

TUSKEGEE UNIVERSITY

CAPITAL PROJECTS AND FACILITIES SERVICES

CHAPTER 2 BIDS PROCEDURES AND AWARDS OF CONTRACT

A. APPLICABILITY of SECTION

This section defines required procedures for the bid and award of contracts for projects supervised and administered by the Division of Capital Projects and Facilities Services at Tuskegee University.

B. ADVERTISEMENT for BIDS

Tuskegee University requires the Division of Capital Projects and Facilities Services to advertise for sealed bids for three weeks for projects in excess of \$25,000.00. The advertisement will be published on the University's website. **Exceptions may be made in cases of emergencies affecting the University's public health, safety or convenience, so declared in writing by the President of Tuskegee University, setting forth the nature of the danger involved.**

The publication is to be prepared and arranged for by the Director of Capital Projects. The published text of the advertisement is to be bound in the project manual.

TU Form C-1 is a sample Advertisement for Bids containing language satisfying the requirements of Tuskegee University. The Director of Capital Projects shall closely follow the language and format of the sample while incorporating project-specific information necessary to adequately describe the solicitation. Project specific information in the advertisement should include:

- Brief description of the scope of the work.
- Where, in the architect's offices, plans and specifications are on file for examination.
- Procedure for obtaining plans and specifications.
- Time and place in which bids shall be received and opened.
- Whether prequalification is required and where all written prequalification information is available for review
- A statement to the effect that attendance of a pre-bid conference is a mandatory prerequisite for bidding.

C. PRE-BID CONFERENCE

A pre-bid conference to answer questions and allow clarifications of issues is required ~~for~~ by Tuskegee University. The conference will be held well in advance of the bid date in order to provide ample time to issue addenda responding to questions raised during the conference. The pre-bid conference is a mandatory prerequisite for prime contractors to bid on the project.

D. RECEIPT and OPENING OF BIDS

Bids must be received in the Department of Purchasing, Tuskegee University, on the date and time stated in the Advertisement for Bids. NO bids shall be received after the designated time.

Bidders must follow all requirements of the Instructions to Bidders or risk disqualification of their bid. Any discrepancies upon opening bids shall be noted at that time. Each bidder's compliance with the following requirements is the minimum elements to be verified upon opening of bids.

1. **Delivery Envelope:** Title 34, Chapter 8, Code of Alabama, 1975, requires licensing for general contractors when the cost of the work exceeds amounts established by the State Licensure Board for General Contractors, which is currently \$50,000 or greater. It is incumbent that the design professional and Tuskegee University require each bidder to show evidence of this license before bidding. In the absence of such evidence, a bid shall not be received or considered. The outside of the envelope in which a bid is delivered must bear the bidder's name and state license number for general contracting and the envelope must be sealed. The bid must not be received in the absence of any of these features. The sum being bid may be changed by the bidder by writing the change in price, over the bidder's authorized signature, on the envelope; however, if the sum being bid is revealed on the envelope, the bid no longer constitutes a "sealed bid" and must not be received. No change in price may be made after the time designated for receipt of bids.
2. **Bid Security:** Bid security must be furnished with bids in excess of \$50,000.00. Bid security shall be in the form of a bid bond (executed by a surety company duly authorized and qualified to make such bonds in Alabama) or a cashier's check (drawn on an Alabama bank) payable to Tuskegee University. The amount of the bid security must be not less than of 5% of Tuskegee University's estimated cost of the work or of the contractor's bid but is not required to be more than \$10,000.00.
3. **Proposal Form:** In addition to all pricing requirements the proposal form should be checked for acknowledgment of all addenda, identification of bid security, complete legal signature, and complete identification of data regarding the bidder's state licensing for general contracting. The proposal form shall also be checked for the contractor's acknowledgment that the bid price incorporates the labor wage rates as defined in the Davis-Bacon Act.

After bids have been opened, the apparent low bidder may be determined. However, actual determination of the lowest responsible and responsive bidder may only be made after the bids have

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been tabulated, reviewed, and evaluated within the time period specified in the Instructions for Bidders or Supplemental Instructions to Bidders. All bids shall be made available for review and inspection by all bidders at the Department of Purchasing, Tuskegee University for a reasonable period of time after they are opened.

LIST OF MAJOR SUBCONTRACTORS AND SUPPLIERS: As stated on the Proposal Form, each bidder "...declares that a list of all proposed major subcontractors and suppliers will be submitted at a time subsequent to the receipt of bids as established by the Architect in the Bidding documents but in no event shall this time exceed twenty four (24) hours after receipt of bids." Upon opening of bids, bidders must be reminded of this requirement and the time by which the information is to be provided

E. CERTIFIED TABULATION OF BIDS

After bids have been received the design professional, in conjunction with the Department of Purchasing, shall check and tabulate all bids certifying that the bids were received sealed, opened and read aloud at the time and place advertised and that it is a true and correct tabulation of all bids received for the project. The bid tabulation must be signed by the design professional and the Department of Purchasing and notarized. If a bid is incomplete, or bears any condition or irregularity that may affect its responsiveness, the design professional shall note this information on the tabulation.

F. BID ERRORS. DISCREPANCIES and MISTAKES

1. ERRORS AND DISCREPANCIES IN THE PROPOSAL FORM

In case of error in the extension of prices in bids, the unit price will govern. In case of discrepancy between the prices shown in the figures and in words, the words will govern.

2. MISTAKES WITHIN THE BID

Inherent with the competitive bid process is the possibility for mistakes in the bidder's estimate for the bid. Forcing a contractor to perform under circumstances of an obvious and significant mistake will frequently produce results that are not in the best interest of Tuskegee University. A low bidder discovering a mistake in its bid may seek withdrawal of its bid without forfeiture of its bid guaranty under the following conditions:

- a.** Timely Notice: The low bidder must notify the Director of Capital Projects, Tuskegee University in writing, within three working days after the opening of bids, that a mistake was made. This notice may be given within this time frame whether or not an award has been made.
- b.** Substantial Mistake: The mistake must be of such significance as to render the bid price substantially out of proportion to the other bid prices.
- c.** Mathematical Error: The mistake must be mathematical in nature due to a calculation or clerical error, an inadvertent omission, or a typographical error which results in an erroneous sum. Mistakes of law, judgment, or opinion are specifically excluded from this criterion.

- d. Documentary Evidence: Clear and convincing documentary evidence of the mistake must be presented as soon as possible but no later than three working days after the opening of bids.

Upon withdrawal of bid without penalty, the low bidder shall be prohibited from (1) doing work on the project as a subcontractor or in any other capacity and (2) bidding on the same project if it is re-bid.

G. RETURN OF BID SECURITY

All bid guaranties, except those of the three lowest bona fide bidders, shall be returned immediately after bids have been checked, tabulated, and the relation of the bids established. The bid guaranties of the three lowest bidders shall be returned as soon as the contract bonds and contract of the successful bidder have been properly executed and approved. When the award is deferred for a period of time longer than fifteen days after the opening of the bids, all bid guaranties, except those of the potentially successful bidders, shall be returned.

H. NEGOTIATIONS TO REDUCE COST

Negotiation with a low bidder to reduce a project's cost when the low bid exceeds the available funds is considered highly unusual and a procedure not recommended. Every effort should be made in preparation of the bid documents to secure bids within the funds available. However, extenuating circumstances may arise under which Tuskegee University determines that negotiation of the lowest bid is in the University's best interest to avoid delay and added costs associated with redesigning and rebidding a project.

When considering negotiation of the low bid, the University should be prepared to thoroughly document a shortage of funding, that the negotiated changes and prices are in the University's best interest and do not materially alter the original scope and nature of the project, that time is of the essence, and that no collusion, fraud, or unjust enrichment is evidenced by the negotiations.

I. RETENTION OF PROPOSAL FORMS

The Department of Purchasing shall keep a permanent record of the original bid proposals, the envelopes with any changes in bid prices and in general all documents pertaining to the bids received and the award of a contract. These records shall be open to inspection.

J. DETERMINATION OF THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER

The contract shall be awarded to the lowest responsible and responsive bidder unless Tuskegee University finds that all bids are unreasonable or that it is not in the interest of Tuskegee University to accept any of the bids. Proposals may be rejected if they contain any omissions, alterations of forms, additions not called for, conditional bids, alternate bids not called for, incomplete bids, erasures, or irregularities of any kind.

Through the Certified Tabulation of Bids the design professional is required to record the relationship of the bids and any bid conditions or irregularities that may affect the responsiveness of any proposal. The

final responsibility of determining the lowest responsible and responsive bidder rests with Tuskegee University.

1. DETERMINATION OF THE LOWEST BIDDER

When bid alternates are used the method defined in “Determination of Low Bidder by Use of Alternates” in the instruction to Bidders must be followed exactly. Where all or part(s) of the planned work is bid on a unit price basis both the unit prices and the extensions of the unit prices constitute a basis of determining the lowest bidder. In cases of error in the extensions of prices of bids the unit price will govern. Unit prices for application to potential changes in the work are not a basis for determining the lowest bidder.

2. A responsive bidder is one who submits a bid that complies with the terms and conditions of the invitation to bids. Minor irregularities in the bid shall not defeat the responsiveness.

If the lowest bid is determined to be non-responsive, then this determination must be made of the second and third lowest bidders until the lowest responsive bidder is determined.

- a. A bid must be rejected if:
 - 1. It does not bear the full, legal description of the bidder.
 - 2. It is not submitted with the required security.
 - 3. It does not bear an authorized signature of the bidder.
 - 4. It is for more than the amount requiring licensing and does not bear the information regarding the bidder’s state license for general contracting.

3. DETERMINATION OF RESPONSIBLE BIDDER

A responsible bidder is one who, among other qualities determined necessary for performance, is competent, experienced, and financially able to perform the contract.

Bidders prequalified to bid pursuant to prequalification procedures and criteria published by Tuskegee University are deemed “responsible bidders”. If the lowest responsive bidder is found not to be responsible Tuskegee University may then consider the second and third lowest responsible bidders to determine the lowest responsible and responsive bidder. Upon any reasonable cause Tuskegee University has the right to reject any and all bids.

K. DISQUALIFICATION OF BIDDERS

Any bidder(s) may be disqualified from consideration for contract award for the following reasons:

- 1. **Collusion.** Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition to bid at a fixed price or to refrain from bidding or otherwise shall render the bids void and shall cause the bidders or prospective bidders to be disqualified from submitting future bids to Tuskegee University.

2. **Advance Disclosure.** Any disclosure in advance of the terms of a bid submitted in response to an advertisement for bid shall render the proceedings void and require advertisement and award anew.
3. **Failure to Settle Other Contract.** Tuskegee University may reject a proposal from a bidder who has not paid, or satisfactorily settled, all bills due for labor and material on other contracts in force at the time of letting.
4. **Thing of Value.** No bidder shall offer a thing of value to a Tuskegee University employee who will directly inspect, regulate, or supervise the bidders work.
5. **Solicitation.** No bidder shall offer or give a Tuskegee University employee or member of the household of a Tuskegee University employee anything for the purpose of corruptly rewarding or influencing official action, regardless of whether or not the thing is a thing of value.
6. **Additional Work.** No bidder who is awarded an official contract from Tuskegee University shall perform additional work outside of the original scope of work unless a change order is properly executed.

L. AWARD OF CONTRACT

The notice of award of a contract should state the amount for which the contract is to be awarded, clarifying which bid alternates are to be included, if any, and it should address acceptance, rejection and/or negotiation of unit prices. Tuskegee University will award contracts under the following conditions:

1. **Normal Conditions.** The successful bidder is to be notified by email or letter sent to the address shown on the bidder's proposal at the earliest possible date.
2. **Delayed Award.** Should no award be made within 30 days after the opening of the bids or such other time as specified in the bid documents, all bids shall be rejected and all guaranties returned except for any potential successful bidder that agrees in writing to a stipulated extension in time for consideration of its bid, in which case Tuskegee University may permit the potentially successful bidder to substitute a satisfactorily bidder's bond for the cashier's check submitted with its bid as bid security.
3. **Only One or No Bids Received.** If no bids or only one bid is received at the time stated in the advertisement for bids Tuskegee University may advertise and seek other competitive bids. Where only one responsible and responsive bid has been received any negotiation for the work shall be for a price lower than that bid.
4. **All bids are Unreasonable.** If Tuskegee University finds that all bids received are unreasonable or that it is not in the best interest of the University it may reject any and all bids.

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M. PROJECTS COSTING LESS THAN \$25,000.00

The following provisions apply to Projects that cost less than \$25,000.00:

1. **Advertising for Bids.** Tuskegee University may let capital, maintenance and/or repair contracts involving \$25,000.00 or less, with or without advertising for bids.
2. **Sealed bids.** Tuskegee University may let capital, maintenance and/or repair contracts with or without receiving sealed bids. In the event sealed bids are not required at least three informal bids for such project, costing in excess of \$2,000, shall be solicited to assure that fair and reasonable prices are being paid.
3. **Informal Bids.** The Director of Capital Projects shall prepare the scope of work describing in detail the work to be performed. The Director of Capital Projects shall solicit a minimum of three informal bids as outlined in the scope of work. Prospective bidder's informal bids shall include the quantity of material, unit price of the material, associated labor and equipment cost, and overhead and profit.
4. **Disqualification of Bidder.** Any bidder(s) may be disqualified from consideration, banded from providing any future bids and/or participating in any future work at Tuskegee University for the following reasons:
 - a. **Collusion.** Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition to bid at a fixed price or to refrain from bidding or otherwise shall render the bids void and shall cause the bidders or prospective bidders to be disqualified from submitting future bids to Tuskegee University.
 - b. **Advance Disclosure.** Any disclosure in advance of the terms of a bid submitted.
 - c. **Failure to Settle Other Contract.** Tuskegee University may reject a proposal from a bidder who has not paid, or satisfactorily settled, all bills due for labor and material on other contracts in force at the time of letting.
 - d. **Thing of Value.** No bidder shall offer a thing of value to a Tuskegee University employee who will directly inspect, regulate, or supervise the bidders work.
 - e. **Solicitation.** No bidder shall offer or give a Tuskegee University employee or member of the household of a Tuskegee University employee anything for the purpose of corruptly rewarding or influencing official action, regardless of whether or not the thing is a thing of value.

f. Additional Work. No bidder who is awarded an official contract from Tuskegee University shall perform additional work outside of the original scope of work unless a change order is properly executed.

Tuskegee University, to the extent permitted by law, may pursue criminal prosecution and/or not recognize invoices for payments submitted in violation of the above mentioned items.

N. Davis-Bacon Act. All informal bids shall comply with the labor wage rates as promulgated by the Davis-Bacon Act.