If the lowest responsible Bidder has submitted prices on more than one alternate item, the Department reserves the right to determine which alternate to accept. If the extended bid item price, obtained by multiplying the unit bid price by the bid item quantity, is incorrectly calculated, the Department will use the unit bid price to recalculate the extended bid item price.

The Department will not consider Proposals that do not include a Proposal Guaranty in accordance with 1208, "Proposal Guaranty."

The Department reserves the right to:

- (1) Reject any or all Proposals,
- (2) Waive defects and technicalities in a Proposal, or
- (3) Advertise for new Proposals.

### **1302 AWARD OF CONTRACT**

Within 30 calendar days after opening Proposals, the Department will Award the Contract to the lowest responsible Bidder provided that the lowest responsible Bidder complies with the Proposal requirements. The Department may also decide not to make a Contract Award. The Department will notify the lowest responsible Bidder electronically, in writing, or by other means that the Department has accepted the Proposal subject to execution and approval of the Contract as required by law.

The Department and the lowest responsible Bidder may mutually agree to extend the time within which the Department makes the Award.

### **1303 CANCELLATION OF AWARD**

Before Contract execution, the Department reserves the right to cancel the Award of the Contract without liability.

### **1304 RETURN OF PROPOSAL GUARANTY**

After opening and auditing the Proposals, the Department will immediately return Proposal Guaranties to all Bidders, except for the two lowest Bidders. The

Department will retain the Proposal Guaranties of the two lowest Bidders until execution and approval of the Contract as required by law. After execution and approval of the Contract, the Department will return the Proposal Guaranties of the two lowest Bidders, except in the case of forfeiture as specified in 1307, "Failure to Execute Contract." The Department will only return Proposal Guaranties that the Bidders submit as checks (certified or cashier's).

### **1305 REQUIREMENT OF CONTRACT BOND**

The lowest responsible Bidder shall submit with the signed Contract a Payment Bond and a Performance Bond each equal to the Contract Amount as required by MN Statute § 574.26. The Department will review the Surety and form of the Contract Bonds and provide approval if acceptable.

### **1306 EXECUTION AND APPROVAL OF CONTRACT**

The lowest responsible Bidder shall sign and return three copies of the Contract to the Department with the required payment and performance bonds within 10 business days after the date of Award.

If the Contract specifies the Contract Time as working days and the lowest responsible Bidder fails to return the signed Contract documents within 10 business days, the Department may reduce the Contract Time to reflect the delay caused by the Contractor.

If the Contract specifies the Contract Time as a completion date, the lowest responsible Bidder's delay in returning the signed Contract documents is non-excusable delay under 1806.3.A, "Non-Excusable Delays," and the Contractor is not entitled to an extension of the Contract Time.

If the lowest responsible Bidder is unable to return the signed Contract documents within the specified time due to the absence of one or more of the required signers, the Department may grant an extension of time provided the Contractor submits satisfactory evidence that the Contract documents will be signed.

A foreign or nonresident corporation that is awarded a Contract shall provide proof that it has met all legal requirements for transacting business in the State of Minnesota, as a condition precedent to Contract approval.

The Department will provide the lowest responsible Bidder with a notice of approval or disapproval of the Contract and Contract Bonds within 10 business days

after the lowest responsible Bidder properly signs and returns the Contract documents to the Department. The Award is not binding and the Contract is not effective until both parties fully execute the Contract and the Department approves the Contract, as required by law.

### **1307 FAILURE TO EXECUTE CONTRACT**

The Department will retain the Proposal Guaranty as liquidated damages sustained, not as a penalty, if the lowest responsible Bidder fails to perform any of the following within the time specified in the Proposal Package:

- (1) Sign the Contract documents,
- (2) Provide the required Contract Bonds, or
- (3) Comply with any other requirements imposed as a condition precedent to the Contract approval.

If the Department cancels the Award, the Department may choose any of the following actions:

- (1) Award the Contract to the next lowest responsible Bidder,
- (2) Advertise for new Proposals, or
- (3) Otherwise perform the Work as decided by the Department.