

State of Ohio Standard Requirements

was substantially lower than the amounts of other Bids, providing the Bid was submitted in good faith, and the reason for the bid amount being substantially lower was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of Work, labor, or material made directly in the compilation of the bid amount.

4.2.1.1 Notice of a request to withdraw a Bid shall be made in writing filed with the Contracting Authority within 2 business days after the bid opening. The Contracting Authority reserves the right to request the Bidder to submit evidence substantiating the Bidder's request to withdraw the Bid.

4.2.1.2 No Bid may be withdrawn under subparagraph 4.2.1 which would result in awarding a Contract involving the same item on another Bid to the same Bidder.

4.2.2 If a Bidder withdraws its Bid under subparagraph 4.2.1, the Contracting Authority may award the Contract to the next lowest responsive and responsible Bidder, or reject all Bids and advertise for other Bids. In the event the Contracting Authority advertises for other Bids, the withdrawing Bidder shall pay the costs, in connection with the re-bidding, of printing new Contract Documents, required advertising, and printing and mailing of notices to prospective Bidders, if the Contracting Authority finds that these costs would not have been incurred but for the withdrawal.

4.2.3 A Bidder may withdraw the Bidder's Bid at any time after the 60 day period described in subparagraph 4.2.1 by giving written notice to the Contracting Authority.

4.3 REFUSAL TO ACCEPT WITHDRAWAL

4.3.1 If the Contracting Authority contests the right of a Bidder to withdraw a Bid pursuant to subparagraph 4.2.1, a hearing shall be held within 10 days after the bid opening and the Contracting Authority shall issue an order allowing or denying the claim of this right within 5 days after the hearing is concluded. The Contracting Authority shall give the withdrawing Bidder timely notice of the time and place of the hearing.

4.3.1.1 The Contracting Authority shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing. The Bidder shall pay the costs of the hearing.

4.3.1.2 Pursuant to O.R.C. Section 119.12, the Bidder may appeal the order of the Contracting Authority required by subparagraph 4.3.1.

4.4 REFUSAL TO PERFORM

4.4.1 In the event the Contracting Authority denies the request for withdrawal and the Bidder refuses to perform the Contract, the Contracting Authority may reject all Bids or award the Contract to the next lowest responsive and responsible Bidder.

4.5 EFFECT OF WITHDRAWAL

4.5.1 A Bidder, who is permitted to withdraw a Bid under subparagraph 4.2.1, shall not supply material or labor to, or perform a subcontract or other work for, the Person to whom the Contract is awarded; or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn Bid was submitted; without the Contracting Authority's prior written consent.

ARTICLE 5 - BID GUARANTY AND BOND

5.1 BID GUARANTY

5.1.1 The Bidder shall submit a Bid Guaranty with the Bidder's Bid, payable to the Contracting Authority, in the form of either:

5.1.1.1 The signed Document 00 ⁴³¹³ - "Bid Security Form" contained in the Contract Documents for the amount of the Base Bid plus all additive Alternates; or

5.1.1.2 A certified check, cashier's check, or letter of credit, for 10 percent of the Base Bid, plus all additive Alternates. A letter of credit shall expressly provide that it is revocable only by the Contracting Authority.

5.1.2 The Bid Guaranty shall be in form and substance satisfactory to the Contracting Authority and shall serve as an assurance that upon acceptance of the Bid, the Bidder shall comply with all conditions precedent for Contract execution, within the time specified by the Contracting Authority.

5.1.3 If the blank line on the Bid Guaranty and Contract Bond is not filled in, the penal sum shall be the full amount of the Base Bid plus all additive Alternates. If the blank line is filled in, the amount shall not be less than the full amount of the Base Bid plus all additive Alternates, stated in dollars and cents. A percentage is not acceptable. In the event the blank line is filled in for an amount less than the full amount of the Base Bid plus all additive alternates, the Bid shall be rejected as non-responsive.

5.1.4 An authorized agent must sign the Bid Security Form, and the Bidder shall provide a Power of Attorney from the Surety. A Surety authorized by the Ohio Department of Insurance to transact business in Ohio must issue the Bid Security Form.

5.1.5 The requirements of O.R.C. Section 3901.86 may be applicable requiring an Ohio resident agent countersign the Bid Guaranty and Contract Bond. The Bidder shall determine the applicability of this provision.

5.1.6 Bid Guaranties in the form of a certified check, cashier's check, or letter of credit shall be returned to unsuccessful Bidders 60 days after the bid opening. Bid Guaranties in the form of a certified check, cashier's check, or letter of credit shall be returned to the successful Bidder upon providing Document 00 61 13 - "Performance and Payment Bond Form" from a Surety satisfactory to the Contracting Authority.

5.2 FORFEITURE OF BID GUARANTY

5.2.1 If for any reason, other than as authorized by subparagraph 4.2.1 or paragraph 5.3, the Bidder fails to execute the Contract Form, and the Contracting Authority awards the Contract to another Bidder, which the Contracting Authority determines is the lowest responsive and responsible Bidder:

5.2.1.1 The Bidder who failed to execute the Contract Form is liable to the State for the difference between its Bid and the Bid of the next lowest responsive and responsible Bidder, or for a penal sum not to exceed ten percent of the bid amount, whichever is less.

5.2.2 If the Contracting Authority then awards a Contract to another Bidder, which the Contracting Authority determines is the lowest responsive and responsible Bidder and that Bidder fails or refuses to execute the Contract Form:

5.2.2.1 The liability of the lowest responsive and responsible Bidder shall be the difference between the bid amount of the lowest responsive and responsible Bidder and another Bidder which the Contracting Authority determines is the lowest responsive and responsible Bidder, except as provided in paragraph 5.3, but not in excess of the liability specified in subparagraph 4.2.2;

5.2.2.2 The liability on account of an award to the lowest responsive and responsible Bidder beyond the third lowest responsive and responsible Bidder shall be determined in like manner.

5.2.3 If the Contracting Authority does not award the Contract to another Bidder under subparagraph 5.2.2, but submits the Project for re-bidding:

5.2.3.1 The Bidder failing or refusing to execute the Contract Form is liable to the State for a penal sum not to exceed 10 percent of the Bidder's bid amount or the costs in connection with the resubmission of printing new Contract Documents, required advertising, and printing and mailing notices to prospective Bidders, whichever is less, except as provided in paragraph 5.3.

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5.3 EXCEPTION TO FORFEITURE

5.3.1 A Bidder for a Contract with the State costing less than \$500,000 may withdraw its Bid from consideration if its Bid for another Contract with the State for less than \$500,000 has already been accepted if:

5.3.1.1 The Bidder certifies in good faith that the total amount of its current contracts is less than \$500,000; and

5.3.1.2 The Bidder's Surety certifies in good faith that the Bidder is unable to perform the subsequent Contract because such performance would exceed the Bidder's bonding capacity.

5.3.2 If a Bid is withdrawn pursuant to subparagraph 5.3.1:

5.3.2.1 The Contracting Authority may award the Contract to another Bidder which the Contracting Authority determines is the lowest responsive and responsible Bidder or reject all Bids and submit the Project for re-bidding; and

5.3.2.2 Neither the withdrawing Bidder nor the Bidder's Surety shall be liable for the difference between the Bidder's Bid and that of the next lowest responsive and responsible Bidder for a penal sum, or for the costs of printing new Contract Documents, required advertising, and printing and mailing notices to prospective Bidders.

5.4 BOND

5.4.1 Prior to signing the Contract Form, the Bidder shall provide the Bond required by law in form and substance satisfactory to the Contracting Authority, and from a Surety licensed to do business in the state of Ohio and satisfactory to the Contracting Authority.

5.4.1.1 If the Bidder provided Document 00 45 13 - "Bid Security Form," described in subparagraph 5.1.1.1, as its Bid Guaranty then that form shall be the Bond.

5.4.1.2 If the Bidder provided another form of Bid Guaranty, described in subparagraph 5.1.1.2, then Document 00 61 13 - "Performance and Payment Bond Form," described in subparagraph 5.1.6, shall be the Bond.

5.4.1.3 The Bidder shall not be required to provide both forms described above.

5.4.2 The Bond must be in the full amount of the Contract to indemnify the State against all direct and consequential damages suffered by failure of the Contractor to perform according to the provisions of the Contract and in accordance with the Plans, Specifications, details, and bills of material therefore and pay all lawful claims of Subcontractors, Material Suppliers, and laborers for labor performed or materials furnished in performing and completing the Contract.

ARTICLE 6 - CONTRACT AWARD AND EXECUTION

6.1 CONDITIONS PRECEDEN T FOR EXECUTION OF CONTRACT

6.1.1 The successful Bidder must submit the items in this paragraph 6.1 to the Contracting Authority before executing the Contract Form.

6.1.2 Bond, and to support the Bond, a Certificate of Compliance issued by the Ohio Department of Insurance, showing the Surety is licensed to do business in the state of Ohio.

6.1.3 Ohio Workers' Compensation Certificate

6.1.4 Certificate of Compliance with Affirmative Action Programs, issued by the Ohio Department of Administrative Services, Equal Opportunity Division. The form must be submitted through the Ohio Business Gateway: <http://business.ohio.gov/efiling/>.