

Idaho Transportation Department Business & Support Management Solicitation Terms & Conditions

1. INFORMATION GIVEN PRIOR TO AWARD

Oral explanations, instructions and interpretations given to bidders prior to award of contract will not be binding. It is ITD's intent to provide all bidders equal opportunity to access and acquire all available pertinent information necessary to formulate a responsive bid. Any information, specifications, plans, data, or interpretations which ITD discovers is lacking and may be important to all bidders, will be furnished in the form of an addendum.

Bidders are responsible for monitoring http://itd.idaho.gov/AdminServices/NonHwyConstructionProjects/bidding_info.htm for updates or addenda, receipt of which must be acknowledged and submitted with bid response.

2. PERFORMANCE

Submission of a bid by any Contractor will be accepted as prima facie evidence that they have satisfied themselves as to the nature and location of the work and all other matters, which can in any way affect the work or cost thereof under the contract. Any failure of the Contractor to acquaint them with all available information, including a physical survey of the site of the proposed work, will not relieve them from successfully performing all the work required.

3. IRREGULAR BIDS

Bids will be considered non-responsive and will be rejected for any of the following reasons:

1. If the bid form(s) are on a form other than that furnished by ITD or if the form is altered or any part thereof is detached.
2. If there are unauthorized additions, conditional or alternate bids, omission of addenda, or irregularities of any kind, which tend to make the bid incomplete, indefinite, or ambiguous as to its meaning.
3. 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.
4. If the Bid Schedule does not contain a unit price for each pay item listed except in the case of alternate pay items.
5. If the bid documents are not sealed, when received by ITD.
6. If the bid is submitted in pencil.
7. If Addendums are not signed and returned with the bid documents.
8. If the required Public Works License Number(s) is not inserted on the Signature Page.

4. DISQUALIFICATION OF BIDDERS

Any of the following reasons may be considered as being sufficient for the disqualification of a bidder and the rejection of their bid:

1. A bidder submits multiple bids for the same project, under the same or different name.
2. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the State until any such participant is reinstated as a qualified bidder.
3. Bidder, or its principals or affiliates, is disbarred, suspended, or ineligible from federal contracting; see Idaho Code § 67-5730 (2) (f).

5. CONSIDERATIONS OF BID

After the bids are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the Bid Schedule by the unit bid prices. The results of such comparisons will be available http://itd.idaho.gov/AdminServices/NonHwyConstructionProjects/bidding_info.htm. The right is reserved to reject any or all bids, to waive technicalities, to advertise for new bids, or to proceed to do the work otherwise, if, in the judgment of ITD, it is in the best interest of the State.

6. EXECUTION/AWARD OF THE CONTRACT

The award of contract, if it is awarded, will be made within fifteen (15) calendar days after the Intent to Award Notice letter has been mailed to the lowest responsive, responsible bidder whose bid complies with all requirements prescribed. However, the award may be deferred beyond fifteen (15) calendar days by mutual written agreement between ITD and the lowest responsive, responsible bidder.

The contract must be signed by the lowest responsive, responsible bidder and returned within fifteen (15) calendar days after the bidder has received the contract. If the contract is not executed by the State within fifteen (15) calendar days following receipt from the bidder of the signed contracts, the bidder will have the right to withdraw their bid without penalty. No contract will be considered as effective until it has been fully executed by all of the parties thereto.

7. FAILURE TO EXECUTE CONTRACT

If the bidder fails to perform any of the following within fifteen (15) calendar days after receipt of the contract, ITD may cancel the award of the contract:

1. Execute the contract

2. File the contract bonds

ITD may award the contract to the next lowest responsible bidder, advertise for new bids, or proceed to do the work otherwise.

8. AUTHORITY/NOTICE TO PROCEED

The notice to proceed will be given after the required submittals specified in the specifications are received, approved, and returned to the Contractor and construction and material delivery schedules are established between the Contractor and Project Manager.

9. PERMITS

Unless otherwise required by the contract, the Contractor is responsible for any of the following that are necessary to perform the work:

1. Obtaining and complying with permits and licenses.
2. Paying charges, fees, and taxes.
3. Providing the necessary notices

10. CODES

The Contractor, including subcontractors, must submit their estimate in accordance with plans and specifications. If plans and specifications do not comply with any codes having jurisdiction in that particular place or construction, the Contractor must submit alternate price on any changes necessary to comply with such codes. If such alternates are not stated in estimate, it will be assumed that Contractor's base estimate includes, to the best of their knowledge and experience, all work necessary to comply with such codes.

11. ILLEGAL ALIENS

Contractor warrants that any contract resulting from this Solicitation is subject to Executive Order 2009-10 http://gov.idaho.gov/mediacenter/execorders/eo09/eo_2009_10.html; it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and will be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of its contract.

12. FORCE MAJEURE

Neither party will be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor must notify ITD promptly in writing of any cause for delay and ITD concurs that the delay was beyond the control and without the fault or negligence of the Contractor. The period for the performance will be extended for a period equivalent to the period of the Force Majeure delay. Matters of the Contractor's finances will not be a Force Majeure.

13. DEFAULT AND TERMINATION OF CONTRACT

Should the Contractor neglect to prosecute the work properly, or fails to perform any provision of the contract, ITD, after seven (7) days from written notice to the Contractor, may without prejudice to any other remedy they may have, make good the deficiencies and may deduct the cost thereof from the payment then or thereafter due to the Contractor or, at its option, may terminate the contract and take possession of all materials, tools, fixtures and furnish the work by such means as ITD sees fit, and if the unpaid balance of the contract price exceeds the expense of finishing the work, such excess will be paid to the Contractor, but if such expense exceeds such unpaid balance, the Contractor's surety will pay the difference to ITD.

14. TERMINATION FOR CONVENIENCE OF THE STATE

The performance of work under this contract may be terminated by ITD in accordance with this subsection in whole, or from time to time in part, whenever it is determined that such termination is in the best interest of the State. Any such termination will be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

15. APPROPRIATION BY LEGISLATURE REQUIRED

The State is a government entity and this Agreement will in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of any particular appropriation of funds by the State's Legislature as may exist from time to time. The State reserves the right to terminate this Agreement in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the State of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the State to continue such payments, or requires any return or "give-back" of funds required for the State to continue payments, or if the Executive Branch mandates any cuts or holdbacks in spending. All affected future rights and liabilities of the parties hereto must thereupon cease within ten (10) calendar days

after notice to the Contractor. It is understood and agreed that the State's payments herein provided for will be paid from Idaho State Legislative appropriations.

16. INDEMNIFICATION

The Contractor must indemnify, save harmless, and defend regardless of outcome, the State from the expenses of and against all suits, actions, claims, or costs, expenses, and attorney fees that may be incurred because of any injuries or damages received or sustained by any person, persons, or property on account of the operations of the Contractor or their subcontractors; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in the work; or because of any act or omission, neglect, or misconduct of the Contractor or their subcontractors; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act or any other law, ordinance, order or decree.

17. SAVEHARMLESS

The Contractor must exonerate, indemnify, and hold ITD harmless from and against and assume full responsibility for payment of all federal, State and local taxes or contributions imposed or required under unemployment insurance, social security, workman's compensation, and income tax laws with respect to the Contractor or the Contractor's employees engaged in the performance of this Agreement.

The Contractor must maintain Worker's Compensation Insurance as required by Idaho Code and must provide to ITD a certificate of Idaho Worker's Compensation Insurance issued by a surety licensed to write Idaho Worker's Compensation in the State of Idaho, or an extraterritorial certificate approved by the Idaho Industrial Commission from a State that has a current reciprocity agreement with the Idaho Industrial Commission. Failure to provide a Certificate of Workman's Compensation Insurance may result in a price adjustment to cover any cost to ITD of providing the necessary workman's compensation insurance. ITD will not assume liability as an employer.

The Contractor must protect, indemnify, and save ITD harmless from and against any damage, cost, or liability including reasonable attorney's fees for any or all injuries to persons, property or claims for damages arising from any acts or omissions of the Contractor, its employees, or subcontractors. It is agreed by and between the parties hereto that in no event will any official, officer, employee or agent of ITD be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.