

## DOCUMENT 00100

### INSTRUCTIONS TO BIDDERS

#### Article 1 - Defined Terms

1.01 Terms used in these *Instructions to Bidders*, which are defined in the Standard General Conditions of the Construction Contract, as prepared by the Engineer's Joint Contract Documents Committee (Document EJCDC C – 700, 2007 Edition), have the meanings assigned to them in the General Conditions. Additional terms used in these *Instructions to Bidders* have meanings indicated below, which are applicable to both the singular and plural thereof.

- A. Issuing Office – The office from which the Bidding Documents are to be issued and made available for sale, and where the bidding procedures are to be administered.
  - 1. Issuing Office is the office of the Engineer whose name and address are listed in the Invitation to Bid.
- B. Successful Bidder – The lowest, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.
- C. PennBid™ – Bid management program, which is being used for bid solicitation for the Project. PennBid's web address is [pennbid.procureware.com](http://pennbid.procureware.com).
- D. Terms Engineer and Architect are synonymous.

#### Article 2 - Copies of Bidding Documents

2.01 Complete sets of the Bidding Documents may be obtained online at no cost via the PennBid Program ([pennbid.procureware.com](http://pennbid.procureware.com)).

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents, or Bidding Documents purchased from sources other than the issuing office.

2.03 Bids from prospective Bidders who have not obtained the Bidding Documents from the issuing office and who have not obtained complete sets of Bidding Documents will not be accepted.

2.04 Copies of Bidding Documents are made available on the above terms only for the purpose of obtaining Bids on the Work and not to confer a license or grant for any other use.

2.05 Digitizing and posting Bidding Documents on the Internet or on websites of prospective Bidders and other parties, or reproduction of Bidding Documents by others, is not permitted without Engineer's approval.

### Article 3 - Qualifications of Bidders

3.01 To demonstrate qualifications to perform the Work, Bidder shall submit with the Bid the qualification data indicated in the Invitation to Bid, the following Paragraph(s) of Article 3, and the Bid Form. Bidders shall also be prepared to submit, within five calendar days after the Bid opening date, upon Owner's request, such additional data as may be pertinent to the Project.

3.02 The Bid of out-of-State Bidders and their Subbidder(s), if any, shall contain evidence of qualification to do business in the Commonwealth of Pennsylvania or covenant to obtain such qualification prior to and as a condition of award of a Contract.

3.03 To obtain information concerning qualifications of a Bidder, the Owner requires that a completed Experience Questionnaire be submitted on the form included in the Bidding Documents. Bidder shall include the completed Experience Questionnaire with the Bid.

**3.04 It is a requirement of this Contract that successful Bidder provides confirmation of compliance with Act 127 of 2012, by submitting a "Public Works Employment Verification Form" (Document 00511) as a pre-condition to being awarded a contract for this Project.**

3.05 Submission of financial information is not required with the Bid, but the Owner reserves the right to request such information as part of the Bid evaluation process.

3.06 It is a requirement of the Contract that Bidders shall have a minimum (5) year, (5) project documented experience in the type of Work required by this Project. Submit required documentation with the Bid.

3.07 Failure, or refusal, to submit documentation required by the Invitation to Bid, this Article 3, and the Bid Form will be reason for rejection of the Bid. Following are additional reasons for rejection of the Bid:

- A. Failure to submit the Bid and other Bidding Documents, on the forms included in the Project Manual.
- B. Failure to sign the Bid Form or any of the required affidavits and other documents attached to it.
- C. Failure to furnish the required Bid Security.
- D. Failure to include a unit/lump sum price for each item on the Bid Form, including Alternates.
- E. The inclusion by Bidder of conditions or qualifications not provided for in the Bidding Requirements and Bidding Documents.
- F. Submission of incomplete Bid Form or other required documents.
- G. If the Bid Form contains any omissions, erasures, alterations, additions not called for, or irregularities of any other kind.

- H. If any bid prices are obviously unbalanced.
- I. When applicable, non-attendance at a mandatory pre-bid meeting and if applicable, site visit.
- J. Debarment by a Commonwealth agency, political subdivision, or Federal agency.
- K. Having been declared in default on prior projects.

#### **Article 4 - Examination of Contract Documents and Site**

4.01 It is the responsibility of each Bidder before submitting a Bid:

- A. To examine thoroughly the Bidding Documents;
- B. To visit the site and become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;
- C. To consider federal, state, and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;
- D. To study and carefully correlate Bidder's knowledge and observations with the Bidding Documents and such other related data; and
- E. To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Bidding Documents.
- F. Obtain such additional or supplementary examinations, investigations, explorations, tests studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.
  - 1. Bidder shall be responsible for restoration of areas disturbed due to supplementary examinations, investigations, explorations, and tests concerning existing aboveground and underground conditions at, or contiguous to the Site.

4.02 Refer to the Supplementary Conditions for identification of:

- A. Those reports of explorations and tests of subsurface conditions at or contiguous to the site.

- B. Those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site.
- C. To the extent provided in the Supplementary Conditions, Owner will make copies of such data available to any Bidder requesting them. These data are for information only and are not part of the Bidding Documents.

4.03 Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Article 4, Paragraphs 4.02, 4.03, and 4.04 of the General Conditions, as amended by the Supplementary Conditions.

4.05 Refer to Paragraph SC-6.13.C of the Supplementary Conditions for information on Safety and Protection at the site, as it relates to Owner's safety programs, if any.

4.06 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

4.07 The provisions of this Article 4 do not apply to Hazardous Environmental Conditions at the site; provisions concerning these conditions appear in Article 4, Paragraph 4.06 of the General Conditions.

## **Article 5 - Availability of Lands for Work**

5.01 The lands upon which the Work is to be performed, rights-of-way and easements for temporary or permanent access, and other lands designated for use by Contractor in performing the Work are identified in the Bidding Documents. All additional lands and access required for temporary construction facilities, or storage of construction equipment and of Products to be incorporated in the Work shall be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by Owner, unless otherwise provided in the Bidding Documents.

## Article 6 - Interpretations and Addenda

6.01 All questions about the meaning or intent of the Bidding Documents shall be submitted in writing via PennBid's "Questions" tab. Interpretations, or clarifications, considered necessary by Engineer in response to such questions, will be issued by Addenda and posted within PennBid's "Documents" tab. Questions received later than ten calendar days prior to the date for opening of Bids, or the deadline, if any, indicated on the Invitation to Bid, may not be answered. **Only questions submitted and answered through PennBid, and by formal written Addenda issued through PennBid will be binding. Oral statements, interpretations, or clarifications will not be binding, or legally effective.** Neither the Owner nor the Engineer shall be responsible for the failure of any Bidder to receive notice of or to read the Addenda posted by the Engineer.

6.02 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

## Article 7 - Bid Security

7.01 Each Bid shall be accompanied by Bid security made payable to Owner in an amount of ten (10) percent of Bidder's maximum Bid price and in the form of a certified or bank check, an irrevocable letter of credit, or a Bid Bond (on form attached) issued by a surety meeting the requirements of Paragraphs 5.01, 5.02, and 5.03 of the General Conditions.

- A. All instruments of Bid security shall be valid and remain in effect for at least 120 days from the date of the bid opening.
- B. Substitute Bid Bond forms are not acceptable.
- C. An electronic copy of the Bid security must be submitted with the Bid.
- D. If a Bid Bond is used, it shall be mandatory that the power of attorney accompanying the Bid Bond evidencing the authority of the person signing on behalf of the surety company to sign the Bid Bond shall be dated the same date as the Bid Bond. Further, it shall be mandatory that the Bid Bond itself be dated the same date as the Bid, as well as signed by the principal Bidder and the surety company through its authorized representative. Failure to comply with any of the aforesaid shall result in the disqualification of the Bid, which Bid shall not thereafter be considered.

7.02 The Bid security and financial information, if any, of the three apparent lowest responsive and responsible Bidders will be retained until the Successful Bidder has furnished the required Performance and Payment Bonds, and Insurance Certificate, and Successful Bidder and Owner have executed the Agreement.

7.03 Owner may annul the Notice of Intent to Award, if the apparent Successful Bidder fails or refuses to execute and deliver to the Owner the Agreement, together with the required Performance and Payment Bonds or other forms of security, and Insurance Certificate, within the

number of calendar days specified in the Notice of Intent to Award. Bidder shall be considered in Default, and the full amount of its Bid Security shall be forfeited.

## **Article 8 - Contract Time**

8.01 The number of calendar days within which, or the date by which the Work shall be substantially completed (the Contract Time) are set forth in the Agreement.

## **Article 9 - Liquidated and Other Damages**

9.01 Provisions for liquidated and other damages, if any, are set forth in the Agreement.

## **Article 10 - Substitutions and “Or Equal” Items**

10.01 Bids shall be based on Products and methods covered in the Specifications and shown on the Drawings. When a Product specification includes the name or names of manufacturer(s), Bids shall be based on a Product which: (1) meets all Specification requirements; and (2) is produced by one of the manufacturers specifically named in the Specifications for that particular Product.

- A. Requests for substitutions, “or Equal” for Products or methods other than those specified in the Project Manual, will not be considered prior to the Bid opening date. Refer to Supplementary Conditions Paragraphs SC-6.05.A through SC-6.05.L for procedures to be used in making, and costs to Contractor associated with, such requests after award of the Contract.

## **Article 11 - Subcontractors**

11.01 Article 6, Paragraph 6.06.B of the General Conditions, as amended by Paragraph SC-6.06.B.1 of the Supplementary Conditions, sets forth requirements as to the approval of Subcontractors.

11.02 The Bidder shall submit, with the Bid, a list of proposed Subcontractors on the form supplied with the Bidding Documents.

**11.03 Each subcontractor is required to provide confirmation of compliance with Act 127 of 2012, by submitting to the Successful Bidder, a “Public Works Employment Verification Form” (Document 00511) as a pre-condition to being awarded a subcontract for this Project.**

## **Article 12 - Bid Form**

12.01 The Bid form and other required Bidding Documents and supplements are included under the “Bid” tab at the PennBid website.

12.02 The Bid of an individual must be signed by the individual personally; the individual's signature must be witnessed; and the individual's business address and any business trade name must be stated. The Bid of a partnership must state the names and addresses of all partners, and the partnership business name and address; and it must be signed by all general partners, with the signatures witnessed. The Bid of a corporation must show the State of incorporation and the principal office address, and must be signed by the President or Vice President, with the corporate seal affixed, attested by the Secretary or Assistant Secretary. Bids by limited liability companies must be executed in the limited liability company name and signed by all members. The state of formation and official address of the limited liability company must be shown below the signature lines.

12.03 Bids submitted electronically via PennBid shall use electronic signatures as defined by Commonwealth of Pennsylvania statute.

12.04 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers and dates of which must be filled in on the Bid Form).

**12.05 Within (2) business days after the Bid opening the apparent low Bidder and the next two lowest Bidders shall submit all Bidding Documents in hard copy, showing original signatures and seals. Bidder(s) shall attach to the Bid Form a copy of the PennBid results in lieu of duplicating the figures manually.**

12.06 The address, e-mail, telephone number, and fax number of Bidder, and the name, e-mail, and telephone number of the individual to whom communications regarding the Bid are to be directed, must be shown.

12.07 The Bid Form may call for lump sum prices, unit prices, or a combination of both.

- A. If the Bid form calls for lump sum prices, the Bidder shall state a single lump sum price for the entire Work, or single lump sum prices for each portion of the Work, subject to a lump sum price as set forth in the Bid form, as applicable. Any such lump sum price or prices shall include all the work described in the Contract Documents as being part of the Work.
- B. If the Bid Form calls for unit prices, the Bidder shall state a single unit price for each item to be furnished or work to be done as set forth in the Bid Form. The Bid Form indicates, opposite each item for which a unit price is required, the Engineer's estimated quantity of units of such items which will be required in the prosecution of the Work; and the Bidder shall state in the space provided in the Bid Form the total price for such items, as computed by multiplying such estimated quantity of units of such item by the unit price bid.

12.08 Bid prices shall be all inclusive and shall include, if applicable, all taxes of whatever nature applicable to the Work.

12.09 Owner may be exempt from sales and use taxes for certain items to be incorporated into the Work. Each Bidder shall obtain legal advice to determine how and to what extent the

Contractor may utilize the Owner's tax exemption. Owner will provide, at the Contractor's request, documentation required to obtain applicable tax exemptions.

12.10 Submission of prices for all Alternates, if any, is mandatory.

12.11 The documents listed under Paragraph 6 of the Bid Form shall be provided as a single file.

### **Article 13 – Electronic Submission of Bids via PennBid**

13.01 Bids shall be submitted no later than the time and place indicated in the Invitation to Bid.

13.02 The "Bid" tab contains the electronic Bid Form.

- A. For Lump Sum line items, enter the lump sum amount to perform all of the Work as described in the Contract Documents.
- B. For Unit Price line items, enter the per Unit price in the appropriate field; PennBid will automatically calculate the extended price for the listed units of Work.
- C A unit or lump sum price must be provided for all items and alternates listed on the Bid Form.

13.03 All questions located in the "Bid" section of PennBid must be answered.

13.04 To attach the electronic file containing documents described in Paragraph 12.11 above, click on the "Bid" tab and "browse" (middle of the screen). Locate and click on the file. The electronic file will be attached to your bid submission when the "Submit Bid" button is clicked.

13.05 Bidder shall use forms available from the "Documents" section of PennBid.

13.06 Each Bidder is solely responsible for submitting its Bid via PennBid by the time and date of the Bid Opening designated in the Invitation to Bid.

13.07 Verifying Bid Was Submitted: If submitted correctly, an acknowledgement will appear in the middle of the computer screen stating "Your bid has been submitted."

### **Article 14 - Modification and Withdrawal of Bids**

14.01 Bids may be modified or withdrawn at any time prior to the Bid opening.

14.02 After the Bid opening, Bidder may withdraw its Bid, without forfeiture of Bid security, if Bidder submits credible evidence that there is an error in its Bid and such error was a clerical mistake as opposed to a judgement mistake and was due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of the Work; provided: (1) notice of claim of the right to withdraw Bid is made in writing to the Owner within two business days after opening of Bids; and (2) the withdrawal of the Bid will not result in the awarding of the Contract on

another Bid of the same Bidder, Bidder's partner, or a corporation, or business venture owned by Bidder, or in which Bidder has a substantial interest. A Bidder which is permitted to withdraw a Bid shall not supply any Products or labor to, or perform any subcontract, or other work, for any entity awarded a Contract, or subcontract for performance of the Work for which the withdrawn Bid was submitted.

## **Article 15 - Opening of Bids**

15.01 Upon review of submitted Bids, results will be posted online at PennBid website. Results shown on PennBid website are for information only and do not constitute the issuance of award of a contract. Selection of apparent low Bidder will be made by Owner after careful review of submitted documentation, as described below under Article 17.

## **Article 16 - Bids to Remain Subject to Acceptance**

16.01 Bids shall remain open for a period of 60 days from the date of Bid opening unless award is delayed by a required approval from a governmental agency, the sale of bonds, or the award of a grant or grants, in which event the Bids shall remain open for a period of 120 days from the date of Bid opening. The Owner will either award the Contract within the applicable time period or reject all Bids, returning the Bid security to the Bidders. The apparent Successful Bidder and the Owner may mutually agree in writing upon an extension of the time period for the accepting of Bids.

## **Article 17 - Award of Contract**

17.01 Owner reserves the right, without limitation, to reject any or all Bids, which are nonconforming, nonresponsive, unbalanced or conditional, and to reject the Bid of any Bidder, if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bidder is unqualified or of doubtful financial ability, or fails to meet any other pertinent standard or criteria established by Owner. Owner also reserves the right to waive all irregularities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

17.02 The Owner will resolve discrepancies in the Bidder's mathematical totals, shown on the hard copy of the Bid Form, in favor of the electronically calculated totals shown on PennBid.

17.03 In evaluating Bids, Owner will consider the qualifications of Bidders, if the Bids comply or do not comply with the prescribed requirements, and such Alternates, unit prices, and other data, as may be listed on the Bid Form, or as may be requested by Owner prior to the Notice of Intent to Award.

17.04 In evaluating Bids, Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work of which Owner, prior to Notice of Intent to Award, requests their identity. Owner also may consider, where applicable, the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data are required to be submitted prior to the Notice of Intent to Award.

17.05 In evaluating Bids, Owner may conduct such investigations, as Owner deems necessary, to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations, to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

17.06 If the Contract is to be awarded, it will be awarded to the lowest responsible, responsive Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.

17.07 If the Contract is to be awarded, Owner will give the apparent Successful Bidder a Notice of Intent to Award within the time limits prescribed in Article 16.

17.08 Bidders may be required by Owner, prior to and as a condition of Contract award, to execute and sign documents related to financing of the Project.

17.09 More than one bid from an individual, partnership, corporation, or an association under the same name or different names will not be considered. Reasonable grounds for believing that the Bidder is interested in more than one Bid for the same Work will cause the rejection of all Bids in which such Bidder is interested. Any or all Bids will be rejected if there is any reason for believing that collusion exists among any of the Bidders; participants in such collusion will not be considered in future bidding.

17.10 Alternates, if any, will be considered and selected by Owner and the prices for the selected Alternates will be added to or deducted from the Base Bid price to arrive at an adjusted Bid price. Owner reserves the right to reject or select Alternates regardless of price attached to such Alternates. The adjusted Bid price will be used in comparing Bids and will be the basis for determining the "lowest" of all responsible, responsive Bidders.

**17.11 Successful Bidder and its subcontractors shall submit Employment Verification Forms, in accordance with the PA "Public Works Employment Verification Act" (Act 127 of 2012), prior to and as a condition of award of a contract.**

## **Article 18 - Contract Bonds and Insurance**

18.01 Article 5 of the General Conditions sets forth Owner's requirements as to Performance and Payment Bonds to be provided by the Contractor. When the apparent Successful Bidder delivers the signed Agreement to Owner, it must be accompanied by the required Performance and Payment Bonds, each in the amount of one hundred percent (100%) of the Contract Price, on the forms provided in the Bidding Documents. **Substitute Bond forms are not acceptable.**

18.02 Article 5 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to insurance to be carried by the Contractor. When the apparent Successful Bidder delivers the signed Agreement to the Owner, it must be accompanied by the required insurance certificate on the latest version of the Acord 25 Certificate of Insurance form. All policies of insurance shown on the Certificate of Insurance shall not be cancelled or materially changed until thirty days prior notice has been given by Contractor to Owner and Engineer and

to each additional insured, and shall contain waiver provisions in accordance with General Conditions, Paragraph 5.07.

## **Article 19 - Signing of Agreement**

19.01 When Owner gives a Notice of Intent to Award to the apparent Successful Bidder, it will be accompanied by four unsigned counterparts each of the Agreement (each with a copy of the Bid submission and, if applicable, the List of Proposed Subcontractors attached), Performance and Payment Bonds, or other forms of financial security. Apparent Successful Bidder shall sign and deliver to the Owner, within the calendar days specified in the Notice of Intent to Award, all counterparts of the Agreement accompanied by the executed Performance and Payment Bonds (with a Power-of-Attorney certificate attached to each), or other forms of financial security and four originals of the required insurance certificate(s).

- A. Successful Bidder(s)/Contractor(s) shall be responsible for all costs resulting from reviewing by Engineer, or others, of non-conforming, or incomplete Contract Document submissions prior to execution of an Agreement. Costs shall be deducted by Change Order from Contractor's first Application for Payment.
- B. By signing the Agreement, the Contractor agrees to hold the prices Bid for materials and equipment throughout the Project.

19.02 If the Owner finds the documents submitted by the apparent Successful Bidder acceptable, it will, within ten calendar days after receipt of such documents, complete the signing of the Agreement and submit two fully executed counterparts and accompanying documents to the Contractor.

19.03 If the Owner elects to issue a Notice to Proceed, such notice will accompany the fully executed copies of the Agreement. If a Notice to Proceed is not issued, the Contract Times will commence to run as specified in General Conditions, Paragraph 2.03, as amended by Supplementary Conditions Paragraph SC-2.03.

19.04 Owner may annul the Intent to Award, if the apparent Successful Bidder fails or refuses to execute and deliver to the Owner the Agreement, together with the required Performance and Payment Bonds, Insurance Certificate, and any other required Contract Document(s), within the number of calendar days specified in the Notice of Intent to Award; Bidder shall be considered in Default, and the full amount of its Bid Bond shall be forfeited.

## **Article 20 - Pre-Bid Meeting and Site Visit**

20.01 A pre-bid meeting and site visit will be held at the time and place set forth in the Invitation to Bid. Engineer will transmit via PennBid to all prospective Bidders present at the pre-bid meeting and site visit such Addenda, as Engineer considers necessary in response to questions arising at the meeting. Attendance at the pre-bid meeting and site visit is required.

## **END OF INSTRUCTIONS TO BIDDERS**