

## **INSTRUCTIONS TO BIDDERS**

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<p>The Contract Documents may contain modifications of, or supplements to, these Instructions to Bidders effecting additional procedures or requirements applicable to this particular project.</p>
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#### **1. INTENT OF INSTRUCTIONS:**

Instructions to Bidders are included in the Contract Documents to amplify the abbreviated Advertisement and to give other details that will allow interested parties to prepare proper bids. Modifications may be added.

#### **2. BIDDER QUALIFICATIONS:**

- a. When the amount bid for a contract exceeds the amount established by the State Licensing Board for General Contractors, the bidder must be licensed by that board and must show the Designer evidence of license before bidding or the bid will not be received by the Designer or considered by the Awarding Authority. A bid exceeding the bid limit stipulated in the bidder's license, or which is for work outside of the type or types or work stipulated in the bidder's license, will not be considered. In case of a joint venture of two or more contractors, the amount of the bid shall be within the maximum bid limitation as set by the State Licensing Board for General Contractors of the combined limitations of the partners to the joint venture. Requirements in Article 7 of these Instructions to Bidders related to a bidder's state license for general contracting apply when a bid exceeds the amount currently established by the State Licensing Board for General Contractors. See Chapter 8, Title 34, Code of Alabama (1975).
- b. Any special qualifications required of general contractors, subcontractors, material suppliers, or manufacturers are set forth in the bid documents.
- c. The Awarding Authority may have elected to prequalify bidders. Parties interested in bidding for this contract are directed to the Advertisement for Bids, PQ & Plans, and Supplemental Instructions to Bidders to determine whether bidders must be prequalified and how they may obtain copies of the Awarding Authority's published prequalification procedures and criteria.
- d. Release of bid documents by the Designer to a prospective bidder will not constitute any determination by the Awarding Authority or Designer that the bidder has been found to be qualified, prequalified, or responsible.

- e. In compliance with Act 2016-312, as codified in Alabama Code section 41-16-5, by submitting a bid for this project the bidder certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

(If this project is federally funded in whole or in part, the next two paragraphs shall not apply.)

- f. In awarding the Contract, preference will be given to Alabama resident contractors and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded the Contract only on the same basis as the nonresident bidder's state awards contracts to Alabama contractors bidding under similar circumstances.
- g. A nonresident bidder is a contractor which is neither (a) organized and existing under the laws of the State of Alabama, nor (b) maintains its principal place of business in the State of Alabama. A nonresident contractor which has maintained a permanent office within the State of Alabama for at least five continuous years shall not thereafter be deemed to be a non-resident contractor so long as the contractor continues to maintain a branch office within Alabama.

### **3. COPIES OF CONTRACT DOCUMENTS:**

Copies of the Contract Documents may be obtained by prime contractor bidders from the Awarding Authority or their Agent upon payment of the deposit (plus postage if delivered by mail) as stated in the Advertisement for Bids and/or the PQ & Plans document. Deposits will be returned to all depositors upon return of all documents in reusable condition within ten (10) days after bid opening. Additional sets for prime contractor bidders, subcontractors, vendors or dealers may be obtained upon payment of the same deposit. The deposit shall be refunded less the cost of printing, reproduction, handling and distribution upon return of the documents in reusable condition within ten (10) days after bid opening. The following Plan Rooms will be furnished Contract Documents without payment of a deposit or fee provided they agree to return the documents in reusable condition: Tuscaloosa Blueprinting and Reprographics LLC, 1926 University Blvd., Tuscaloosa, Alabama 35401; ConstructConnect, 30 Technology Parkway South, Suite 100, Norcross, GA, 30092; and Dodge Data & Analytics at [network.construction.com](http://network.construction.com).

### **4. EXAMINATION OF CONTRACT DOCUMENTS AND OF THE SITE OF THE WORK:**

- a. Before submitting a bid for the Work, the bidders shall carefully examine, read, and study the Bid Proposal and Contract Documents, visit the site, and satisfy themselves as to the nature and location of the Work, and the general and local conditions, including weather, the general character of the site or building, the character and extent of existing work within or adjacent to the site, and any other work being performed thereon at the time of submission of their bids.
- b. Bidders shall fully inform themselves as to transportation, disposal, handling, and storage of materials, availability of water, electric power, and all other facilities in the area which will have a bearing on the performance of the Work for which they submit their bids. By submission of a bid bidder acknowledges that bidder examined the Contract Documents and found them to be complete, accurate adequate, consistent, coordinated and sufficient for construction and visited the site and has judged for and satisfied himself as to conditions to be encountered regarding the character, difficulties, quality, and quantities of work to be performed and the material and equipment to be furnished, the Awarding Authority's tax exempt status, and as to the contract requirements and contingencies involved. The Awarding Authority makes no representation or warranty of any nature whatsoever to bidders concerning the Contract Documents.

### **5. EXPLANATIONS AND INTERPRETATIONS:**

- a. Before submitting a bid, bidders shall carefully examine, read, and study the Bid Proposal and Contract Documents.

- b. Should any bidder observe any ambiguity, inconsistency, conflict, discrepancy, omission, or error in the Drawings and Specifications, or in any of the other Contract Documents, or be in doubt as to the intention and meaning thereof, the bidder shall immediately report such to the Designer and request clarification.
- c. Clarifications will be made only by written Addenda, which will be sent to all prospective bidders and plan holders. Neither the Awarding Authority nor the Designer will be responsible for verbal answers or instructions regarding intent or meaning of the Contract Documents.
- d. Should a conflict, inconsistency, ambiguity, omission, or error occur in or between the Drawings and the Specifications, a bidder will be deemed to have based its bid on the better quality or greater quantity of doing the work involved unless prior to submission to their bid, the bidder shall have asked for and obtained the written decision or clarification from the Designer as to the correct quantity, quality, method, materials, equipment etc. which will be required to perform the Work.

## **6. SUBSTITUTIONS:**

Whenever a product, material, system, item of equipment, or service is identified in the Contract Documents by reference to a trade name, manufacturer's name, model number, etc. and only one or two sources are listed, or three or more sources are listed and followed by "or approved equal" or similar wording, it is intended to establish a required standard of performance, design, and quality, and the Contractor may submit, for the Designer's approval, products, materials, systems, equipment, or services of other sources which the Contractor can prove to the Designer's satisfaction are equal to, or exceed, the standard of performance, design and quality specified, unless the provisions of the final paragraph below apply. Such proposed substitutions are not to be purchased or installed without the Designer's written approval of the substitution.

If the Contract Documents identify only one source and expressly provide that it is an approved sole source for the product, material, system, item of equipment, or service, the Contractor must furnish the identified sole source.

## **7. PREPARATION OF BIDS:**

- a. Proposal Form:
  - (1) Bids must be submitted on the Proposal Form as contained in the bid documents, always use the latest form provided during the bid process.
  - (2) All information requested of the bidder on the Proposal Form must be filled in.
  - (3) Identification of Bidder: On the first page of the Proposal Form the bidder must be fully identified by completing the spaces provided for:
    - (a) the legal name of the bidder,
    - (b) the state under which laws the bidder's business is organized and existing,
    - (c) the city (and state) in which the bidder has its principal offices,
    - (d) the bidder's business organization, i.e., corporation, partnership, or individual (to be indicated by marking the applicable box and writing in the type of organization if it is not one of those listed), and
    - (e) the partners or officers of the bidder's organization, if the bidder is other than an individual. If the space provided on the Proposal Form is not adequate for this listing, the bidder may insert "See Attachment" in this space and provide the listing on an attachment to the Proposal Form.
  - (4) Where indicated by the format of the Proposal Form, the bidder must specify lump sum prices in both words and figures. In case of discrepancy between the prices shown in words and in figures, the words will govern.

- (5) All bid items requested in the Proposal Form, including alternate bid prices and unit prices for separate items of the Work, must be bid. If a gross sum of bid items is requested in the Proposal Form, the gross sum shall be provided by the bidder.
- (6) In the space provided in the Proposal Form under "Bidder's Alabama License", the bidder must insert his or her current general contractor's state license number, current bid limit, and type(s) of work for which bidder is licensed.
- (7) The Proposal Form shall be properly signed by the bidder. If the bidder is:
  - (a) an individual, that individual or his or her "authorized representative" must sign the Proposal Form;
  - (b) a partnership, the Proposal Form must be signed by one of the partners or an "authorized representative" of the Partnership;
  - (c) a corporation, the president, vice-president, secretary, or "authorized representative" of the corporation shall sign and affix the corporate seal to the Proposal Form.

As used in these Instructions to Bidders, "authorized representative" is defined as a person to whom the bidder has granted actual authority, or who has apparent authority, to conduct business in the bidder's behalf by signing and/or modifying the bid.

- (8) Interlineation, alterations or erasures on the Proposal Form must be initialed by the bidder or its "authorized representative".
- (9) Estimated sales tax shall be included on the designated line(s) on the bid proposal form.

b. Bid Guaranty

- (1) The Proposal Form must be accompanied by a cashier's check, drawn on an Alabama bank, or a Bid Bond, executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the Awarding Authority.
- (2) If a Bid Bond is provided in lieu of a cashier's check, the bond shall be on the Bid Bond form as stipulated in the bid documents.
- (3) The amount of the cashier's check or Bid Bond shall not be less than five percent of the Awarding Authority's estimated cost of the Work or of the Contractor's bid, but is not required to be in an amount more than ten thousand dollars unless otherwise specified for a specific project in the contract documents.

**8. COMBINATION BIDS OR PROPOSALS:**

If the Awarding Authority so elects, Bid Proposal Forms may be issued for projects or parts of projects in combination or separately. In any case, bidders must adhere to the Bidding Procedures as set forth in the Bid Documents. Award or awards will be made to the lowest responsible and responsive bidder or bidders strictly in accordance with prescribed bidding procedures.

**9. TIME FOR COMPLETION:**

The time for completion for the Work is specified in the Summary of the Work in the Specifications or by addendum.

**10. DELIVERY OF BIDS:**

- a. Bids will be received until the time set, and at the location designated, in the Advertisement for Bids unless notice is given of postponement. No bid will be accepted or considered which has not been received prior to the time set for opening bids.

- b. Each bid shall be placed, together with the bid guaranty, in a sealed envelope. On the outside of the envelope the bidder shall write in large letters "Proposal", below which the bidder shall write the name of the Work bid on, the name of the bidder, and the bidder's current general contractor's state license number. Failure to include the bidder's Alabama General Contractor's license number on the outside of the bid envelope will result in returning the envelope unopened.
- c. Bids may be delivered in person or by mail if ample time is allowed for delivery. When sent by mail, preferably special delivery or registered, the sealed envelope containing the bid, marked as indicated above, shall be enclosed in another envelope for mailing. Bidder bears the sole responsibility for ensuring that its bid is delivered to the place and prior to the submission deadline specified in the Advertisement for Bids.

#### 11. **WITHDRAWAL OR REVISION OF BIDS:**

- a. A bid may be withdrawn prior to the time set for opening of bids, provided a written request to withdraw its bid, executed by the bidder or the bidder's "authorized representative", is filed with the Awarding Authority prior to that time. If a timely request to withdraw bid is received, the bid will then be returned to the bidder unopened.
- b. A bid which has been sealed in its delivery envelope may be revised by writing the amount of the change in price on the outside of the delivery envelope over the signature of the bidder or the bidder's "authorized representative" if done so prior to the time set for opening bids. In revising the bid in this manner, the bidder must only write the amount of the change in price on the envelope and **must not reveal the bid price**.
- c. Written communications, signed by the bidder or its "authorized representative", to revise bids will be accepted if received by the Awarding Authority prior to the time set for opening bids. The Awarding Authority will record the instructed revision upon opening the bid. Such written communication may be by email, letter, or facsimile. In revising the bid in this manner, the bidder must only write the amount of the change in price and **must not reveal the bid price**.
- d. Except as provided in Article 13 of these Instructions to Bidders, no bid shall be withdrawn, modified, or corrected after the time set for opening bids.

#### 12. **OPENING OF BIDS:**

Bids will be opened and read publicly at the time and place indicated in the Advertisement for Bids. Bidders or their authorized agents are invited to be present.

#### 13. **IRREGULAR PROPOSALS:**

Bids may be rejected if they are incomplete or contain any uninitialed alterations or erasures, additions, conditional bids, alternate bids unless called for, or irregularities of any kind.

#### 14. **ERRORS IN BID:**

- a. Errors and Discrepancies in the Proposal form  
In case of error in the extension of prices in bids, the unit price will govern. In case of discrepancy between the prices shown in the figures and in words, the words will govern.
- b. Mistakes within the Bid  
If the low bidder discovers a mistake in its bid, the low bidder may seek withdrawal of its bid without forfeiture of its bid guaranty under the following conditions:  
(1) Timely Notice: The low bidder must notify the Awarding Authority and Designer in writing, within three working days after the opening of bids, that a

mistake was made. This notice must be given within this time frame whether or not award has been made.

- (2) Substantial Mistake: The mistake must be of such significance as to render the bid price substantially out of proportion to the other bid prices.
- (3) Type of Mistake: The mistake must be due to calculation or clerical error, an inadvertent omission, or a typographical error which results in an erroneous sum. Mistakes of law, judgment, or opinion are specifically excluded from these criteria.
- (4) Documentary Evidence: Clear and convincing documentary evidence of the mistake must be presented to the Awarding Authority and the Designer as soon as possible, but no later than three working days after the opening of bids.

The Awarding Authority's decision regarding a low bidder's request to withdraw its bid without penalty shall be made within 10 days after receipt of the bidder's evidence. Upon withdrawal of bid without penalty, the low bidder shall be prohibited from:

- (1) Doing work on the project as a subcontractor or in any other capacity.
- (2) Bidding on the same project if it is re-bid.

#### **15. DISQUALIFICATION OF BIDDERS:**

Any bidder(s) may be disqualified from consideration for contract award for the following reasons:

a. Collusion:

Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition to bid at a fixed price or to refrain from bidding or otherwise shall render the bids void and shall cause the bidders or prospective bidders to be disqualified from submitting further bids to the Awarding Authority on future lettings. (See Code of Alabama Section 39-2-6 for possible criminal sanctions).

b. Advance Disclosure:

Any disclosure in advance of the terms of a bid submitted in response to an Advertisement for Bids shall render the proceedings void and require re-advertisement and re-bid.

c. Failure to Settle Other Contracts:

The Awarding Authority may reject a bid from a bidder who has not paid, or satisfactorily settled, all bills for labor and material on other contracts in force at the time of letting, completion of punch list, warranties and closeout documents.

#### **16. CONSIDERATION OF BIDS:**

After the bids are opened and read publicly, the bid prices will be compared and the results of such comparison will be available to the public. Until the final award of the Contract, however, the Awarding Authority reserves the right to reject any and all bids, and it shall have the right to waive technical errors and irregularities if, in its judgment, the best interests of the Awarding Authority will be promoted.

#### **17. DETERMINATION OF LOW BIDDER BY USE OF ALTERNATES:**

The Awarding Authority may request alternate bid prices (alternates) to facilitate either reducing the base bid to an amount within the funds available for the project or adding items to the base bid within the funds available for the project. Alternates, if any, are listed in the Proposal Form in the order in which they shall cumulatively deduct from or add to the base bid for determining the lowest bidder.

If alternates are included in the Proposal Form, the Awarding Authority shall determine the dollar amount of funds available and immediately prior to the opening of bids shall

announce publicly the funds available for the project. The dollar amount of such funds shall be used to determine the lowest bidder as provided herein below, notwithstanding that the actual funds available for the project may subsequently be determined to be more or less than the expected funds available as determined immediately prior to the time of the opening of bids.

If the base bid of the lowest bidder exceeds the funds available and alternate bid prices will reduce the base bids to an amount that is within the funds available, the lowest bidder will be determined by considering, in order, the fewest number of the alternates that produces a price within the funds available. If the base bid of the lowest bidder is within the funds available and alternate bid prices will permit adding items to the base bid, the lowest bidder will be determined by considering, in order, the greatest number of the alternates that produces a price within the funds available.

After the lowest bidder has been determined as set forth above, the Awarding Authority may award that bidder any combination of alternates, provided said bidder is also the low bidder when only the base bid and such combination of alternates are considered.

**18. UNIT PRICES:**

a. Work Bid on a Unit Price Basis:

Where all, or part(s), of the planned Work is bid on a unit price basis, both the unit prices and the extensions of the unit prices constitute a basis of determining the lowest responsible and responsive bidder. In cases of error in the extension of prices of bids, the unit price will govern. A bid may be rejected if any of the unit prices are obviously unbalanced or non-competitive.

(1) Bidder may not make changes to the unit price bid schedule form as follows:

- (a) Add new line items or delete existing ones
- (b) Change the units of measure
- (c) Change the quantity

(2) All unit prices must include all work associated with that particular unit including but not limited to labor, materials, equipment, shipping work, overhead, insurance, bonds, and profit incidental to the finished work of that particular unit.

b. Unit Prices for Application to Change Orders:

As a means of predetermining unit costs for changes in certain elements of the Work, the bid documents may require that the bidders furnish unit prices for those items in the Proposal Form. Unit prices for application to changes in the work are not a basis for determining the lowest bidder. Non-competitive unit prices proposed by the successful bidder may be rejected or negotiated by the Awarding Authority prior to contract award. Unit prices for application to changes in the work are not effective unless specifically included and agreed upon in the Construction Contract.

**19. AWARD OF CONTRACT:**

- a. The contract shall be awarded to the lowest responsible and responsive bidder unless the Awarding Authority finds that all the bids are unreasonable or that it is not in the interest of the Awarding Authority to accept any of the bids. A responsible bidder is one who, among other qualities determined necessary for performance, is competent, experienced, and financially able to perform the contract. A responsive bidder is one who submits a bid that complies with the terms and conditions of the Advertisement for Bids and the bid documents. Minor irregularities in the bid shall not defeat responsiveness.
- b. A bidder to whom award is made will be notified by email or letter to the address shown on the Proposal Form or email address provided during the bid process at the earliest possible date. Unless other time frames are stipulated in the contract documents, the

maximum time frames allowed for each step of the process between the opening of bids and the issuance of an order to proceed with the work shall be as follows:

(1) Award of contract by Awarding Authority	60 calendar days after the opening of the bids
(2) Contractor's return of the fully executed contract, with bonds and evidence of insurance, to the Awarding Authority	15 calendar days after the Construction Contract has been presented to the Contractor for signature
(3) Awarding Authority's approval of the Contractor's bonds and evidence of insurance and completion of contract execution	20 calendar days after the Contractor presents complete and acceptable documents to the Designer
(4) Notice to Proceed issued to the Contractor	15 calendar days after final execution of Construction Contract by the Awarding Authority, and by the Governor if his or her signature on the contract is required by law

The time frames stated above, or as otherwise specified in the bid documents, may be extended by written agreement between the parties. Failure by the Awarding Authority to comply with the time frames stated above or stipulated in the contract documents, or agreed extensions thereof, shall be just cause for the withdrawal of the Contractor's bid, and contract, without forfeiture of bid security.

- c. Should the successful bidder or bidders to whom the contract is awarded fail to execute the Construction Contract and furnish acceptable Performance and Payment Bonds and evidence of insurance within the specified period, the Awarding Authority shall retain from the bid guaranty, if it is a cashier's check, or recover from the principal or the sureties, if the guaranty is a bid bond, the difference between the amount of the contract as awarded and the amount of the bid of the next lowest bidder, but not to exceed the guaranty amount. If no other bids are received, the full amount of the bid guaranty shall be retained or recovered as liquidated damages for such default. Any sums so retained or recovered shall be the property of the Awarding Authority.
- d. All bid guaranties, except those of the three lowest bona fide bidders, will be returned immediately after bids have been checked, tabulated, and the relation of the bids established. The bid guaranties of the three lowest bidders will be returned as soon as the contract bonds and the contract of the successful bidder have been properly executed and approved. When the award is deferred for a period of time longer than 15 days after the opening of the bids, all bid guaranties, except those of the potentially successful bidders, shall be returned. If any potentially successful bidder agrees in writing to a stipulated extension in time for consideration of its bid, the Awarding Authority may permit the potentially successful bidder to substitute a satisfactory bidder's bond for the cashier's check submitted with its bid as a bid guaranty.
- e. If no bids or only one bid is received, the Awarding Authority may either re-advertise for bids or direct that the Work shall be done by force account under its direction and control, or negotiate for the Work through the receipt of informal bids not subject to the requirements of Title 39-2-6(b), Code of Alabama (1975).

## 20. APPROVAL OF CONTRACT:

No Contract is binding upon the Awarding Authority until it has been executed by the Awarding Authority and successful bidder and copies delivered.



**21. ASSIGNMENT OF CONTRACT AWARD:**

No contract awarded to the lowest responsible and responsive bidder shall be assignable by the successful bidder without written consent of the Awarding Authority, and in no event shall a contract be assigned to an unsuccessful bidder whose bid was rejected because he or she was not a responsible or responsive bidder.

**END OF INSTRUCTIONS TO BIDDERS**