

706 – Bid Receipt, Opening and Review

706.1 Bid Opening Assistance: The Project Manager will assist the Contracting Officer as needed during the bidding period. The Project Manager will also serve as witness of the bid opening and tabulation of the official bid documents for the Project.

706.2 Receipt of Bids: Bids shall be submitted on the official Sealed Bid Form, issued with the plans and specifications in the Bid Documents. All information and data called for on the Sealed Bid Form shall be supplied by the bidder.

- The executed official bid document shall be submitted in a sealed envelope, identified as a sealed bid and other identifying data as provided for in the bid advertisement. It shall be the bidder's responsibility for proper and timely delivery of the sealed bid to the designated bid authority.
- Bids may be received by normal overnight or certified mail. However, the physical receipt of the official bid document by the Division of Engineering and Contract Administration must be prior to the official closing time for receipt of bids.
- Date and time of the receipt of the bid are stamped on the front of the bid submission envelope. This date and time indication is the official receipt of the official bid document.
- The completeness and correctness of the required Project information on the Bid Envelope is verified to assure that the bid is for the correct project and the correct bid opening.
- The Bid Clerk will keep all received Bid Envelopes and their contents secure. Should a bidder wish to withdraw a submitted bid, the bidder must complete a Bid Withdrawal Form.
- The Bid Clerk continues to receive official Bid Documents until the Contracting Officer indicates that the time for receipt of bids has passed. At that indication, the Bid Clerk presents the Contracting Officer with all official Bid Documents received to date for that Project.
- All bid openings shall be open to the public. The opening shall be conducted the same day as the closing date for the receipt of bids and shall be held within the normal workday of the Division of Engineering and Contract Administration, unless other arrangements are indicated in the invitation for bids.

706.3 Bid Opening: The Contracting Officer is responsible for the bid opening including:

- All preparations, establishing an "official timepiece" for use in closing receipt of bids, the smooth conduct of the opening, making a proper record and bid tabulation, and associated actions delegated to others.
- Announcing the commencement of opening bids, full Project title, bid invitation number, the closing of bid receipt at the appointed time and place.
- Opening each Bid Envelope. After all Bid Envelopes are opened and the contents are clipped to the outside of the envelope, the Contracting Officer publicly reads aloud each bid.
- Public reading of the opened bids by the Contracting Officer, the base bid amounts and alternate amounts are recorded on a Bid Tabulation Form.

- Entering bid information into a computer as the bids are read by the Contracting Officer. The successful bidder is determined by calculating the low bid amount times the EMR. The Contracting Officer announces the apparent successful bidder is. _____.

706.4 Lump Sum Bids: The Contracting Officer announces the name of bidder and city, and announces the bid amounts for the Base Bid, and Alternates as given in words and in figures (thereby stating each bid amount twice).

706.5 Unit Price Bids: The majority of the bids received by the Division of Engineering and Contract Administration are Lump Sum Bids; however some bids such as civil engineering projects may require that Unit Price Bids be received.

On Unit Price Bids, the bidder quotes firm unit prices for items of designated units of work, extends same, and adds up the subtotals for a total sum amount. The Contracting Officer will correct math errors in the extension and/or additions of the bid. No correction or change shall be permitted in the quoted firm unit price figure. The corrected total sum bid amount shall take preference over the bidder's computed total sum amount

On total sum bid of line items, the bidder shall quote on all bid items. If a bidder omits or fails to indicate a price for one or more of the items, the bid shall be considered non-responsive.

If the bidder indicated by writing "No Charge" or by entering "0", the Contracting Officer shall construe the bidder meant to supply the unit or units at no charge.

706.6 Verification of Bid: For the apparent successful bidder, the Contracting Officer verifies:

- The bid is signed
- All addenda (if any) are acknowledged
- Bid security bond or certified check is attached
- Unit prices, required lists and forms are completed
- There are no apparent irregularities or conditions in the bid

706.7 Non-Responsive Bids: Failure to supply the required data may be cause for ruling the bid non-responsive.

- A bid shall be considered non-responsive and not eligible for acceptance if it fails to comply with the expressed requirements of the advertisement or contains a variance that does not comply with the specifications.
- Telegraphic, facsimile, or electronically-submitted bids or such transmitted modifications to a bid shall not be accepted under any conditions. A telephone directive for modification of the bid price shall not be permitted and will have no bearing on the submitted proposal in any manner.
- Any official bid document received after the official closing time for receipt of bids, shall be stamped "LATE BID" and shall not be publicly opened and read. A "LATE BID" may be considered for evaluation and award only if the following three conditions are met:
 1. No other bids were received within the legal advertisement period;
 2. Re-advertisement time delay would seriously affect the operations of the Using Agency.
 3. In the judgment of the Contracting Officer, the bid was finalized prior to the official closing date for the receipt of bids.

- Unsigned “Authentication of Bid and Statement of Non-Collusion and Non-conflict of Interest” official bid documents shall not be considered.
- When all addenda are not acknowledged, the official bid document may be rejected.
- When a bid security bond is not attached as required in the advertisement for bid, the official bid document will not be considered.
- Voluntary alternate proposals and/or alternates to a lump sum proposal will not be considered.
- Official bid documents containing any form of condition, clarification statement, or other such irregularity or qualification that was not specifically allowed in the advertisement for bid will not be considered.
- If Subcontractor and Unit Price Lists are not completed, the bid will not be considered.

706.8 Informalities or Irregularities: If an informality or irregularity would have no material effect upon the proposal, the Contracting Officer may waive the omission or variance. The Contracting Officer may not waive a substantial omission or variation that affords a bidder an advantage over other bidders.

Where the written amount (i.e. words) and the figured amount (i.e. numbers) are different, the Contracting Officer reads both amounts and then indicates that the written amount overrides the figured amount.

No bidder shall be allowed to correct an official bid document after the bid has been officially opened.

Questions or examination of official bid documents by non-successful bidders (or the public) shall not be permitted at the formal bid opening. Official bid documents may be examined after the award of the contract through the open record request process.

706.9 Tie Bid: A tie bid exists when two or more responsive bids, submitted by responsible bidders, are evaluated as equal and lower than all other bids. This includes the base bid plus any alternates considered in order, up to, but not to exceed the Bid Target.

The Contracting Officer does not attempt to resolve a Tie Bid situation at the bid opening. The Contracting Officer will simply treat each “Tie Bid” document as an “apparent successful bidder” and instruct the representative of each “Tie Bid” bidder to complete the portions of the Sealed Bid Form that are permitted to be completed after bid opening.

The Director, or his designee, of the Division of Engineering and Contract Administration will review all proposals involved in the “Tie Bid” to determine that they are indeed correct and complete. The determination of resolution of a tie bid shall be made by the Director of the Division of Engineering and Contract Administration.

706.10 Bid Day Review: The Contracting Officer dismisses all bidders, except the representative of the “apparent successful bidder”. The Contracting Officer instructs the representative of the “apparent successful bidder” to complete, within the allotted time in accordance with the invitation to bid, the portions of the Sealed Bid Form that are permitted to be completed after bid opening.

The Architect-Engineer reviews the unit prices, manufacturer/supplier list, subcontractor list provided by the apparent successful bidder. The Architect-Engineer reports on the appropriateness of these items to the Contracting Officer in the Division of Engineering and Contract Administration.

The Contracting Officer ranks all responsive official bid documents in order from the proposal with highest points to the proposal with the lowest points if the EMR is included in the bid documents. If EMR is not included in the bid documents, official bid documents are ranked in order from lowest to highest proposal amount. This ranking is compiled by using the bid tabulation which was done at the public opening. Note: the Bid Clerk does not do this; the Contracting Officer does this.

706.11 Post Bid Review: The Contracting Officer examines the apparent successful official bid document and determines if it is responsive. When a proposal is determined to be non-responsive, after the public opening has concluded, the Contracting Officer shall notify the bidder firms in writing that such a finding has been made.

The Architect-Engineer shall check references provided by the apparent successful bidder and report their findings to the Contracting Officer in the Division of Engineering and Contract Administration. The Architect-Engineer provides a written recommendation to the Contracting Officer concerning acceptance of the apparent successful bidder.

Should the Architect-Engineer recommend that the apparent low bid be accepted, the following occurs:

- The Project Manager develops a preconstruction B-210-11 to determine that funding is in the project account and in the proper object codes.
- The Using Agency recommends, in writing, to accept the successful official bid.
- The Project Manager reviews the apparent successful official bid document and the recommendations of the Using Agency and the Architect-Engineer.
- The Project Manager forwards a memorandum to the Contracting Officer indicating that this review has been completed and recommends acceptance of the successful bid.

Should the Architect-Engineer recommend that the apparent successful bid be rejected, the Contracting Officer will evaluate the available options with the Project Manager and the Using Agency.

706.12 Official Bid Document Withdrawal: After expiration of the closing date for receipt of bids, no bidder may withdraw the bid within the specified bid validity period for Owner's acceptance without possible forfeit of the bid guaranty and future bidding eligibility restrictions. A request for withdrawal of a submitted official bid document must be submitted as a separate document.

706.13 Bidder's Mistake: Upon discovery of a serious bid mistake, the bidder may request release from the bid and the return of the bid bond. The following procedures shall be followed and information provided by the bidder in making such a request to the Division of Engineering and Contract Administration:

- The request shall be in writing and the mistake fully identified, explained, and dollar amounts indicated and intended.
- The bidder shall request an early conference with the Contracting Officer, making available original worksheets and tapes by which the bid was computed.

The Contracting Officer will make a written determination concerning the validity of the bidder's claim of the mistake and shall forward this determination to the Director of the Division of Engineering and Contract Administration for review.

The Director may determine that the bidder has in fact made an error, or mistake in the submitted bid and that the bid should be released and that the bid guarantee should be

returned. In making this determination, the Director shall consider the following conditions which must be present:

- The error was reported prior to the acceptance of the bid by the Contracting Officer and prior to the Intent to Award letter.
- The error or mistake is related to a material feature of the bid.
- The error is apparent and substantial in amount so that an award of contract would likely cause irreparable damage to the bidder's firm.
- The error is substantiated by original bid worksheets and tapes, or some other original type of bid calculation documentation.
- The error is evidenced to have been an honest and unintentional act and resulted in an official bid document that was not intended.
- The bidder's firm shall not have been involved in a similar situation or granted a release from a prior bid within a twelve (12) month period of the date of the submission of the official bid document.

If the successful bid is released, the Contracting Officer is directed to begin consideration of the next "apparent successful bidder" using the same process.

706.14 Extension of Time: If necessary, the Contracting Officer may request a time extension of the successful official bid from the apparent low bidder.

Should the apparent successful bidder grant a time extension, the Contracting Officer will request written confirmation and notify the Project Manager.

Should the apparent low bidder be unable or unwilling to grant the bid time extension, the Contracting Officer may request such an extension from the next-lowest bidder, or determine that a contract cannot be awarded.

706.15 High Bids: If the "apparent successful bid" exceeds the available funds, the Contracting Officer refers the matter to the Project Manager and Using Agency. Options include, but are not necessarily limited to, increase in funding, re-design and re-bid, or cancellation of the Project.

706.16 Increase in Funding: The Using Agency may elect to pursue increased project funding under the following conditions:

- Any reduction in scope, revision of the Project design or abandonment of the project would not be in the best interest of the Commonwealth.
- The increased funding would not exceed statutory limitations.
- The currently received bid documents reflect the reasonable market costs for the work necessary to accomplish the Project Scope;
- The required level of funding is obtainable by the Using Agency.

Upon encumbrance of the required funding, the Project Manager notifies the Contracting Officer that funding levels are adequate and the Contracting Officer proceeds with the award of contract.

706.17 Redesign or Re-bid: If it is determined that the current Project is over budget, the Using Agency may elect to redesign and re-bid under the following conditions:

- Received bid documents do not reflect the reasonable market costs for the work necessary to accomplish the Project Scope.
- A reduction in scope or revision of the design of the Project would be in the best interest of the Commonwealth.

- Received bid documents are rejected.

If the Project is required to be redesigned then the design phases of the Project are revisited as necessary to make the required changes or reduction in Project Scope. The Project is then re-advertised for bidding incorporating the modifications made during the redesign.

706.18 Cancellation of the Project: If the above options are not viable the Project may be cancelled or postponed for future funding.