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90.10 SCHEDULE FOR LETTING AND AWARD

Before a project can be let for bids, the LPA must submit final plans, specifications and estimates (PS&E) to NDOR for approval. The process for PS&E approval is outlined in Section 90.20 below, but please keep in mind that a minimum of 10 weeks is typically required between the PS&E submittal and the award of a construction contract. This consists of:

PS&E Review and Approval – 3 weeks

Advertising for Bids – minimum of 3 weeks

Open, Evaluate and Tabulate Bids – 1 week

NDOR Concurrence – 1 week

Executed Contract and Notice to Proceed – 2 weeks

90.20 PLANS, SPECIFICATIONS, AND ESTIMATES (PS&E) APPROVAL

To obtain PS&E approval, LPA's must submit all items on the checklist found below. If the PS&E submittal is complete and found to be satisfactory, NDOR will send to the LPA, a formal written notification to proceed with advertising for bids. This notice will also include final instructions.

PS&E Submittal Checklist

- Two sets of ½-size final plans signed and sealed by a Professional Engineer registered in Nebraska.
- Two sets of specifications including the bid proposal, bidding instructions and bid form. These must also be signed and sealed by a Professional Engineer registered in Nebraska.
- Required Federal Contract Provisions (Ask your coordinator for a copy).
- Two sets of any required special provisions.
- Final Engineer's Estimate.
- Final Status of Utilities report. (Found at the end of this section)
- Completed ROW Certificate.
- Completed Environmental Documentation.

- Completed archeological and historic review (Section 106).
- Copies of all applicable local, state, and federal permits (404, floodplain, etc.).
- Copy of the fully executed Railroad Agreement (if required).
- Sole source justification (if required).

The bid proposal must physically contain all the appropriate requirements of a federally funded contract. These include the FHWA Form 1273, Noncollusion Affidavit, Drug Free Work Place Policy Certification, Buy America Provision, Davis-Bacon wage rates, and any additional special provisions and forms.

Most of these forms can be obtained by calling the NDOR Urban Off-System Coordinator prior to your submittal. The Davis-Bacon Wage Rates, because they can change rapidly, will be added by the NDOR at the time of submittal of the final PS&E documents.

90.30 SOLE SOURCE PROCUREMENT

The general intent of competitive bidding is to allow the contractor to choose between multiple items that meet the LPA's criteria so that the lowest price is obtained. The best procedure is to write generic specifications or to list at least three specific items. If the LPA decides that only one item will work for this project, a sole source justification must be written by the LPA and approved by NDOR.

Examples of sole source letters may be to define lighting poles, etc., for a city that owns the electrical company or for products specific for truncated domes installation so that the city has uniformity. The following items must be addressed:

1. What is the situation being covered?
2. What operating characteristics (criteria) are you looking for in the device?
3. How is this item unique from all others?
4. How many devices are currently available that will satisfy the criteria?
5. Which is the best device from an operations standpoint?
6. Which device offers the best cost?
7. Does operating characteristics override cost?
8. Commit to a review on the industry in case new technology is developed that would also satisfy the criteria or need.

90.40 COMPETITIVE BIDDING

The Code of Federal Regulations (23 CFR 635) requires that a contract method based on **competitive bidding must be used** for performing work financed with the aid of federal funds. The only exceptions to the competitive bid process are work done by utility or railroad companies; work performed under emergency conditions; or when the LPA can show that some other contract method is more cost effective. Proof of emergency and/or cost-effectiveness is required for use of public forces or a negotiated contract method. To do this, the LPA must submit documentation to NDOR stating what the emergency is or why methods other than competitive bidding are cost effective. NDOR will review the request and seek FHWA approval. No work can begin until FHWA issues approval in writing. LPA's are prohibited from establishing any procedures or requirements for qualifications or licensing that would prevent competition.

90.50 INNOVATIVE CONTRACTING TECHNIQUES

Within the low bid system, federal law allows for some innovative contracting methods. These techniques should be used sparingly

- Price adjustment clause (for fuel, steel, cement, etc.)
- A + B bidding
- Lane rental
- Warranties (Procedures must be approved by NDOR Contracts Manager)
- Alternate bids such as steel or concrete bridge alternates
- Incentive/Disincentive Provisions

If the LPA wishes to use any of these techniques, they should contact the Urban Engineer early in their design process.

90.60 ADVERTISING FOR BIDS

Projects approved for bidding by NDOR must be advertised for a minimum of 21 calendar days prior to the opening of bids. The 21-day period begins when the first advertisement is published. Advertisements must be placed in newspapers three consecutive weeks and the use of plan/builders bureaus is strongly recommended. LPA's may want to consider advertising longer than the 21-day minimum for projects that are more complex in nature.

90.70 ADDENDUMS TO BID DOCUMENTS

Situations may arise where it becomes necessary to issue an addendum to the advertised bid documents. All addendums must be concurred with by NDOR prior to release. LPA's must ensure that all people holding biddable documents are aware of the addendum and can review their bids prior to the deadline for submission. NDOR recommends faxing addendums to all plan holders and requesting a return fax from them acknowledging receipt of the addendum.

90.80 PREQUALIFICATION OF BIDDERS

Prequalification of a contractor is not a federal requirement. However, the LPA has the option of using the NDOR prequalified bidders list located on the website www.dor.state.ne.us/letting/lettings.htm.

90.90 BID OPENING

All bids received in accordance with the terms of the advertisement must be publicly opened and announced, either item by item, or by total amount. If any bid is not read, the name of the bidder and the reason for not reading the bid must be publicly announced at the bid opening.

90.100 BID TABULATIONS

The LPA shall prepare an itemized tabulation of all bids received. The tabulation must list each bid item, the bid quantity for that item, and the unit price for each item bid by all bidders.

90.110 LPA EVALUATION OF BIDS

Bidders must meet all requirements as outlined in the proposal form including any state and federal regulations. It is the responsibility of the LPA to ensure that bids considered for award have met these provisions.

The LPA must also verify that all required bid documents are accurate and have been properly executed by all bidders. This includes a review for accuracy in prices and unbalancing of bid items.

The prime contractor on a project must perform, with their own organization, contract work amounting to not less than 30 percent of the total original contract amount. The aggregate total of all work to be subcontracted cannot exceed 70 percent of the contract amount.

90.120 LPA SELECTS LOW BID

After bids have been tabulated and evaluated as described above, the LPA must select the lowest responsive bidder. If the LPA determines that the lowest bidder is not qualified, it shall document those findings prior to awarding the bid to the next lowest responsive bidder. Adequate justification for rejecting any bids must be documented by the LPA. The LPA shall document the reason(s) for rejecting the low bid and may reject all bids for any reasons. If any of these cases happen, the NDOR Contracts Manager must be notified.

90.130 NDOR CONCURS IN AWARD OF LOW BID

NDOR concurrence must be obtained prior to awarding a contract. The LPA must submit a request for concurrence with the itemized bid tabulation of all bids received on the project. All applicable DBE forms must also be attached. The written request must include a statement from the LPA indicating their selection or rejection of the low bidder and their desire to proceed or not to proceed with the award of the contract. NDOR will review the selection and issue a written concurrence to the LPA if acceptable.

90.140 LPA AWARDS CONTRACT

The award and execution of a construction contract are two separate items. The award indicates acceptance of the contractor's proposal and indicates the intention of entering into an acceptable contract.

90.150 LPA EXECUTES CONTRACT

The contract is considered executed only after both the LPA and contractor have signed the contract documents. The LPA must send a copy of the executed contract to the Urban Engineer and the District Engineer.

90.160 LETTING PROCESS SUMMARY REVIEW

The following outline provides a summary review of the letting process outlined in this section.

1. NDOR reviews the PS&E submittal.
2. LPA makes corrections/revisions, etc. If federal and state funds are in the project and NDOR lets it, it will be a “minimum” of six weeks before the project can be awarded.
 - 1 week to prepare ad
 - 1 week for printing plans
 - 3 weeks advertising (21 days)
 - 1 week to review bids
3. NDOR authorizes LPA to advertise

Open bids a minimum 21 calendar days from first ad day
4. LPA requests NDOR State Representative assignment from the appropriate NDOR District Engineer
5. NDOR concurs with bid
6. NDOR gives approval to award
7. LPA awards
8. LPA provides the NDOR copies of executed contract documents

STATUS OF UTILITIES REPORT

PROJECT NO.: C.N.:

LOCATION: DATE:

UTILITY COMPANY	DATE AUTHORIZED/ NOTIFIED TO MOVE	ANTICIPATED STARTING DATE	EST. # OF WORKING DAYS	ANTICIPATED COMPLETION DATE

THE FOLLOWING UTILITY INFORMATION IS CURRENT AS OF _____.
 THE CONTRACTOR SHOULD REQUEST A UTILITY STATUS UPDATE AT THE
 PROJECT PRECONSTRUCTION CONFERENCE, OR PRIOR TO STARTING WORK.

FOR LOCATING AND MARKING UNDERGROUND FACILITIES, CONTACT THE
 DIGGERS HOTLINE OF NEBRASKA AT 1-800-331-5666.

COMMENTS: