

ARTICLE 102 - BIDDING REQUIREMENTS AND CONDITIONS

102.1 Prequalification of Bidders.

All bidders shall file with the Engineer, during regular working hours, not less than seven (7) days prior to the day set for opening bids, proof of responsibility on forms furnished by the City.

The Engineer shall, determine if the bidder is qualified for the type of work for which the bidder requests prequalification. The decision of the Engineer shall be final and conclusive, unless within ~~fifteen~~ (15) days after such decision the bidder applies in writing to the ~~Board of Public Works~~ City Engineer for a reversal of the decision requesting that an appeal be considered by the Board of Public Works.

~~Bidders who are found to be prequalified shall remain so until the succeeding January 31st, unless said prequalification is subsequently extended or revoked. The Engineer may require a special prequalification for particular projects and/or may require additional information regarding a prequalified bidder's prequalifications~~prequalifications to do certain aspects of the work.

In accordance with Section 39.02 of the Madison General Ordinances, all bidders shall submit in writing to the Affirmative Action Department ~~Division~~ of the City of Madison, a Certificate of Compliance or an Affirmative Action Plan at the same time or prior to the submission of the proof of responsibility forms. ~~Except, however, if a bidder submits proof of responsibility forms after February 1st of any calendar year, an Affirmative Action Plan or Certificate of Compliance shall be submitted within ten (10) days after the date of notice of award of a contract to the bidder, and such submission shall be a condition precedent to the execution of the contract.~~

102.2 Disqualification of Bidders.

Notwithstanding a prior finding of responsibility, any one or more of the following causes may be considered as sufficient for rejection of the bidder as nonresponsible for a given contract.

1. Developments subsequent to establishment of bidder's competency and qualifications which, in the opinion of the Board of Public Works would reasonably be construed as affecting the ability of the bidder to perform the work.
2. Conviction of a violation of a State or Federal law or regulation, or rule or regulation of a Federal department, board or bureau, or of a State department, board, or commission, relating to or reflecting on the competency of the bidder for performing construction work.
3. More than one proposal for the same work from an individual, partnership, limited liability company or corporation under the same or different names.
4. Evidence of collusion among bidders.
5. Lack of responsibility as shown by the quality or timeliness of past work for the City.
6. Noncompliance with terms of previous or existing contracts.
7. Uncompleted work which, in the judgment of the Board of Public Works, might hinder or prevent the prompt completion of additional work if awarded.

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8. Uncompleted work on which the actual time used has exceeded the contract time set ~~therefor~~therefore, or on which work the performance or progress is not satisfactory in the judgment of the Board of Public Works.
9. Failure or refusal to submit prior to opening of the bid, an approvable Certificate of Compliance, or Affirmative Action Plan or Affirmative Action Data Update, as applicable, as defined by Section 39.02 of the Madison General Ordinances (entitled Affirmative Action) and as required by Section 102.11 of these Specifications.
10. Failure to comply with the Section 33.07 of the Madison General Ordinances (entitled Best Value Contracting).

102.3 No Other Interested Parties.

The bidder declares that the only persons interested in this contract as principals are therein named as such; that no official of the City and no person acting for or employed by the City is directly or indirectly interested in this bid, or in any contract which may be made under it, or in any expected profit to arise therefrom; that this bid and this contract are made in good faith, without fraud, collusion or connection with any other persons bidding for the same work.

102.4 Proposals.

No bid will be accepted that does not contain an adequate or reasonable price for each and every item named in the Schedule of Unit Prices.

A lump sum bid for the work in accordance with the plans and Specifications is required. The lump sum bid must be the same as the total amounts bid for the various items and it shall be inserted in the space provided.

Unit price figures shall be written numbers in the spaces provided.

In case of conflict between a unit price bid and the corresponding extended amount, or in the absence of an extended amount, the unit price bid shall govern.

All numbers, words, and signatures in the proposal shall be written with ink.

All papers bound with or attached to the proposal form are considered a part thereof and must not be detached or altered when the proposal is submitted. The plans, Specifications and other documents designated in the proposal form will be considered a part of the proposal whether attached or not.

A proposal submitted by an individual shall be signed by the bidder or by a duly authorized agent. A proposal submitted by a partnership shall be signed by a partner. A proposal submitted by a limited liability company shall be signed by an authorized member. A proposal submitted by a corporation shall be signed by an authorized officer or duly authorized agent of such corporation, and the proposal shall show the name of the State under the laws of which such corporation was chartered. The required signatures shall in all cases appear in the space provided ~~therefor~~therefore on the proposal.

The bidder shall submit the proposal on the form furnished by the City.

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Each proposal shall be placed, together with the Bid Deposit, in a sealed envelope, so marked as to indicate name of project, the contract number or option to which it applies, and the name and address of the Contractor. Proposals will be received at the place and until the hour and date designated in the advertisement. When sent by mail, the sealed proposal marked as indicated above shall be enclosed in an additional envelope. Proposals sent by mail, submitted in person or otherwise delivered must be in the hands of the official conducting the letting by the hour and date designated in the advertisement. Proposals received after the time designated will be returned to the bidder unopened.

102.5 Bid Deposit.

No proposal shall be considered unless either (i) it is accompanied by a Bid Deposit of the character and amount described in the Advertisement for Bids or (ii) a Biennial bid bond in an amount and form acceptable to the City of Madison has been previously submitted.

Bid Deposits of unsuccessful bidders shall be returned following the award of the contract by the Common Council. Bid Deposit of the successful bidder shall be returned within forty-eight (48) hours following execution of the contract and bond as required.

102.6 Rejection of Proposals.

Proposals may be rejected if they show any alterations of form, additions or amendments not called for, conditional or alternate bids unless called for, incomplete bids, erasures, or irregularities of any kind. Proposals in which the unit prices for some items are out of proportion to the prices for other items, or proposals in which unit prices are not submitted for each item of work listed may be rejected.

The Board of Public Works reserves the right to reject any and all bids and to reject the bid of any person or firm who, in its opinion, has not had sufficient experience in the type of construction on which they are bidding, or who is not provided with the necessary capital, materials, machinery and supervisory personnel to execute the work to be contracted for to the satisfaction of the said Board.

The City reserves the right to waive minor irregularities, and to proceed to do the work otherwise, if in the judgment of the Board of Public Works the best interest of the City will be served thereby.

102.7 Withdrawal of Proposals.

All proposals filed with the City will be kept secure and unopened and will not be allowed to pass out of the custody of a representative of the City, except on written request of the bidder or the bidder's authorized representative made prior to expiration of the time set for receipt of proposals, and if such withdrawal is made, such prospective bidder shall not be entitled to bid on the contract at hand unless the same is re-advertised and proposals are again requested upon such advertisement.

102.8 Examination of Plans, Specifications, Special Provisions and Site of Work.

The bidder is required to examine carefully the work site, the proposal form, plans, Specifications, Supplemental Specifications, special provisions and contract forms for the work contemplated. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered for performing the work as scheduled, and as to the character, quality and quantities of work to be

performed and materials to be furnished, and as to the requirements of the plans, Specifications, Supplemental Specifications, special provisions and contract. The submission of a proposal shall be considered conclusive evidence that the bidder has made such examination and is satisfied as to all the conditions and contingencies.

102.9 Bidder's Understanding.

It is understood and agreed that the bidder, by careful examination, satisfy himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract.

Bidders must satisfy themselves by such reasonable means as they may prefer as to the accuracy of the Engineer's estimates of quantities, and soil conditions, or otherwise, and shall not at any time after submission of a bid dispute such estimate of the Engineer, nor assert that there was any misunderstanding in regard to the nature or amount of the work to be done.

The City has endeavored to determine the location of existing utilities in the area of the work and so indicate on the appropriate drawings. The City makes no warranty as to the accuracy or completeness of such representations. It is understood and agreed that the cost of performing work in the vicinity of existing utilities indicated or reasonably inferable is included in the bid price.

No employee, agent or consultant of the City is authorized to make any representations as to the materials or workmanship involved, or the conditions to be encountered, and the Contractor agrees that no such statement or the evidence of any document or plan, not a part of this contract, shall constitute any grounds for claim as to conditions encountered. No verbal agreement or conversation with any employee, agent or consultant of the City, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.

102.10 Minimum Rate of Wage Scale.

All bidders are notified that all labor employed on City contracts must be paid in accordance with the current minimum rate of wage scale established by the Common Council as included in the Contract Documents irrespective of any exclusion contained in Section 66.0903(5), Wisconsin Statutes.

For the information of the employees working on the project, a copy of the wage scale included in the contract documents and the provisions of Section 66.0903(8) of the Wisconsin Statutes shall be kept posted by the employer and in at least one conspicuous and easily accessible place at the site of the project.

The Contractor shall keep weekly payroll records setting forth the name, address, telephone number, classification, wage rate and fringe benefit package of each employee who worked on such City project and all other projects the employee worked in the same period, and the Contractor must keep records of the individual time each employee worked on the project and for each day of the project. Such records shall also set forth the total number of hours of overtime credited to each such employee for each day and week and the amount of overtime pay received in that week. Such records shall, in addition, set forth the full weekly wages earned by each such employee and the actual hourly wage paid to that employee. The Contractor shall submit payroll records to the Engineer every week for those periods when work is being done on the project. Said submittal shall be within twenty-one

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(21) calendar days of the end of the Contractor's weekly pay period. The Contractor or its duly authorized agent will submit to interrogation as to whether the Contractor has complied with all provisions of Section 23.01, Madison General Ordinances.

The Contractor shall ensure that employees shall be paid unconditionally and not less often than once a week; employees shall receive the full amounts accrued at the time of payment, computed at rates not less than those stated in the City of Madison "Minimum Rate of Wage Scale" and that each employee's rate shall be determined by the work that is done within the trade or occupation classification which should be properly assigned to such employee. Questions regarding an employee's classification or rate of pay within that classification, shall be resolved by the practice that predominates in the industry and on which the trade or occupation rate/classification is based. Therefore, rate of pay, classification and work jurisdiction disputes shall be resolved by relying upon practices established by collective bargaining agreements and guidelines used in such determinations by appropriate recognized trade unions operating within the City of Madison.

The Contractor shall agree that the normal rate of wage paid to the Contractor's employees on other projects shall not be reduced or otherwise diminished as a result of the requirement to pay no less than the minimum rate of wage scale on a City project. Mulcting of employees on City projects by contractors, such as by kickbacks or other such devices, is prohibited.

These contract provisions shall apply to all work performed on the contract by the Contractor with its own organization and with assistance of laborers under its immediate superintendency and to all work performed by piecework or by subcontract. No laborer, worker, or mechanic shall be employed directly upon the site of the work except on a wage basis, but this shall not be construed to prohibit the rental of equipment from individuals.

In the event of a refusal by the Contractor to submit payroll records as required by the contract, or in the event of a refusal to submit to interrogation or in the event of failure to comply with Section 23.01 of the General Ordinances of the City of Madison in any respect, the City of Madison shall have the option to cancel this contract and request the Surety to perform or to relet the balance of the work for bids, and in that event, to charge the Contractor for any loss which the City may incur thereby.

102.11 Affirmative Action.

The Contractor shall comply with the applicable requirements of Section 39.02 of the Madison General Ordinances entitled "Affirmative Action Ordinance". Compliance requires completion and execution of the document entitled "The City of Madison Affirmative Action Plan for Public Works Contractors".

110.3 Setoffs.

Where any deductions from or forfeitures of payment in connection with the work of this contract are duly and properly declared or imposed against the Contractor, in accordance with the terms of this contract, State Laws or Ordinances of the City, the total amount thereof may be withheld from any money whatsoever due or to become due the Contractor under the contract, and when deducted shall be deemed and taken as payment in such amount. The City also has the equitable right to set off against any sum due and payable the Contractor under this contract any amount the City determines the Contractor owes the City, whether arising under this contract or any other agreement or otherwise.

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