

AWARD AND EXECUTION OF CONTRACT

(REV 2-7-97) (7-00)

SUBARTICLE 3-2.1 (of the Supplemental Specifications) is deleted and the following substituted:

3-2.1 General: If five or more responsive bids are received, the Department will average the bids, excluding the highest and lowest responsive bids. If three or four responsive bids are received, the Department will average all bids. Award of the Contract will be to the bidder who submitted the responsive bid closest to the average of those bids. For purposes of bid averaging, the Department will average the bids without consideration of responsiveness regarding receipt of DBE documentation.

If less than three responsive bids are received, all bids will be rejected.

The award of the Contract, if it is awarded, will be to the bidder whose proposal complies with all the requirements necessary to render it formal, and will be based on one of the two conditions listed above. The award, if made, will be within 50 days after opening of the proposals unless this time limit is changed by special provisions or extended by mutual consent of the bidder and the Department.

SUBARTICLE 3-2.2 (of the Supplemental Specifications) is deleted and the following substituted:

3-2.2 Bids Exceeding Contractor's Rating: In the event the bid for a particular Contract exceeds the bidder's unobligated rating with the Department, the Department shall have the option of accepting the bid and awarding the Contract, and such award shall automatically increase the bidder's unobligated rating to an amount equal to the bid. Such automatic increase, however, shall apply only to the particular Contract.

Also, in the event a bidder submits bids for two or more Contracts at a single bid opening, and the aggregate amount of these bids exceeds his unobligated rating with the Department, the Department shall have the option of either (1) awarding to such bidder only the Contract, or Contracts, as selected by the Department, the total of which is within the bidder's unobligated rating, or (2) accepting any or all bids of such bidder.

In the latter case, the unobligated rating of the bidder will be automatically increased to an amount equal to the aggregate of the Contracts, but thereafter shall be reduced to his normal rating.

The bidder's proposal guaranties shall be binding for all awards made pursuant to the provisions of this Subarticle.

ARTICLE 3-4 (of the Supplemental Specifications) is deleted and the following substituted:

3-4 Release of Proposal Guaranty.

If less than three bids are received, all proposal guaranties will be released immediately following the opening and checking of the proposals. If three or more bids are received, all proposal guaranties will be held until immediately after the successful bidder has delivered the executed Contract and a satisfactory bond to the Department, or 50 days whichever is earlier.

ARTICLE 3-7 (of the Supplemental Specifications) is deleted and the following substituted:

3-7 Failure by Contractor to Execute Contract and Furnish Bond.

In the event that the bidder to whom the award has been made fails to execute the Contract and file an acceptable bond, as prescribed in 3-5 and 3-6, within 20 days after the Contract has been awarded, such failure may be just cause for the annulment of the award and the forfeiture of the proposal guaranty to the Department; not as a penalty but in liquidation of damages sustained. Award may then be made to the next responsible bidder as determined in accordance with 3-2.1, or the work may be readvertised or may be constructed by day labor, as the Department may decide.