

Bid Responsiveness Review Manual

BACKGROUND

For clarification purposes, a bid is responsive if it gives the City exactly what the City requests. Irregularities in the bid may make it non-responsive, including any alterations to form, additions not called for, conditional bids, incomplete bids, etc. The City must reject a non-responsive bid, unless the irregularity is minor as determined by the City Attorney's Office (CAO). The City, in its discretion may waive a minor irregularity in a bid and accept the bid. Refer to City Standard Specifications 2-1.05 and 2-1.06 for additional detail.

As documented in the Annual Public Works Construction Bid Irregularity, Variance and Protest Report the following Bid Irregularity categories have been noted and defined:

- Math Errors – Bids with incorrect extended or total amounts on the Schedule of Quantities or Bid Sheet.
- Clerical Errors – Bidder's Proposal documents which contain errors.
- Non-Responsive Bids – Bidders who fail to submit required and/or complete and accurate Proposal documents.
- City Oversight – Proposals that contain errors due to incorrect information provided by the City
- Other – All other errors not defined in the categories above.

IRREGULARITY REVIEW PROCESS

- a. Reference and use this Review Manual and attached Bid Irregularity Checklist when evaluating construction proposals submitted. Project Managers are required to perform a full evaluation of all proposals to determine any irregularities that may exist.
- b. If any part of any proposal is evaluated and initially determined to include a bid irregularity, note this irregularity on the Bid Irregularity Checklist and notify the PW Procurement Manager by email with this information.
- c. Summarize any/all bid irregularities and post a Yellow Alert in CPMS (Refer to Citywide Construction Contract Procurement Process Flow Chart).
- d. The Procurement Manager will coordinate and review the noted irregularities on the Bid Irregularity Checklist with the Project Manager and decide the following:
 - i. which can be determined a minor bid irregularity that is waiveable;
 - ii. which can be determined as a non-waiveable irregularity and constitute a decision of non-responsiveness;

- iii. which will require coordination with the CAO for a final determination. If coordination with the CAO is required, the Procurement Manager will facilitate that communication.
- e. Coordination with the Attorney's Office on a bid irregularity will only occur as it relates to determining the apparent lowest responsive bidder. Evaluating all proposals submitted will assist in the initial determination of the apparent lowest responsive bidder.
- f. Noted irregularities need to be summarized and indicated in the Bid Results Summary and in the email communication to the Procurement Support Team via CPMS.

BID IRREGULARITY CHECKLIST INSTRUCTIONS

1. Proposal document

- a. Name of company and name and contact information for submitter is provided
- b. Signatory has Signature Authority to execute contracts
 - i. Signatory to the Company/partnership/joint-venture is an acknowledged officer or partner authorized to sign contracts on behalf of the corporation/partnership/joint-venture by inclusion of one of the following documents:
 - Corporate Letter
 - Corporate Resolution
 - Power of Attorney
 - c. Non-Collusion Affidavit
 - i. Confirm that all blanks are completed
 - ii. Contractor has a City of San José Business License
 - Search the City of San José Finance Department website to determine if this company has a current license. (<http://ca-sanjose.civicplus.com/index.aspx?NID=196>)
 - *If the contractor does not have a business license or it is not valid, note this and Project Manager should ensure the license is active prior to executing the contract.*
 - iii. Contractor, and subcontractor when required, has required contracting license noted on Notice to Contractors
 - Search the Contractor's State License Board to determine if this company has a current license (<https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/CheckLicense.aspx>)
 - *If contractor's license is not valid, note this irregularity and notify the PW Procurement Team.*
 - iv. Contractor and subcontractor are registered with the Department of Industrial Relations.
 - Search the DIR Contractors Search Page to determine if this company has a current registration (<https://efiling.dir.ca.gov/PWCR/Search>)
 - *If the contractor's registration is not valid, note this irregularity and notify the PW Procurement Team*
 - v. Requires original Notarization from a Public Notary, including seal and stamp (attached or other professional notary forms are accepted)
 - vi. Confirm that Notarization name and person signing the document are the same
 - vii. Confirm that the Signatory is granted authority to execute contracts on behalf of the company
- d. Schedule of Quantities (as applicable)
 - i. Confirm that the Schedule of Quantities provided is for the project submitted
 - ii. Verify that a unit price has been included for each line item.
 - iii. Verify that the unit price is extended (multiplied) correctly and accurately for each line item as submitted on the Schedule of Quantities.
 - iv. Verify that the Summary Total is an accurate summary of all extended line items.

- v. *If there is a discrepancy with an extended price or the Summary Total the evaluation shall occur in this order:*
 - 1. *If between the unit price and the extended price the unit price will prevail. (Std. Spec 2-1.05)*
 - 2. *If between the extended price and the stated Summary Total, the extended price will prevail. (Std. Spec. 2-1.05)*
 - vi. *Any discrepancy in the submitted figures is considered an irregularity and should be noted in the Bid Results Summary.*
- e. Bid Sheet (for Lump Sum and Overhead and Profit contracts)
- i. Confirm that the Bid Sheet provided is for the project submitted
 - ii. Verify that the requested bid amount (lump sum/Overhead and Profit) has been included according to any specific instructions on the Bid Sheet.
 - iii. Verify that the Component Total is an accurate summary (lump sum) of all line items.
 - iv. *If there is a discrepancy between the component price and the stated Lump Sum Total, the extended price will prevail. (Std. Spec. 2-1.05)*

2. Bidder's Bond

- a. Confirm that document is completed and blanks are filled-in
- b. Confirm that Signatory to the Company and Surety signing the document each have official Notarization from a Public Notary.
 - i. Each signature requires an official notarization
 - ii. Requires original Notarization from a Public Notary, including seal and stamp (attached or other professional notary forms are accepted)
 - iii. Confirm that Notarization name and person signing the document are the same
- c. Confirm that the Signatory to the Company is granted authority to execute contracts on behalf of the company
 - i. Confirm that the Signatory is granted authority to execute contracts on behalf of the company
- d. If Attorney-in-Fact signs in place of the Principal, ensure there is a Power of Attorney document attached which certifies this Attorney-in-Fact.
- e. Confirm that Notarization and signature on document are the same
- f. Confirm that a Surety Company has an attached document verifying that the bond is for 10% of the total aggregate amount of the contract (bid amount)
- g. Are corporate seals attached or embossed

3. Statement of Bidder's Experience

- a. When specific Bidder's Experience is required, as detailed in the Bidder's Experience form, confirm that the form is submitted with the bid.

- b. Confirm that the Bidder's Experience adequately and accurately demonstrates the company that has the experience to meet the requirement and complete the scope of work.
- c. If necessary, verify that the apparent low bidder meets or exceeds the experience requirements
- d. *If there is a concern about a contractor's submitted experience, bidder responsibility issues may also be present. Discuss this situation with immediate management and include the appropriate City Attorney, if necessary*

4. List of Subcontractors

- a. This form can be submitted blank if contractor is self-performing the work.
- b. If included, review the form for completeness of information provided (Std. Spec. 2-1.15A)

5. Signed Addenda

- a. Confirm that all of the required signed addenda cover pages are submitted with the bid.
- b. Be aware of any addenda issued that may have adjusted a required bid document submittal, specifically the Bidder's Experience Form or the Schedule of Quantities.

6. Federal Grant Funding

- a. If Grant Funding requires verification from Office of Equality Assurance, submit the 3 lowest responsive bid packages to OEA for review.
- b. Facilitate coordination between OEA and potential low bid contractors to complete the bid submittal.