

SECTION 20

BID REQUIREMENTS AND CONDITIONS

20-01 ADVERTISEMENT (Notice to Bidders). The contents of the advertisement are included elsewhere in this bid package.

20-02 PREQUALIFICATION OF BIDDERS. Each bidder shall furnish TxDOT satisfactory evidence of his competency to perform the proposed work. Such evidence of competency, unless otherwise specified, shall consist of statements covering the bidder's past experience on similar work, a list of equipment that would be available for the work, and a list of key personnel that would be available. In addition, each bidder shall furnish TxDOT satisfactory evidence of his financial responsibility. Such evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the bidder's financial resources and liabilities as of the last calendar year or the Contractor's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the bidder shall further certify whether his financial responsibility is approximately the same as stated or reported by the public accountant. If the bidder's financial responsibility has changed, the bidder shall qualify the public accountant's statement or report to reflect his (bidder's) true financial condition at the time such qualified statement or report is submitted to TxDOT.

Each bidder shall submit written evidence from the State Comptroller's office that all applicable franchise taxes owed the State of Texas have been paid. Bids submitted without submission of Qualifications Statements will not be read.

Unless otherwise specified, a bidder may submit evidence that he is prequalified with the Texas Department of Transportation (TxDOT) and is on the current "bidder's list. Such evidence of the Texas Department of Transportation pre-qualification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports required above.

20-03 CONTENTS OF BID FORMS. TxDOT shall furnish bidders with written bid forms. All statements, certifications, and other qualifications indicated in "Instruction to Bidders" or attached to the bid forms are necessary parts.

The plans specifications, and other documents designated in the bid form shall be considered a part of the bid whether attached or not. Bidders may use electronically printed forms if the bid items are presented in the identical order as that in the written bid form.

20-04 INTERPRETATION OF ESTIMATED BID QUANTITIES. An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the bid. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of bids and the award of the contract. TxDOT does not expressly or by implication agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. Payment

to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications. It is understood that the quantities may be increased or decreased as hereinafter provided in the subsection titled ALTERATION OF WORK AND QUANTITIES of Section 40 without in any way invalidating the unit bid prices.

- 20-05 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE.** The bidder is expected to carefully examine the site of the proposed work, the bid, plans specifications, and contract documents. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed contract. The submission of a bid shall be *prima facie* evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed contract, plans, and specifications.

Boring logs and other records of subsurface investigations and tests are available for inspection of bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the bidder, was obtained and is intended for TxDOT's design and estimating purposes only. Such information has been made available for the convenience of all bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or conclusions which he may make or obtain from his examination of the boring logs and other records of subsurface investigations and tests that are furnished by TxDOT

- 20-06 PREPARATION OF BID.** Submit the bid on the form furnished by TxDOT. Make entries in ink. Specify a unit price in dollars and cents for each Item for which an estimated quantity is given. When "Working Days" is an item, submit the number of working days to be used to complete the contract, or phases of the Contract shown on the plans. Include unit bid prices for each Item in the item group or alternate Item group, except for instances when alternate items pertain to foreign steel or iron materials. An item left blank will constitute an incomplete bid and will be handled as prescribed in General Provision 20-07, "Non-Responsive Bids."

If a bid contains alternate Items pertaining to foreign steel or iron materials and the Bidders wished to bid using foreign steel or iron materials, submit unit prices for both the regular Items using domestic steel or iron materials and alternate Items using foreign steel or iron materials. If the Bidder wishes to bid using domestic steel or iron materials, submit unit prices only for the regular domestic Items; unit prices for alternate items using foreign steel are not necessary.

Execute the bid in ink. Provide the complete and correct name of the Bidder submitting the bid. The person authorized to bind the Bidder or Bidders must sign the bid. In the case of a joint venture, the complete and correct name of all Bidders submitting the bid must be provided and all persons authorized to bind the Bidders must sign the bid.

As an Alternative to hand writing the unit prices in works in ink in the bid, submit a computer printout signed by the person authorized to bind the Bidder. In the case of a joint venture, the persons authorized to bid the Bidders must sign the computer printout. As a

minimum, computer printouts must contain the information in the format shown on the “Example of Bid Prices Submitted by Computer Printout” form in the bid.

Verify whether addenda have been issued on a proposed Contract. Acknowledge all addenda. Enter the date or dates of the addendum notification letter or letters on the addenda acknowledgement pages in the bid form.

20-07 NON-RESPONSIVE BIDS. A bidder that submits a bid with one or more of the deficiencies listed below will be considered non-responsive. TxDOT reserves the right to waive technicalities if such waiver is in the best interest of TxDOT and conforms to local laws and ordinances pertaining to the letting of construction contracts.

- a. The person or the case of a joint venture, persons, did not sign the bid.
- b. The bid or bid bond guaranty does not comply with the requirements contained in Section 20-09.
- c. The bid is on a form other than the official bid form issued to the Bidder or Bidders.
- d. The bid was not in the hands of the letting official at the time and location specified in the advertisement.
- e. The bid submitted has the incorrect number of Bid Items.
- f. An electronically printed bid, when used, is not signed in the name of the Bidder (or joint Bidders, in the case of a joint venture), is not in the proper format, omits required items, includes an item or items not shown in the bid or does not have pay items in the same order and with the same information as found on the TxDOT bid form.
- g. The Bidder submits more than one bid, under the same or different name, for a proposed Contract. (A Bidder may submit a bid and participate as a material supplier, subcontractor, or both to any or all Bidders contemplating submitting a bid for this work.)
- h. The Bidder fails to acknowledge or improperly acknowledges receipt of all addenda issued.
- i. The Bidder modifies the bid in a manner that alters the conditions or requirements for work as stated in the bid form.
- j. The Bidder did not attend a specified mandatory pre-bid conference.
- k. If any portion of a Bid Item is left blank.
- l. The Bidder did not write the unit price **BOTH** in words and numerals for

each pay item furnished in the bid form. (Electronically printed bids are not required to have the unit prices written in words.)

- m. The bidder did not include qualification statements and/or did not acknowledge the qualification section of the bid form as per the Bidder Qualification section of the bid document.
- n. The bidder submitted an incorrect, inaccurate, or insufficient qualification statement.
- o. The bid is considered by TxDOT and the Engineer to be unbalanced as defined in Section 20.08.

20-08 UNBALANCED BID. TxDOT will examine the unit bid prices of the apparent low bid for reasonable conformance with TxDOT's estimated prices. TxDOT will evaluate a bid with extreme variations from TxDOT's estimate, or where obvious unbalancing of unit prices has occurred. For the purposes of the evaluation, TxDOT will presume the same retainage percentage for all bidders. In the event that the evaluation of the unit bid prices reveals that the apparent low bid is MATHEMATICALLY UNBALANCED and MATERIALLY UNBALANCED, as defined in Section 10, the bidder will not be considered in future bids for the same project.

20-09 BID GUARANTY. Include a bid guaranty in the amount indicated on the bid form, in the form of either a guaranty check or a bid bond. The bid guaranty amount is fixed at the amount indicated on the bid form on the date the bid is released to the public.

- A. Guaranty Check. The bid guaranty must be payable to TxDOT Aviation Division and must be a cashier's check, money order, or teller's check drawn by or on a state or national bank, a savings and loan association, or a state or federally chartered credit union (collectively referred to as "bank"). The type of check or money instrument must be no more than 90 days old. A check must be made by a bank and on a bank; or be payable at or through a bank. TxDOT will not accept personal checks, certified checks, or other types of money orders as a bid guaranty.
- B. The Bid bond must be with powers of attorney attached, in the amount specified on the bid bond form. The bond form must bear the impressed seal for the Surety and be signed by the Bidder and authorized individual of the Surety. Bid bonds will only be accepted from Sureties authorized to execute a bond under an in accordance with state law.

20-10 DELIVERY OF BID. Each bid submitted shall be placed in a sealed envelope plainly marked with the project number, location of airport, and name and business address of the bidder on the outside. When sent by mail, the sealed bid, marked as indicated above, should be enclosed in an additional envelope. No bid will be considered unless received at the place specified in the advertisement before the time specified for opening all bids. Bids received after the bid opening time shall be returned to the bidder unopened.

20-11 WITHDRAWAL OR REVISION OF BIDS. A bidder may withdraw or revise (by withdrawal of one bid and submission of another) a bid provided that the bidder's request for

withdrawal is received by TxDOT in writing before the time specified for opening bids. Revised bids must be received at the place specified in the advertisement before the time specified for opening all bids.

20-12 PUBLIC OPENING OF BIDS. Bids shall be opened, and read, publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend. Bids that have been withdrawn (in writing) or received after the time specified for opening bids shall be returned to the bidder unopened.

20-13 DISQUALIFICATION OF BIDDERS. TxDOT may consider any one or more of the following reasons as sufficient for rejection of the bid or bids and/or disqualification of the Bidder from further bidding for a period of time as determined by TxDOT:

- a. Failure to comply with any pre-qualification regulations of TxDOT, if such regulations are cited, or otherwise included, in the bid as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts or contracts in force with TxDOT at the time TxDOT receives the bid from a prospective bidder.
- c. Contractor default under previous contracts with TxDOT.
- d. Identified as “in default” by the Federal Aviation Administration.
- e. Submitting more than one bid from the same partnership, joint venture, LLP, or corporation under the same or different name.
- f. Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of TxDOT until any such participating bidder has been reinstated by TxDOT as a qualified bidder.
- g. Developments, subsequent to establishment of a Bidder's competency and qualifications, which in the opinion of TxDOT would reasonably be construed as affecting the responsibility of the Bidder.
- h. Evidence from prior work history with TxDOT that demonstrates substantial or repeated noncompliance with the terms of previous or current/existing contracts with TxDOT.
- i. Falsification on any contractual form required by TxDOT during current or previous contracts.

END OF SECTION 20