

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENGINEERING SERVICES
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Be energy efficient!*

March 13, 2012

04-Ala-80-1.6/2.7
04-0120M4
Project ID 0400000022

Addendum No. 1

Dear Contractor:

This addendum is being issued to the contract for CONSTRUCTION ON STATE HIGHWAY IN ALAMEDA COUNTY IN OAKLAND FROM 1.6 KM WEST OF THE TOLL PLAZA TO 0.3 KM WEST OF THE TOLL PLAZA.

Submit bids for this work with the understanding and full consideration of this addendum. The revisions declared in this addendum are an essential part of the contract.

Bids for this work will be opened on Wednesday, March 21, 2012.

This addendum is being issued to revise the Notice to Bidders and Special Provisions.

In the Notice to Bidders, the thirteenth paragraph is revised as follows:

Bidders' inquiries may be presented to the Department by following the instructions at:

http://www.dot.ca.gov/hq/esc/oe/project_status/bid_inq.html

In the Notice to Bidders, the twentieth paragraph is revised as follows:

The Department has made available Notices of Suspension and Proposed Debarment from the Federal Highway Administration. For a copy of the notices go to http://www.dot.ca.gov/hq/esc/oe/contractor_info. Additional information is listed in the Excluded Parties List System at <https://www.epls.gov>.

In the Special Provisions, Section 2-1.015, "ESCROW OF BID DOCUMENTATION," is added as attached.

Addendum No. 1
Page 2
March 13, 2012

04-A1a-80-1.6/2.7
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To Bid book holders:

Inquiries or questions in regard to this addendum must be communicated as a bidder inquiry and must be made as noted in the Notice to Bidders section of the Notice to Bidders and Special Provisions.

Indicate receipt of this addendum by filling in the number of this addendum in the space provided on the signature page of the Bid book.

Submit bids in the Bid book you now possess. Holders who have already mailed their book will be contacted to arrange for the return of their book.

Inform subcontractors and suppliers as necessary.

This addendum and attachments are available for the Contractors' download on the Web site:

http://www.dot.ca.gov/hq/esc/oe/project_ads_addenda/04/04-0120M4

If you are not a Bid book holder, but request a book to bid on this project, you must comply with the requirements of this letter before submitting your bid.

Sincerely,



REBECCA D. HARNAGEL
Chief, Office of Plans, Specifications & Estimates
Office Engineer
Division of Engineering Services

Attachment

2-1.015 ESCROW OF BID DOCUMENTATION

Bid documentation shall consist of all documentary and calculated information generated by the bidder in preparation of the bid. The bid documentation shall conform to the requirements in these special provisions, and shall be submitted to the Department and held in escrow for the duration of the contract.

The escrowed bid documents will be the only documents accepted from the Contractor regarding preparation of the bid.

In signing the bid, the bidder certifies that the material submitted for escrow constitutes all the documentary information used in preparation of the bid, that he has personally examined the contents of the container, and that they are complete.

The first, second, and third apparent low bidders shall submit to the Department of Transportation, at the District 4, Duty Senior Office, 111 Grand Avenue, Oakland, CA, telephone: (510) 286-5209, email: duty_senior_district04@dot.ca.gov the identification of the bidder's representative authorized to present the bid documentation and the persons responsible for preparing the bidder's bid before the close of business on the first Monday after bid opening.

Nothing in the bid documentation shall be construed to change or modify the terms or conditions of the contract.

Escrowed bid documentation will not be used for pre-award evaluation of the bidder's anticipated methods of construction, nor to assess the bidder's qualifications for performing the work.

Bid documentation shall clearly itemize the bidder's estimated costs of performing the work. The documentation submitted shall be complete and so detailed as to allow for an in-depth analysis of the Contractor's bid.

The bidder shall submit its bid documentation which shall include, but not be limited to:

1. Quantity takeoffs
2. Rate schedules for the direct costs and the time- and nontime-related indirect costs for:
 - 2.1. Labor (by craft)
 - 2.2. Plant and equipment ownership and operation
 - 2.3. Permanent and expendable materials, insurance, and subcontracted work
3. Estimated construction schedules, including sequence and duration, and development of production rates
4. Quotations, terms, and limitations of quotes and subcontracts related to subcontractors, manufacturers, and suppliers
5. Estimates of field and home office overhead
6. Estimated contingency and profit for each bid item of work
7. Names of the persons responsible for preparing the bidder's estimate and other reports, calculations, assumptions, and supplemental information used by the bidder to arrive at the estimate submitted with the bid book
8. Bid documentation for each subcontractor, manufacturer, and supplier whose subcontract or purchase orders exceed or are expected to exceed \$250,000.00. Bid documentation for other subcontractors, manufacturers, and suppliers may be submitted, if required by the bidder, or requested by the subcontractor, manufacturer, or supplier.

If required by the bidder or requested by the subcontractor, manufacturer, or supplier, additional information may be submitted by the subcontractor, manufacturer, or supplier. Subcontractor, manufacturer, and supplier bid documentation shall conform to the requirements for the bidder's documentation and shall be enclosed with the bidder's submittal regardless of whether or not subcontracts or purchase orders have been executed or entered into on the date that bid documentation is submitted for escrow. If at the time that bid documentation is submitted for escrow, the subcontractor, manufacturer, or supplier does not have an executed subcontract or purchase order, and a subcontract or purchase order is subsequently executed, then a copy of the executed subcontract or purchase order shall be submitted into escrow within 14 days of the execution of the respective subcontract or purchase order. The examination of subcontractors', manufacturers', and suppliers' bid documentation will be accomplished in the same manner as for the bidder's bid documentation. If a subcontractor, manufacturer, or supplier is replaced, bid documentation for the new subcontractor, manufacturer, or supplier shall be submitted for review and escrow before authorization for the substitution will be granted. Upon written request of a subcontractor, manufacturer, or supplier, the bid documentation from that subcontractor, manufacturer, or supplier shall be reviewed only by the subcontractor, manufacturer, or supplier and the Department and shall be placed in a separate container within the bidder's container. The written request from the subcontractor, manufacturer, or supplier shall be included with the bid documentation.

If the bidder is a joint venture, the bid documentation shall include the joint venture agreement, the joint venture estimate comparison, and final reconciliation of the joint venture bid.

Copies of the bid books submitted by the first, second, and third low bidders will be provided to the first, second, and third apparent low bidders by the District for inclusion in the bid documentation to be escrowed.

The first, second, and third apparent low bidders shall present the bid documentation for escrow at the District 4, Duty Senior Office, 111 Grand Avenue, Oakland, CA, telephone: (510) 286-5209 on the first Tuesday between 1:00 p.m. and 2:00 p.m., following the time indicated in the "Notice to Bidders" for the opening of bids. The fourth and subsequent apparent low bidders shall present the bid documentation for escrow if requested by the Department to do so.

Bid documentation shall be submitted as a paper copy in a sealed container, clearly marked with the bidder's name, date of submittal, project contract number, and the words, "Bid Documentation for Escrow."

Failure to submit the actual and complete bid documentation as specified herein within the time specified shall be cause for rejection of the bid.

Upon submittal, the bid documentation of the apparent low bidder will be examined and inventoried by the duly designated representatives of the low bidder and the Department to ensure that the bid documentation is authentic, legible, and in accordance with the terms of this section "Escrow of Bid Documentation." The examination will not include review of, nor will it constitute approval of, proposed construction methods, estimating assumptions, or interpretation of the contract. The examination will not alter any conditions or terms of the contract. The acceptance or rejection by the Department that the submitted bid documents are in compliance with this section, "Escrow of Bid Documentation," shall be completed within 48 hours of the time the bid documentation is submitted by the low bidder.

At the completion of the examination, the bid documents will be sealed and jointly deposited at an agreed commercial business in Oakland, CA.

Bid documentation submitted by the second and third apparent low bidders will be jointly deposited at an agreed commercial business in Oakland, CA. If the apparent low bid is withdrawn or rejected, the bid documentation of the second low bidder will be examined and inventoried in the manner specified above, then sealed and deposited again in escrow. If the second low bid is withdrawn or rejected, the bid documentation of the third low bidder will be examined and inventoried in the manner specified above, then sealed and deposited again in escrow. Bid documentation from subsequent bidders, if requested, will be examined and inventoried in the same manner as specified above, then sealed and deposited in escrow. Upon execution and final approval of the contract or rejection of all bids, the bid documentation will be returned to any remaining unsuccessful bidders.

Any and all components of the escrowed bid documentation may be examined by the designated representatives of both the Department and the Contractor, at any time deemed necessary by either the Department or the Contractor to assist in the negotiation of price adjustments and change orders, or to assist in the potential resolution or in the settlement of claims or disputes. Such a joint review shall be performed within 15 days of receipt of a written request to do so by either party. If the Contractor refuses to participate in the joint examination of any and all components of the escrowed bid documentation as provided herein, such refusal shall be considered as a failure by the Contractor to exhaust administrative claim remedies with respect to the particular protest, notice of potential claim, or claim. In addition, this refusal by the Contractor shall constitute a bar to future arbitration with respect to the protest, potential claim, or claim as provided by Section 10240.2 of the California Public Contract Code.

If requested by a Dispute Resolution Board, the escrowed bid documentation may be utilized to assist the Board in its recommendations.

The bid documentation submitted by the Contractor will be held in escrow until the contract has been completed, the ultimate resolution of all disputes and claims has been achieved, and receipt of final payment has been accepted by the Contractor. The escrowed bid documentation will then be released from escrow to the Contractor.

The bid documentation submitted by the bidder is, and shall remain, the property of the bidder, and is subject to only joint review by the Department and the bidder or upon written request of a subcontractor, manufacturer, or supplier shall be reviewed only by the subcontractor, supplier, or manufacturer and the Department unless it involves a dispute or claim. The Department stipulates and expressly acknowledges that the submitted bid documentation constitutes trade secrets and will not be deemed public records. This acknowledgment is based on the Department's express understanding that the information contained in the bid documentation is not known outside the bidder's business, is known only to a limited extent and only by a limited number of employees of the bidder, is safeguarded while in the bidder's possession, is extremely valuable to the bidder and could be extremely valuable to the bidder's competitors by virtue of it reflecting the bidder's contemplated techniques of construction. The Department acknowledges that the bid documentation includes a compilation of information used in the bidder's business, intended to give the bidder an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation. The Department agrees to safeguard the bid documentation, and all information contained therein, against disclosure, including disclosure of subcontractor bid documentation to the Contractor and other subcontractors to the fullest extent permitted by law. However, in the event of arbitration or litigation, the bid documentation shall be subject to discovery, and the Department assumes no responsibility for safeguarding the bid documentation unless the Contractor has obtained an appropriate protective order issued by the arbitrator or the court.

Full compensation for preparing the bid documentation, submitting it for escrow, and presenting it upon request of the Engineer or a Dispute Resolution Board shall be considered as included in the contract prices paid for the various items of work, and no additional compensation will be allowed therefor.

The direct cost of depositing the bid documentation in escrow at the agreed commercial business will be paid by the Department.