



SECTION 102

BIDDING REQUIREMENTS AND CONDITIONS

102.1 Notice of Bid Opening. After the date is fixed for the receipt of bids, the notice of bid opening will be mailed upon request and payment of a nominal subscription fee. The notice of bid opening will contain a description of the proposed work, together with instructions and information to the potential bidder regarding bid forms, plans, specifications, combination bids and the reservation of the right of the Commission to reject any and all bids.

102.2 Contractor Questionnaire. Each prospective bidder including a joint venture shall file a contractor questionnaire on forms furnished by the Commission. A bid will not be opened and read unless a fully responsive contractor questionnaire is on file with the Commission at least seven days prior to the time set for the opening of the bids. The contractor questionnaire shall be furnished to the Commission as a separate document apart from any other submitted. A new contractor questionnaire shall be filed annually except that the Commission reserves the right to request a contractor questionnaire from any contractor as of any date if the Commission has reason to believe that the contractor's experience data may have changed from that shown in the questionnaire than on file. This document shall include a record of the bidder's experience data. The Commission will use this information as an aid in determining in each instance the lowest responsible bidder, and nothing contained herein shall be construed as depriving the Commission of its discretion in the matter of determining the lowest responsible bidder.

102.2.1 At any time prior to award, as a condition of award, and for a period of three years after the date of final acceptance, the Commission may request true copies of the bidder's financial data, including bidder's balance sheet, profit and loss statement, and similar or other financial data, as of the close of bidder's most recent fiscal year prior to submission of its bid, and for each fiscal year between the contract award and final acceptance of the contract work. Unless specified otherwise by the Commission, financial data shall be prepared by an accountant, and audited financial data shall be provided if it is available to the bidder for the fiscal period requested. A bidder who has not closed the first fiscal year prior to the date of the request shall supply the last periodic balance sheet, profit and loss statement and similar data.

102.2.2 The contractor questionnaire also contains an affidavit of labor standards compliance. Each prospective bidder shall execute the affidavit, stating that such bidder will fully comply with all written requests by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, to provide information for the purpose of establishing a prevailing wage.

102.2.3 The prospective bidder, if a corporation, shall submit with its contractor questionnaire a copy of its current annual registration report, or initial registration report if a new corporation, on file with the Corporation Division of the Missouri Secretary of State's Office. Each corporation which is a party to a joint venture shall submit the same required report with its joint venture contractor questionnaire.

102.2.4 A prospective bidder doing business in the State of Missouri under a fictitious name shall furnish to or have on file with the Commission a certified copy of its registration of

fictitious name issued by the Missouri Secretary of State, as an enclosure with its contractor questionnaire. No contract will be executed by the Commission until such certificate is furnished by the bidder.

102.2.5 All prospective bidders who are corporations organized in states other than Missouri shall furnish, at their cost, a certified copy of a current certificate of authority to do business in Missouri, with said certificate to remain on file with the Commission. Such certified copy may be secured from the corporation supervisor in the office of the Secretary of State, Jefferson City, Missouri. The prospective bidder agrees to cause its authority to do business as a foreign corporation to be continued and extended throughout the life of any contract awarded, and until all claims thereon and thereunder shall have been finally settled.

102.3 Bidding Documents. Upon request, the Commission will furnish the bidding documents to the prospective bidder. The documents will state the location, description and requirements of the contemplated construction and will show the estimate of the various quantities and kinds of work to be performed or material to be furnished, and will have a schedule of items for which unit bid prices are invited. These documents include plans, standard specifications, special provisions and will state the time in which the work must be completed, the amount of the bid guaranty, and the date, time and place of the opening of bids.

102.3.1 All papers bound with or attached to or referenced in the bidding documents are considered a part thereof and must not be detached or altered when the bid is submitted.

102.3.2 The *Missouri Standard Specifications for Highway Construction*, *Missouri Standard Plans for Highway Construction* and other items referenced in the bidding documents, whether attached or not, will be considered a part of the bid.

102.3.3 The prospective bidder will be required to pay the Commission the sum stated in the notice of bid opening for each copy of a project's bidding documents. A prospective bidder will be expected to separately purchase the current edition of the *Missouri Standard Specifications for Highway Construction* and the *Missouri Standard Plans for Highway Construction*.

102.4 Interpretation of Quantities in Bid Schedule . The quantities appearing in the bid schedule are estimated 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 in accordance with the contract, except where final measurements are not made, as hereinafter provided. The quantities of work to be done and material to be furnished may each be increased, decreased or omitted as hereinafter provided.

102.5 Examination of Plans, Specifications, Special Provisions and Site of Work. The engineer will prepare plans and specifications providing the contractor with direction on the work required. Conditions indicated on the plans and in the bidding documents represent information available from surveys and studies. The bidder is expected to carefully examine the proposed work site and bidding documents before submitting a bid. Submission of a bid will be considered proof that the bidder has made an examination and is satisfied with the conditions to be encountered in performing the work.

102.5.1 Other documentary information, consisting of boring logs and other factual subsurface information, which does not constitute part of the contract or contract documents, is available from the engineer upon the bidder's written request. This information, used for project design and quantity estimation purposes, was not obtained to determine actual subsurface conditions, actual quantities of subsurface material or appropriate construction methods, nor shall it be considered a representation of actual conditions to be encountered during construction. Furnishing this information does not relieve a bidder from the

responsibility of making an investigation of conditions to be encountered and basing their bid on information obtained from these investigation, or the professional interpretations and judgment of the bidder. The bidder assumes the risk of error if the information is used for any purposes for which it was not intended. The Commission makes no representation as to the accuracy of the logs or other subsurface information, since their accuracy is limited by the equipment used, the personal judgment of the persons making the investigation and by the limited number of samples taken. The records indicate conditions encountered only at the times and the specific locations shown. Ground water observations are not routinely recorded in all boring logs. The absence of such data does not mean ground water will not be encountered. An indication of ground water constitutes no representation or warranty as to where ground water will be found, nor its volume or artesian character, during the project work. Any assumptions a bidder may make from this data is at the bidder's risk; none are intended by the Commission.

102.5.2 Certain other documents in the Commission's possession relating to subsurface investigations are not included in the records made available to bidders under [Sec 102.5.1](#). These include correspondence and reports containing interpretations, opinions and recommendations which may or may not be factual, accurate or consistent with design decisions. Any such information, which does not constitute part of the contract or contract documents, is available, at a nominal cost, from the engineer upon specific, written request of the prospective bidder. The bidder is cautioned that any and all such interpretations, conclusions and recommendations are not represented or warranted to be accurate or reliable, and the Commission cannot be bound by them, whether or not it may appear to have "relied" on them. These subjective findings, opinions or assumptions have not been confirmed or shown to be reliable, and the bidder assumes the sole risk of liability or loss if the bidder does rely on these documentary interpretations and conclusions to its detriment, delay or loss.

102.5.3 The bidder assumes all risks it may encounter in basing its order of work, equipment or personnel determinations, time of performance, cost of performance, working days needed, item bid prices or any other element of the work, on documents which the bidder obtains from the Commission, which are not expressly warranted.

102.5.4 Unless stated specifically and expressly in the bidding documents, no project involving excavation, which may include either borrow or the disposal of excess material, is represented or warranted to be a "balanced" job or project, regardless of whether the bidding documents use terms such as "balance points", or other terms which could be interpreted to suggest balance. Whether or not such projects involving excavation contain bid items for borrow or disposal of excess material, the bidder should assume that either are possible and investigate those possibilities accordingly in determining a bid.

102.5.5 Utilities are often in the process of being relocated at the time a project is bid. Regardless of what utilities are shown in the bidding documents, and their locations listed, the bidder is responsible to contact each area utility to determine the presence and location of the utility lines. The bidder shall also determine, and shall assume the risk of its failure to determine, whether utilities which are to be relocated by the utility companies have in fact been relocated, and if not, when the utility company anticipates the relocation shall be completed. The bidder shall independently determine the reliability of the information received from the utility companies, and shall make its own determination as to the sequence and timing of utility relocations in determining its bid.

102.6 Sales and Use Taxes. The sales tax exemption for public works contractors of certain entities, enacted in 1994 in Section 144.062 RSMo, does not apply to contractors for the Commission or their subcontractors or suppliers. The Commission will not issue a sales tax exemption certificate to any contractor, subcontractor or supplier on any project. Contractors,

subcontractors or suppliers shall pay all applicable state and local sales taxes or state use taxes on all material and supplies used on a project and should include those taxes in their bid.

102.7 Preparation of Bidding Documents . All bids shall be properly signed and sealed, and submitted as set forth in [Sec 102.10](#). Each bidder shall specify in the bid, in figures, a unit price for each of the separate items listed in the bidding documents except a unit price entry is not necessary for those items having a quantity of one and only the amount for that item need be entered. The bid shall not contain interlineations, alterations or erasures except as noted in [Sec 102.7.1](#). The bidder shall show the products of the respective unit prices and quantities in the amount column provided for that purpose. These extensions shall be totaled and in case of errors or discrepancies in extensions, the unit prices shall govern. All entries in the bid shall be in ink. If, in the sole discretion of the engineer, an obvious and apparent clerical error exists in the unit price listed for an item due to a misplaced decimal, but the extension appears to be correct and as intended in all respects, the engineer may correct the unit price bid in accord with the extension listed. All errors in extensions or totals will be corrected by the engineer and such corrected extensions and totals will be used in comparing bids.

102.7.1 A bidder may alter or correct a unit price, lump sum bid or extension entered on the bid form or the computer-generated itemized bid form by crossing out the figure with ink and entering a new unit price, lump sum bid or extension above or below in ink.

102.7.2 A bidder may submit a separate bid on any or all projects except that bids must be submitted for all projects in a required combination. The bidder may specify in the bidding document the maximum monetary value of awards that will be accepted in the bid opening. The Commission reserves the right to make awards that will be to the best interest of the State, provided they are in conformance with the invitations for bids.

102.7.3 The bid of an individual, including those doing business under a fictitious name, shall include the signature and address of the individual. The signature shall be exactly the same as that appearing on the contractor questionnaire.

102.7.4 The bid by a partnership or joint venture, including individuals doing business under fictitious names, or corporations, shall be executed by at least one of the partners followed by the title "Partner", or one of the joint venturers followed by the title "Joint Venturer" and the business address of the partnership or joint venturer shown. The true legal name and address of each partner and joint venturer shall also be shown and shall appear exactly the same as that shown on the contractor questionnaire.

102.7.5 The bid by a corporation, whether acting alone or as a joint venturer, shall show the address and name of the corporation exactly as shown on the contractor questionnaire and shall include the signature and title of a person authorized by its board of directors to bind the corporation.

102.7.6 Each bidder shall submit with each bid a sworn statement, executed by or on behalf of the bidder to whom a contract may be awarded, certifying that the bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the bid, or any contract which may result from its acceptance.

102.7.7 A bid will not be accepted or considered if it is the product of collusion among bidders, if the bidder is disqualified or determined not responsible, or if the bid is irregular as specified in [Secs 102.8](#) or [102.14](#).

102.7.8 Computer-Generated Itemized Bids. The bidder may utilize computer-generated itemized bid sheets.

102.7.8.1 The computer-generated itemized bid sheets shall be 8.5" x 11" (216 mm x 279 mm). Any printer may be used provided the type is clear, distinct and legible. Any common typeface or font may be used except italic or script fonts. There shall be nine bid item lines per page, with a horizontal line separating each bid item. The header shall have the same information as the itemized bid sheets provided in the bidding documents and include the bidder's name. Each page of the computer-generated itemized bid shall match the itemized bid sheets provided in the bidding documents, line for line, including all section headings, sub totals, totals for project and totals for combinations. Each page of the computer-generated itemized bidding documents shall match the itemized bid sheets provided in the bid, column for column, including all the line numbers, item numbers, descriptions, units and quantities. Abbreviations of item descriptions and units will be permitted provided sufficient wording is used to identify the item. The product of the bidder's unit price and the Commission's quantity for that same line number will be used in comparing bids and in the successful bidder's contract.

102.7.8.2 An example of the bidder's computer-generated itemized bid sheet shall be submitted to the Commission for pre-approval no less than four weeks prior to the first bid opening in which it is used. Any revisions made to the bidder's approved computer-generated format shall be submitted to the Commission no less than four weeks prior to the bid opening for which the revised computer-generated itemized bid sheet is to be used.

102.7.8.3 Any computer-generated itemized bid sheet not meeting the above requirements may cause the bid to be considered irregular and subject to rejection.

102.7.8.4 The computer-generated itemized bid sheets shall be stapled together and attached to the last itemized bid sheet of the bid form. When the bidder submits computer-generated itemized bid sheets, the itemized bid sheets included in the bidding documents shall not be completed. If both are completed and submitted, only the computer-generated itemized bid sheets will be recognized and used as the official bid.

102.7.8.5 When the bidder submits a computer-generated itemized bid for projects listed in a permitted combination, the bidder may include itemized bid sheets for all projects bid, and include sheets with only the header information and "NO BID" indicated for those projects not bid.

102.8 Irregular Bids . Bids that show any omissions, false statements or certifications, alterations of form, additions not called for, conditional or alternate bids unless called for, irregularities of any kind, or which are not responsive to the request for bids may be rejected. Bids combining or otherwise tying sections or projects not listed in the bidding documents as being in combination will be rejected. Any comment in the bid limiting or qualifying the reserved right of the Commission to make awards that will be to the best interest of the State shall constitute an irregular bid.

102.8.1 A bid will be considered irregular and may be rejected as non-responsive if any of the unit bid prices are mathematically or materially unbalanced to the detriment of the Commission.

102.8.2 A bid which is submitted by a bidder on the "Request For Bid" document and which is otherwise complete and fully executed, shall not be deemed an irregular bid, and shall not be subject to rejection by the Commission for that error alone.

102.9 Bid Guaranty. No bid will be considered unless accompanied by a certified check or cashier's check on any bank or trust company insured by the Federal Deposit Insurance Corporation, payable to the Director of Revenue, Credit State Road Fund, for not less than five

percent of the amount of the bid, or by a bond secured by an approved surety or sureties as described in [Secs 103.4.2](#) and [103.4.3](#), for not less than five percent of the amount of the bid. Bid bonds shall be submitted on forms furnished by the Commission. Bid bond forms will be furnished to the prospective bidder upon request. Electronically produced copies of the bid bond form may be utilized. However, the exact wording used on the Commission furnished form must be included in full and without deviation. Bid bond forms must be complete and correct at the time of submittal or the bid may be considered non-responsive. Only the version of the bid bond form provided with the request for bid shall be submitted, unless the request for bid or notice of bid opening authorizes the use of alternate bid bond forms.

102.9.1 Irregular Bid Guaranties. Bids accompanied by bid guaranties which do not meet the requirements of [Sec 102.9](#) may be rejected. Those bids accompanied by bid bonds which are not issued by an approved surety will be rejected.

102.10 Delivery of Bids . Bid forms should be submitted with the bidding documents and submitted in the special envelope furnished by the Commission. The blank spaces on the envelope shall be filled in to clearly indicate its contents. If an envelope other than the special one furnished by the Commission is used, it shall be similarly marked clearly to indicate its contents. If sent by mail, the sealed bid shall be addressed to the Commission at the address specified in the bidding documents. All bids shall be filed prior to the time and at the place specified in the notice to contractors. Bids received after the time for opening of bids will be returned to the bidder unopened.

102.11 Withdrawal or Revision of Bids . A bidder may withdraw or revise a bid after it has been deposited with the Commission provided the revision or the request for such withdrawal is received in writing by the Commission, at the address specified in the bidding documents, before the time set for opening bids.

102.12 Combination Bids. Combination bids for two or more sections or projects of work may be made only if provided for in the bidding documents. On required combinations, a separate and complete bid for each section or project of work shall be included in the bid. On permitted combinations, the bidder will be allowed to combine sections or projects in the combination listed in the bidding documents as follows: (1) bidding on all sections or projects by stating "All or None", or (2) by listing any sections or projects desired to be bid, in which case each section or project will be considered separately.

102.12.1 Two or more sections or projects bid in combination shall be considered to be covered by a single contract. If during construction an item for which a unit price has not been bid is encountered in one section or project of a combination, the unit price bid for the same item in another section or project of the combination shall apply, unless there is conclusive proof that conditions are changed significantly to effect a definite increase or decrease in the cost of the operation.

102.13 Public Opening of Bids . Bids will be opened and the bid totals read publicly at the time and place indicated in the notice to contractors.

102.14 Disqualification of Bidders . Any one or more of the following reasons may be considered as being sufficient for the disqualification of a bidder and the rejection of its bid or bids:

(a) More than one bid is received for the same work from an individual firm or corporation under the same or different name, or from different firms or corporations having common ownership or control. However, a bidder may submit a bid as principal and as a subcontractor to some other principal, or may submit a bid as a subcontractor to as many other

principals as the bidder desires, and by so doing will not be liable to disqualification in the intent of this specification.

(b) There is reason for believing that collusion exists among the bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Commission until any such participant shall have been reinstated.

(c) The bidder, or any officer, shareholder, owner or director of the bidder, has been terminated, debarred or suspended as an eligible contractor or bidder by any agency of the United States, the State of Missouri or any other state, or any city, county, municipal corporation or other political subdivision.

(d) The Commission has determined or finds that the bidder is not responsible.

(e) The bidder is a person or firm not a resident of Missouri and has failed or refused to comply with the Missouri laws relating to nonresident or transient employers, or is prohibited by Section 285.230 RSMo from contracting for or performing labor on a Missouri public works project.

102.15 Right to Reject Bids . The Commission reserves the right to reject any bid and also the right to reject all bids.

102.15.1 All bids may be rejected for, without limitation, the following reasons.

(a) If in the opinion of the majority of the members of the Commission, the lowest bid or bids shall be excessive.

(b) The advertised bidding or contract documents are inadequate, ambiguous or otherwise deficient in any respect.

(c) The construction of all or any part of the project is no longer required.

(d) The bids received indicate that the quality requirements in the bidding or contract documents were overstated.

(e) The bidding and contract documents did not include all of the intended evaluation factors.

(f) The bids were not independently arrived at in open competition.

(g) There are indications that any of the bids were collusive or were submitted in bad faith.

(h) The bids received did not provide sufficient competition to ensure adequate price.