

ITEM 102 BIDDING REQUIREMENTS AND CONDITIONS

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102.01 Pre-qualification of Bidders. Prior to the City awarding a Contract, the Bidder must have an active contract compliance number. If the Bidder does not have a contract compliance number (or if it has lapsed) at the time of Proposal submission, the Bidder must include a completed contract compliance certification application (or reactivation) with its Proposal under provisions of City Code, Title 39; Chapter 3907.

In addition, if any Work includes work on any water or sanitary main line or service, Bidders must have in effect at the time of Bid and at the time of Work, effective sewer or water tapper's license(s).

102.02 Availability and Contents of Bid Documents. Bid Documents are available to prospective bidders at the location stated in the advertisement. The Bid Documents will state the location and description of the contemplated Work and will show the approximate estimate of the various quantities and kinds of work to be performed or materials to be furnished, and will have a schedule of items for which unit bid or lump sum prices are invited. The Bid Documents will state the Contract Time, the amount of the Proposal Guaranty, and the date, time and place of the opening of Proposals. The Plans, Specifications, Supplemental Specifications, Special Provisions, standard drawings or other documents designated in the Bid Documents, will be considered a part of the Proposal whether attached or not.

102.03 Preparation of Proposals. Prepare a Proposal according to this subsection and the requirements found in the Bid Documents.

A. General. Provide prices for each item listed in the Proposal.

When an item in the Proposal contains a choice to be designated by the Bidder, the Bidder shall indicate that choice in accordance with the Specifications for that particular item, and thereafter no further choice will be permitted.

The Proposal shall include all documents, duly executed as applicable, that are required to be submitted as directed in the Advertisement.

**ENTITY SUBMITTING PROPOSAL
REQUIRED SIGNATURE**

Individual	The individual or a duly authorized agent.
Partnership	A partner or a duly authorized agent.
Joint Venture	A member or a duly authorized agent of at least one of the joint venture firms.
Corporation	An authorized officer or duly authorized agent of the corporation. Also, show the name of the state chartering the corporation and affix the corporate seal.
Limited Liability Company	A manager, a member, or a duly authorized agent.

Anyone signing a Proposal in a representative capacity must provide evidence of his or her authority to bind the bidder by Affidavit.

Before a contract will be awarded to a foreign corporation or an individual or partnership non-resident of the State of Ohio, such foreign corporation, individual, or partnership non-resident shall file with the Secretary of State a power of attorney designating them or their agent or the Secretary of State, as agent, for the purpose of accepting service of summons, in any action in law or equity, or both, brought in the State of Ohio.

B. Submitting Bids Electronically. When submitting a Bid electronically, properly complete the electronic file and submit it using the software specified in the Bid Documents rather than completing it by handwriting, typing, or using unauthorized computer-generated forms. Properly execute the Proposal by completing all of the required fields and attaching the required signatures in the spaces provided in the electronic file.

C. Submitting Paper Bids. When submitting a paper Bid, submit the Proposal upon the forms furnished by the City or on an acceptable form generated by a computer.

Specify a unit price in figures for each proposal item for which a quantity is given in the "Unit Price" column. Calculate and place the products for the respective unit prices and quantities in the "Bid Amount" column. For a lump sum item, place the same price in the "Unit Price" column and in the "Bid Amount" column pertaining to that item. Indicate the total Proposal amount by adding the values entered in the "Bid Amount" column for the listed items. All the words shall be in ink or typed.

Computer Generated Bid Sheet: If permitted in the Bid Documents, the Bidder may submit an 8 1/2 x 11 inches (216 x 279 mm) computerized bid sheet or sheets attached to the Proposal. The computerized bid sheet or sheets must meet the following requirements:

1. reference numbers, description, units and quantities included,
2. a unit price per/item,
3. an extension price per/item,
4. project name, number, and date on each sheet,

5. subtotals and totals clearly identified,
6. blanks where appropriate,
7. in the event of a deleted item - the word deleted inserted,
8. lines between columns and items,
9. each page numbered.
10. a general summary of subtotals must be shown on the last sheet,
11. the Contractor's contract compliance number must appear on each computerized sheet,
12. the following statement must appear on the last sheet of the computerized bid:

"The Bidder's TOTAL is only for reference at the bid opening. The City will verify that the TOTAL price and the individual unit and/or lump sum prices correspond. If there is a discrepancy, the unit and/or lump sum prices shall govern."

Be advised further that the Bidder is solely responsible to prepare its computerized bid sheets in accordance with the above requirements and the remaining requirements of this Section. Failure to fully comply with the designated format may result in the rejection of the Bidder's bid.

102.04 Interpretation of Quantities in Proposal. The quantities appearing in the Proposal are approximate only and are prepared for the comparison of Bids. Payment to the Contractor will be made only for the actual quantities of Work performed and accepted or materials furnished and accepted in accordance with the Contract Documents. The scheduled quantities of Work to be done and materials to be furnished may each be increased, decreased, or omitted as hereinafter provided.

The description of unit price items in the Proposal that are identified as "increase or decrease" items are identified for the purpose of establishing a unit price for payment for increases or decreases in the particular item during performance of the Work. For the purpose of Proposal preparation and evaluation, all such "increase or decrease items" shall be computed as increases. Any amount noted as "increase or decrease" will not be used to determine the percentage of work provided by the Contractor and its subcontractors.

102.05 Examination of Contract Documents and Work Site. The Bidder is expected to conduct a reasonable Project site investigation of the proposed Work and examine carefully the Bid Documents, and all other documents furnished or referenced by the City in the Bid Documents, before submitting a Proposal. When available, the City may include in the Bid Documents or make available to Bidders for review at the designated City location one or more of the following: as-built drawings, subsurface investigations, borings, soundings, water levels, elevations or profiles and results of preliminary investigations. The Contractor's reasonable site investigation shall also include (1) review of these documents (but this is not substitute for Bidder's own investigation, interpretation, or judgment), and (2) investigation of the Project site, borrow sites, site access, hauling routes and all other locations related to the

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performance of the Work. The City reserves the right to direct that the Contractor perform a mandatory site inspection.

The Bidder shall as and to the extent necessary also make additional investigations of the Project site and existing and subsurface conditions as it deems necessary prior to submitting the Proposal. The Bidder must obtain approval of the City prior to conducting any boring or subsurface exploration testing that may disturb existing field conditions.

Submitting the Proposal is an affirmative statement that the Bidder has made a reasonable investigation of the proposed Work, the Project site, and the Contract Documents and is satisfied as to the character, quality, quantities and conditions to be encountered in performing all Work and as to the requirements of the Contract Documents.

The Bidder's investigation and examination shall be at the Bidder's expense and at no cost to the City. Any physical variance at the Project site from that indicated by the Contract Documents, discovered by the Bidder during any investigation or examination conducted by the Bidder shall be called to the attention of the City in writing prior to submitting a Proposal as provided in 102.06.

No claims of ignorance of any requirements of the Contract Documents or of any available data shall be accepted as a basis for any Claim for any extra compensation, extra work, or extension of time.

102.06 Duty to Notify of Errors in Bid Documents. The Bidder shall promptly notify the City of errors and omissions in the Bid Documents which the Bidder discovers in the exercise of ordinary and reasonable care. The Bidder's notification shall be made by submitting a question in writing and in accordance with the Bid Documents prior to submitting a Proposal. The Bidder's duty to disclose errors and omissions is not only a bidding requirement but is also a legal requirement that cannot be ignored.

Failure to provide the required notification prior to the opening of Proposals shall constitute a waiver by the Contractor and shall not obligate the City for any costs based upon any apparent or patent ambiguity arising from insufficient data or obvious errors in the Bid Documents. Knowingly withholding information regarding an error or omission in the Bid Documents, or intentionally misrepresenting an item of Work for financial or competitive gain, may result in civil or criminal penalties.

102.07 Bid Award Determination. Pursuant to Section 329 of the Columbus City Code, the City shall determine which Bidder to award the Contract.

102.08 Non-Responsive Proposals. The City reserves the right to disqualify or refuse to consider a Proposal for any of the following reasons:

1. More than one Proposal for the same work from an individual, firm, or corporation under the same or different name, or corporation under the same name or corporations with one or more of the same persons as officers or directors of such corporations, or corporations which are holding companies, parent companies or holding companies that are subsidiaries of such corporations.
2. Bid prices are materially unbalanced as defined by 102.09.

3. Bidder failed to comply with pre-qualification requirements of 102.01.
4. Proposal contains conditions or qualifications not provided in the Bid Documents.
5. Either the Bidder fails to acknowledge addenda or the Proposal does not contain completed forms required to be included in the Proposal and the City determines that the Bidder's Proposal does not respond to the Bid Documents in all material respects and contains irregularities or deviations which affects the amount of the bid or otherwise gives the bidder a competitive advantage.
6. Bidder adds any provision reserving the right to accept or reject an award.
7. Bidder fails to submit a unit price for each Contract item listed.
8. Bidder fails to submit lump sum price where required.
9. Bidder fails to furnish Proposal Guaranty or Bid Bond for the amount required.
10. Proposal contains other alteration, omission, or error that in the judgment of the City does not respond to the Bid Documents in all material respects and contains irregularities or deviations from the Bid Documents that affect the amount of the Bid or otherwise gives the Bidder a competitive advantage.

However, should the City accept a non-responsive Proposal, the Bidder must meet all remaining requirements set forth in the Bid Documents.

102.09 Rejection of Unbalanced Bid. The Bidder is required to bid each item as indicated in the Bid Documents. The City reserves the right to reject any materially unbalanced bid. A "materially unbalanced bid" is a Bid that contains lump sum or unit prices that do not reflect reasonable labor, equipment, and material costs plus a reasonable proportionate share of overhead and other indirect costs and anticipated profit, and the City determines that the Bid may not result in the lowest ultimate cost to the City.

102.10 Proposal Guaranty. No Proposal will be considered unless accompanied by Proposal Guaranty comprised of a Bid Bond or a certified check drawn on a solvent bank made payable to the City of Columbus, Ohio, in an amount not less than 10 percent of the Bidder's Proposal, conditioned upon execution of the Contract and the furnishing of a performance and payment bond in the event the Contract is awarded to the Bidder. The amount of the Bid Bond shall be expressed either as a percentage of the total bid (10%) or numerically in dollars and cents. The amount indicated in the Proposal Guaranty shall include the total amount of the Bid including all alternates submitted which increase the Bid. The Proposal Guaranty amount shall be equal to or exceed 10 percent of this total amount.

102.11 Delivery of Proposal. Unless otherwise indicated in the Bid Documents, all Proposals must be submitted using the electronic Bid submission software specified in the Proposal. The City will accept Proposals until the time and date designated in the Advertisement. If a paper bid is provided, the City will return Proposals received after the designated time to the Bidders unopened, at the Bidder's expense.

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102.12 Withdrawal of Proposals Prior to Bid Opening. Prior to the opening of Proposals, a Bidder may withdraw its Proposal. If a paper bid is provided, the Bidder must make a written request that is received by the Director prior to the time of Proposal opening. The Proposal will be returned to the Bidder unopened.

102.13 Withdrawal of Proposal after Bid Opening (Mistake in Bid). The Director may permit a Bidder to withdraw the Bid from consideration without forfeiture of the Proposal Guaranty or bid bond provided that the Bidder identifies the mistake and provides a written request to the Director within forty-eight hours of the Bid opening . The written request must also include a sworn notarized statement specifying the grounds for withdrawal together with the original bid work sheets.

The following conditions must be met for Bid withdrawal after Bid opening:

1. The Bid was substantially lower than the other Bids;
2. The Bid was made in good faith;
3. The mistake was a non-judgmental, clerical or mathematical error or an unintentional omission of a substantial quantity of work, labor or material; and
4. The amount of the error must have a significant monetary effect on contract performance.

The City may require a meeting with the Bidder before a determination is reached. The City will notify the Bidder in writing of its determination.

If the Director determines that the conditions for withdrawal have not been met, he may award the Contract to such Bidder. If such Bidder does not enter into the Contract or furnish the required performance and payment bond, the Director may, as applicable, declare the Proposal Guaranty forfeit and deposit to the City's account the Bidder's check or file a claim with the Surety for the amount of the Bid Bond. In addition, the Director may award the Contract to the next lowest responsive and responsible Bidder or reject the remaining Bids and re-advertise the Project.

If the Bidder is permitted to withdraw its Bid, it will not be permitted to participate in the Project for which the Bid is withdrawn.

102.14 Public Opening of Proposals. Proposals will be opened and read in accordance with Chapter 329 of the Columbus City Code at the time and place designated in the Bid Documents. Bidders, their authorized agents, and other interested parties are invited to be present.

102.15 Material Standards. The equipment, items, devices, materials, forms of construction, fixtures, etc., named specifically in the Contract Documents, including any approved materials lists provided by an individual Department or Division, have been selected by the City to establish a standard for the type and equality of article to be furnished. The Bid evaluation shall be based upon the Contractor furnishing these specified standards.

Before any Contract is awarded, the Bidder may be required to furnish a complete statement of the origin, composition, and manufacture of any or all materials to be used in the construction of the Work together with samples, which samples may be subjected

to the tests provided for in these Specifications to determine their quality and fitness for the Work.

When a standard is specified accompanied by the words "or equal," the product of any source may be submitted for review and consideration during the course of construction provided that the product furnished is equal in all respects to the specified standard and the Contractor certifies that the item is equal in quality and all aspects of performance and appearance to that specified. The Engineer may request additional information and documents as deemed necessary to make the determination that the item is "equal".

The Engineer shall be the sole judge of the fitness of all items submitted for approval as "or equals." The Engineer alone shall determine the extent of any special features or modifications required to render an "or equal" item acceptable in all respects to be considered "an equal" to a specified standard, the "or equal" item must not detract from the quality of performance which would have been provided by the use of the specified standard. Determination of equality will consider materials of construction, design features, construction features, compatibility with adjacent items of work, performance parameters, maintainability, durability, operability, finish and workmanship, quality of service representation, maintenance and operation documentation, financial ability of the manufacturers, locations of successful installations, compliance with the Contract Documents and other qualities that may affect the determination.

Should special features or modifications be required upon the substitution or modifications to the adjacent features of the Work are required to accommodate the product, such features or modifications shall be made at no additional cost to the City. If the Engineer is not satisfied that the "or equal" item is an acceptable replacement to the specified standard, the specified standard shall be furnished by the Contractor at no additional cost to the City.