**Section 1150.200 Bidding Requirements and Conditions**

a) Prequalification of Bidders

1) Each bidder shall be prequalified by the Department of Transportation and eligible to bid as provided in 44 Ill. Adm. Code 650 and described in Section 102 of the Standard Specifications for Road and Bridge Construction published by the Department of Transportation. Application for prequalification shall be made directly to the Department of Transportation.

2) The Department shall rely upon any determination and statement by the Department of Transportation that a bidder is not qualified or that the bidder's qualification has been suspended, without additional inquiry or verification. Any appeal, challenge, or dispute by a bidder relating to an adverse determination of the Department of Transportation shall be made to the Department of Transportation.

3) No error in any determination of a bidder's qualifications made by the Department of Transportation shall invalidate any decision of the Department of Natural Resources.

4) Independent of any determination by the Department of Transportation, the Department of Natural Resources by and through the Director of the Office of Mines and Minerals may declare a contractor ineligible for reclamation project contracts and suspend that contractor's eligibility for up to one year. The Contractor shall be sent written Notice of the Department's action. The following shall be sufficient grounds for suspension:

A) Material breach of contract.

B) Delivery of materials or performance of services which do not comply with the specifications of the contractor's contract with the Department or any other State agency or department.

C) Failure to perform within the time specified in the contract.

D) Failure to keep offer firm for length of time specified by the bidder in his/her bid.

E) Failure to provide performance bond when required by invitation for Bids.

F) Collusion with other bidders or prospective bidders to restrain competitive bidding.

G) Giving information in an application for inclusion on a bidder's list that is later found to be false or materially misleading.

H) Any substitution of materials, even though of the same quality, without first securing the written consent of the State.

I) Bankruptcy or other evidence of insolvency of the bidder, such as the failure to timely pay suppliers and sub-contractors.

J) Revocation of the Department of Human of Rights Public Contract number.

K) Failure to provide prevailing wages and benefits where required by law (Prevailing Wage Act [820 ILCS 130]).

L) Non-compliance with Equal Employment Opportunity contract provisions.

M) A recommendation from OSM that the contractor is not eligible for an AML contract under 30 CFR 874.16.

5) In all actions suspending a contractor's eligibility to bid on reclamation project contracts, the Contractor may protest the Department's action by submitting to the Director of the Department a written statement of objection setting forth the facts and circumstances of the action which are alleged to be legally or otherwise objectionable. The written statement of objection must be received by the Director within 14 calendar days after the objectionable action. The Director shall provide the Contractor with a hearing in accordance with procedures set forth in 17 Ill. Adm. Code 2530. Notwithstanding the provisions of Sections 2530.320 - 2530.350 concerning initiation of proceedings by the Department, the Contractor shall initiate the proceedings.

b) Notice to Bidders

1) Notice to Bidders and advertisement for bids shall be published in the Illinois Procurement Bulletin of the State of Illinois, inviting bids for the construction projects for which competitive bids may be received and which are in any one letting. Advertisements must appear at least once, no less than 14 days before the bid opening. The notice shall specify the date, time and place where bids are due; the date, time and place where the bids will be opened; the place where proposal forms may be obtained; the responsible State purchasing officer; the method of source selection; and information of how to obtain a comprehensive purchase description and any disclosure and contract forms.

2) The Illinois Procurement Bulletin of the State of Illinois for the Department will be the volumes published by the Department of Transportation.

3) A notice of all construction projects for which the Department is accepting bids at a Department of Transportation letting shall be published in the Illinois Procurement Bulletin, at least 14 days prior to the time bids are due. The Bulletin is sent to all contractors who have prequalified with the Department of Transportation and to persons paying the established subscription price.

c) Contents of Proposal Forms

1) Upon request, the Department of Transportation will furnish the prequalified, prospective bidders a proposal form. This form will state the location and description of the contemplated construction and will show the estimate of the various quantities and kinds of work to be performed and/or materials to be furnished, and will have a schedule of items for which unit bid prices are invited. The proposal form will state the time in which the work must be completed, the amount of the proposal guaranty, labor requirements, and the date, time, and place of the opening of proposals. The form will also include Special Provisions and requirements that adapt the Standard Specifications to AML projects and provide for project specific conditions and requirements.

2) 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.

3) The plans, specifications and other documents designated in the proposal form, including any addenda officially issued by the Department, will be considered a part of the proposal, whether attached or not.

d) Issuance of Proposal Forms

The Department shall direct the Department of Transportation to refuse to issue a proposal form for any of the following reasons:

1) Lack of competency and adequate machinery, plant and other equipment, as revealed by the financial statement and experience questionnaires required by the prequalification procedures of the Department of Transportation.

2) Uncompleted work which, in the judgment of the Department or the Department of Transportation, might hinder or prevent the prompt completion of additional work if awarded.

3) False information provided in the bidder's "Affidavit of Availability".

4) Failure to pay, or satisfactorily settle, all bills due for labor and material on former contracts in force at the time of issuance of proposal forms.

5) Failure to comply with any prequalification procedures of the Department of Transportation.

6) Default under previous contracts.

7) Unsatisfactory performance record as shown by past work, judged from the standpoint of workmanship and progress.

8) When the Contractor is suspended from eligibility to bid at a public letting where the contract is awarded by, or requires approval of, the Department of Transportation.

9) When any agent, servant or employee of the prospective bidder currently serves as a member, employee or agent of a governmental body that is financially involved in the proposed work.

10) When any agent, servant or employee of the prospective bidder has participated in the preparation of plans or specifications for the work.

e) Amendment of Proposal Form

1) At any time prior to the time when proposals are due, the Department may amend the proposal form by deleting or adding items, changing quantities of any item, altering specifications or other elements of the proposal forms. In the event of a change of the proposal form, the Department shall notify all persons who have received proposal forms or have otherwise notified the Department of Transportation of an intention to submit a proposal, and shall, prior to the time proposals are due, provide all such persons with an amended proposal form. Any bidders who have already submitted a proposal shall be allowed to withdraw, resubmit or amend their proposal notwithstanding the provisions of subsection (m) of this Section. In amending a proposal form, the Department shall extend the time when the proposals are due when it determines that additional time will be required to compensate for the amendments.

2) Unless the changes are so substantial that the initial invitation for bids no longer reflects an accurate estimate of the quantity of the work to be done or the character and quantity of the material to be furnished, no new invitation or advertisement shall be required.

f) Interpretation of Quantities in Bid Schedule

The quantities appearing in the bid schedule are approximate and are prepared for the comparison of bids. Payment to the Contractor will be made only for actual quantities of work performed and accepted or materials furnished in accordance with the contract, unless bid quantities are accepted by both the Department and Contractor. The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased, or omitted as provided in this Section.

g) Examination of Plans, Specifications, Special Provisions and Site of Work

1) The prospective bidder shall, before submitting a bid, carefully examine the provisions of the contract. The bidder shall inspect in detail the site of the proposed work, investigate and become familiar with all the local conditions affecting the contract and fully acquaint itself with the detailed requirements of construction. Submission of a bid shall be a conclusive assurance and warranty that the bidder has made these examinations and that the bidder understands all requirements for the performance of the work. If his/her bid is accepted, the bidder will be responsible for all errors in the proposal resulting from his/her failure or neglect to comply with this subsection (g)(1). The Department will, in no case, be responsible for any costs, expenses, losses or change in anticipated profits resulting from such failure or neglect of the bidder to make these examinations.

2) The bidder shall take no advantage of any error or omission in the proposal and advertised contract. Any prospective bidder who desires an explanation or interpretation of the plans, specifications or any of the contract documents shall request an explanation or interpretation in writing from the Supervisor of Project Management in sufficient time to allow a written reply by the Department that can reach all prospective bidders before submission of their bids. Any reply given a prospective bidder concerning any of the contract documents, plans, and specifications will be furnished to all prospective bidders in the form determined by the Department including, but not limited to, an addendum, if the information is deemed by the Department to be necessary in submitting bids or if the Department concludes that the information would aid competition. Oral explanations, interpretations, or instructions given before the submission of bids, unless at a prebid conference, will not be binding on the Department.

h) Preparation of the Proposal

1) Bidders shall submit their proposals on the form furnished by the Department of Transportation. The proposal shall be executed, and bids shall be made for all items indicated in the proposal form, except that when alternative bids are asked a bid on more than one alternate for each item is not required, unless otherwise provided. The bidder shall indicate, in figures, a unit price for each of the separate items called for in the proposal form; the bidder shall show the products of the respective quantities and unit prices in the column provided for that purpose, and the gross sum shown in the place indicated in the proposal form shall be the summation of those products. All writing shall be with ink or typewriter, except the signature of the bidder, which shall be written in ink.

2) If the proposal is made by an individual, that individual's name and business address shall be shown. If made by a firm or partnership, the name and business address of each member of the firm or partnership shall be shown. If made by a corporation, the proposal shall show the names, titles, and business addresses of the president, secretary, and treasurer, and the seal of the corporation shall be affixed and attested by the secretary.

i) Combination Bids

1) A combination bid is a total bid received on two or more proposals. No combination bids other than those specifically set up by the Department will be considered. Separate proposal forms will be issued for each project in the combination so that bids may be submitted either on the combination or on separate units of the combination. The Department reserves the right to make awards on combination bids or separate bids to the best advantage of the Department.

2) If a combination bid is submitted on 2 or more proposals, separate proposals on each individual contract shall also be submitted, and unless separate proposals are so submitted, the combination bid will not be considered. If the bidder desires to submit a combination bid, the bidder shall state, in the place provided in the proposal form, the amount of the combination bid for the entire combination.

3) If a combination bid is submitted on any stipulated combination, and errors are found to exist in computing the gross sum bid on any one or more of the individual proposals, corrections shall be made by the Department and the amount of the combination bid shall be corrected so that it will be in the same proportion to the sum of the corrected gross sum bid as the combination bid submitted was to the sum of the gross sum bid submitted. The following provisions shall govern combination bidding:

A) A combination bid which is submitted for 2 or more proposals and awarded on that basis shall have the bid prorated against each proposal in proportion to the bid submitted for each proposal.

B) Separate contracts shall be executed for each individual proposal included in the combination.

C) The completion date for all contracts awarded on a combination bid shall be the latest completion date designated in any one or more of the contracts included in the combination, unless otherwise provided in the contracts. The working days for all contracts awarded on a combination bid shall be the largest number of working days designated in any one or more of the contracts included in the combination, unless otherwise provided in the contracts.

D) An extension of time for any one or more contracts awarded on a combination bid shall automatically extend all contracts awarded on the combination.

E) In the event the Contractor fails to complete any one or all of the contracts on the combination bid by the contract completion date plus any authorized extension, or the contract working days plus any authorized extension, the liquidated damages shall be determined from the schedule of deductions for each day of overrun in contract time as provided in the contract, based on the combination bid total, and shall be computed on the combination and prorated against the 2 or more individual contracts based on the dollar value of each contract.

F) The plans and Special Provisions for each separate contract shall be construed separately for all requirements, except as described in subsections (a) through (e) above.

j) Rejection of Proposals

The Department reserves the right to reject proposals where the bidder has failed to meet the prequalification requirements of the Department of Transportation, or for any of the following reasons:

1) More than one proposal for the same work from an individual, firm, partnership, or corporation under the same or different names.

2) Evidence of collusion among bidders.

3) Unbalanced proposals in which the bid prices for some items are obviously out of proportion to the bid prices for other items.

4) If the proposal does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items or lump sum pay items.

5) If the proposal form is other than that furnished by the Department of Transportation; or if the form is altered or any part thereof is detached.

6) If there are omissions, erasures, alterations, unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous.

7) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

8) If the proposal is not accompanied by the proper proposal guaranty.

9) If the proposal is prepared with other than ink or typewriter.

10) If the certifications contained in the proposal form are not completely executed.

k) Proposal Guaranty

1) Each proposal shall be accompanied by either a bid bond on the Department form contained in the proposal, executed by a corporate surety company satisfactory to the Department, pursuant to 44 Ill. Adm. Code 675.240, or by a bank cashier's check or a properly certified check for not less than five percent of the amount bid, or for the amount specified in the following schedule:

|  |  |  |  |
| --- | --- | --- | --- |
| Amount of Bid | |  | Proposal Guarantee |
| Up to | 5,000 |  | 150 |
| $ 5,000 to | 10,000 |  | 300 |
| 10,000 to | 50,000 |  | 3,000 |
| 50,000 to | 100,000 |  | 3,000 |
| 100,000 to | 150,000 |  | 5,000 |
| 150,000 to | 250,000 |  | 7,500 |
| 250,000 to | 500,000 |  | 12,500 |
| 500,000 to | 1,000,000 |  | 25,000 |
| 1,000,000 to | 1,500,000 |  | 50,000 |
| 1,500,000 to | 2,000,000 |  | 75,000 |
| 2,000,000 to | 3,000,000 |  | 100,000 |
| 3,000,000 to | 5,000,000 |  | 150,000 |
| 5,000,000 to | 7,500,000 |  | 250,000 |
| 7,500,000 to | 10,000,000 |  | 400,000 |
| 10,000,000 to | 15,000,000 |  | 500,000 |
| 15,000,000 to | 20,000,000 |  | 600,000 |
| 20,000,000 to | 25,000,000 |  | 700,000 |
| 25,000,000 to | 30,000,000 |  | 800,000 |
| 30,000,000 to | 35,000,000 |  | 900,000 |
| OVER | 35,000,000 |  | 1,000,000 |

2) In the event that one proposal guaranty check is intended to cover two or more proposals, the amount must be equal to the sum of the proposal guaranties which would be required for each individual proposal.

3) If a combination bid is submitted, the proposal guaranties which accompany the individual proposals making up the combination will be considered as also covering the combination bid.

4) Bank cashier's checks or properly certified checks accompanying proposals shall be made payable to the Treasurer, State of Illinois.

l) Delivery of Proposals

Each proposal should be submitted in a special envelope furnished by the Department of Transportation. The blank spaces on the envelope shall be filled in correctly to clearly indicate its contents. When an envelope other than the special one furnished by the Department of Transportation is used, it shall be of the same general size and shape and be similarly marked to clearly indicate its contents. When sent by mail, the sealed proposal shall be addressed to the Department of Transportation at the address and in care of the official in whose office the bids are to be received. All proposals shall be filed prior to the time and at the place specified in the Notice to Bidders. Proposals received after the time for opening of bids will be returned to the bidder unopened.

m) Withdrawal of Proposals

Permission will be given a bidder to withdraw a proposal if the bidder makes his/her request in writing before the time for opening proposals.

n) Public Opening of Proposals

Proposals will be opened and read publicly at the time and place specified in the Notice to Bidders. Bidders, their authorized agents, and other interested parties are invited to be present.

(Source: Amended at 22 Ill. Reg. 15581, effective August 17, 1998)