

THE CITY OF BLOOMFIELD
INVITATION TO BID



ITB # 2024 – 001

EAST BLANCO BRIDGE CONSTRUCTION PHASE II
NMDOT Project No's: F100300, L500469, LP50015, C5213038

BID DUE DATE/TIME/PLACE:

Bids are due June 3, 2024
1:00 PM MDT
915 North 1st Street
Bloomfield, NM 87413

BID OPENING DATE/TIME/PLACE:

Bids will be opened June 3, 2024
1:30 PM MDT
915 North 1st Street
Bloomfield, NM 87413

If you have questions regarding this ITB, please contact:
Procurement Manager: **Melanie Lovato**
Telephone: **505-632-8448**
Email: mlovato@bloomfieldnm.gov

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East Blanco Bridge Construction Phase II

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Notice of Invitation to BID

The City of Bloomfield, NM is requesting formal, price-based competitive sealed bids from qualified Bidders. The awarded contract will be available for use by the City of Bloomfield, NM.

Bids will be accepted until June 3, 2024, until 1:00 PM MST at the City of Bloomfield. All bids are required to be submitted in person or via US Postal Services.

- In person submissions:
Dustie Sheets, CPO
915 North First Street
Bloomfield, NM 87413

Or

- US Postal Service:
City of Bloomfield
Attn: Dustie Sheets, CPO
PO Box 1839
Bloomfield, NM 87413

Bids will be dated and time stamped upon receipt by a Procurement Officer and at least one witness.

LATE BIDS WILL NOT BE ACCEPTED

It is the responsibility of the bidders to monitor the website <https://www.bloomfieldnm.gov/finance/page/bids> for notifications of changes and addenda related to this solicitation.

Any inquiries or requests regarding this procurement shall be submitted to the Procurement Manager in writing. Bidders may contact ONLY the purchasing staff specified regarding this procurement. Other City of Bloomfield employees do not have the authority to respond. Contacting any other City employee, department head or manager regarding this ITB may result in disqualification of the bid.

Melanie Lovato, Procurement Manager
City of Bloomfield
915 N. First Street
Bloomfield, NM 87413
505-632-8448
mlovato@bloomfieldnm.gov

Dustie Sheets, CPO
City of Bloomfield
915 N. First Street
Bloomfield, NM 87413
505-333-7820
dsheets@bloomfieldnm.gov

Invitation to Bid

Project Description: The work to be performed under this contract shall consist of furnishing all labor, equipment, and materials to complete the work as outlined in the design drawings and plans as outlined in the Construction Plans and Contract.

By submitting a bid, the Bidder indicates they have familiarized themselves with the conditions affecting the performance of the work and with the Contract Documents, including the Advertisement for Bids, Instruction to Bidders, Bid Proposal, Bid Bond, Agreement, Performance Bond, Labor, Material, and Tax Payment Bond, Notice of Award, Notice to Proceed, Conditions of Contract, Special Conditions, Drawings, Specifications and all Addenda thereto, as prepared by the City of Bloomfield, all of which are made a part hereof, hereby proposes, in accordance with said Contract Documents, to furnish all plans, equipment, labor, materials and supervision to perform the work summarized hereafter on each Bid Schedule upon which a proposal amount is inserted.

The total bid for each Bid Schedule includes all work necessary to complete that portion of the project described in each Bid Schedule, and the total of all Bid Schedules represents the entire scope of work covered by the Contract Documents. If a particular item of work is not specifically separated as a bid item, the cost therefore shall be included in the bid item most nearly related.

The total bid for each Bid Schedule is based on the quantities shown in this Bid Proposal and on the dimensions shown on the plans where specific quantities are not itemized. When Bid Schedules are based upon unit prices, the Contract Amount will be adjusted by change order at the corresponding unit prices according to the actual quantities and measurement of the finished construction as determined by the Contracting Officer's Representative upon completion of construction.

Supplemental unit prices may, when included in this Bid Proposal, be used as a basis to adjust the Contract Amount by change order should it become necessary, in the opinion of the Owner, to add or deduct work not otherwise subject to adjustment by stipulated unit prices.

If awarded a contract, the undersigned Bidder agrees to substantially complete the work for final acceptance within 150 calendar days after issuance of the Notice to Proceed. All work including final clean-up and "punch-list" items must be completed by November 27, 2024.

Bidder further agrees to pay as liquidated damages in the amount of \$1,200.00 for each consecutive calendar day thereafter that the work remains uncompleted.

The Bidder shall submit with their bid a bid bond (proposal guarantee) equal to 5% of the total amount bid.

The Engineer's Opinion of Probable Construction Costs (OPCC) is \$2,531,703.63.

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Subcontractor's Listing Threshold: The Bidder shall list each Subcontractor on the Contractor's List of Subcontractor's, that has provided a bid to them in the amount of \$60,000 or more.

The bidder certifies that this bid is genuine and is not made in the interest of, or on the behalf of, any undisclosed person, firm, or corporation, and that this bid has been arrived at independently, without consultation, communication, or agreement as to any matter related to this bid with any other Bidder or competitor.

All bids must be on a lump sum basis. A bid must be submitted on all bid items and alternates, segregated bids will not be accepted. Bid prices shall not include state gross receipts or local option taxes.

The Owner reserves the right to waive technical irregularities and to reject Bids. Bids shall be good for 60 days following the opening of Bids and may not be withdrawn. The Owner intends to award this Project to the lowest responsible bidder and to award the bid it considers to be in its best interest.

Acknowledgement of Receipt Form

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

The name and address will be used for all correspondence related to the ITB.

Firm does/does not (circle one) intend to respond to ITB # 2024-001.

Return to:
Melanie Lovato
City of Bloomfield
915 N. First Street
Bloomfield, NM 87413
Telephone Number: 505-632-8448
mlovato@bloomfieldnm.gov

Faxed or emailed **BID** responses **WILL NOT** be accepted.

Instructions to Bidders

I. Introduction

1. Definitions and Terms

Terms used in these Bidding Documents which are defined in the Instructions to Bidders and in the Conditions of the Contract for Construction (General Supplementary and other Conditions) have the meanings assigned in those documents.

Addendum: A written or graphic instrument issued prior to the opening of Bids which clarifies, corrects, or changes the Bidding Documents or Contract Documents. Plural: addenda.

Alternate Bid: Amount stated in the Bid as the sum to be added to or deducted from the amount of the Base Bid, if the corresponding change in the project scope, materials, and/or methods of construction is awarded by the Owner.

Amendment of Bid: A submitted bid can be amended up to the time of submission by submitting a request to the Chief Procurement Officer indicated in this solicitation.

Base Bid: Amount stated in the Bid as the sum for which the Bidder offers to perform the Work, excluding, Alternate Bids.

Bid: The offer of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed in conformance with the Bidding Documents.

Bid Lot: A major item of Work for which a separate quotation or bid is requested.

Bidder: One who submits a Bid directly to the Owner, as distinct from a subcontractor, who submits a bid to a contractor.

Bidding Documents: The Bidding Requirements and the Contract Documents, including drawings.

Bidding Requirements: Notice of Invitation for Bid, Prebid Information, Instructions to Bidders, Information Available for Bidders, the Bid Form, Supplements to the Bid Form, and portions of Addenda relating to any of these.

Chief Procurement Officer (CPO): A state certified employee of the City of Bloomfield who is responsible for the control of procurement for the City of Bloomfield and who has the ultimate authority over all procurement of items, tangible personal property, services or construction for the City, its members, and participating entities.

Clarification: Communication with a bidder for the sole purpose of eliminating minor irregularities, informalities, or clerical mistakes in the bid. It is achieved by explanation or substantiation, either in response to an inquiry by the City, or as initiated by the bidder. Clarification does not give the bidder an opportunity to revise or modify their bid, except to the extent that correction of apparent clerical mistakes results in a revision.

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Contract or Agreement: Means a written agreement for the procurement of items of tangible personal property or services.

Contracting Officer: Refers to the Mayor of the City of Bloomfield or her representative.

Contractor: A successful bidder who enters into a binding contract.

Determination: The written documentation of a decision of the CPO including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

Desirable: Refers to the terms “may”, “can”, “should”, “preferably”, “prefers” which identify a discretionary item or factor. (As opposed to a “mandatory” item or factor.)

Invitation To Bid (ITB): All documents, including those attached or incorporated by reference, used for soliciting sealed bids (§ 13-1-64 NMSA 1978).

Mandatory: Refers to the terms “must”, “shall”, “will”, “is required”, or “are required” which identify a required item or factor. (As opposed to a “desirable” item or factor.) Failure to meet a mandatory item or factor will result in rejection of the bid.

Owner: Means the City of Bloomfield, the participating entity who will be utilizing this contract to purchase such.

Procurement Manager: Means any person or designee by the City of Bloomfield with the responsibility, authority, and resources to conduct the ITB procurement.

Responsible Bidder: A Bidder who submits a Responsive Bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the construction described in the Invitation for Bid (§ 131-82 NMSA 1978).

Responsive Bid: A bid which conforms in all material respects to the requirements set forth in the Invitation for Bid. (§ 13-1-84 NMSA 1978).

Successful Bidder. The lowest Responsible Bidder to whom the Owner, on the basis of the Owner's evaluation, makes an award. A Successful Bidder does not become the Contractor until an agreement is signed with the Owner.

Work. The project requirements as outlined in the Contract requirements, specifications, and drawings.

2. Examination of Bidding Documents and Site

- a. Before submitting a Bid, each Bidder must; (a) examine the Bidding Documents thoroughly, (b) visit the site to familiarize himself with local conditions that may

in any manner affect cost, progress, or performance of the Work, (c) familiarize himself with federal, state, and local laws, ordinances, rules and regulations that may in any manner affect cost, progress, or performance of the Work, and (d) study and carefully correlate the Bidder's observations with the Bidding Documents.

- b. On request, the Owner will provide each Bidder access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of his Bid.
- c. The lands upon which the Work is to be performed, rights-of-way for access thereto, and other lands designated for use by the Contractor in performing the Work are identified in the Bidding Documents.
- d. The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this Section and that the Bidding Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

3. Bidding Documents

- a. Complete sets of the Bidding Documents may be obtained from the City of Bloomfield website at <https://www.bloomfieldnm.gov/finance/page/bids>.
- b. Complete sets of Bidding Documents shall be used in preparing Bids; the City of Bloomfield does not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- c. In making copies of Bidding Documents available on the website above, the City of Bloomfield does so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

4. Interpretations

- a. All questions about the meaning or intent of the Bidding Documents shall be submitted to the Procurement Manager in writing. Replies will be issued by Addenda delivered to all parties recorded as having received the Bidding Documents. Questions received after the specified date in the Sequence of Events will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- b. Bidders and Subcontractors shall promptly notify the Procurement Manager of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or of the site and local conditions.

5. Addenda

- a. Addenda will be delivered by e-mail to all Bidders who are known by the Procurement Manager.

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- b. Addenda will be available at <https://www.bloomfieldnm.gov/finance/page/bids>.
- c. No Amendment will be issued later than 3 days prior to the date for receipt of Bids, except an Addendum withdrawing the Request for Bids or one which includes postponement of the date for receipt of Bids.
- d. Each Bidder shall ascertain, prior to submitting the Bid, that the Bidder has received all Addenda issued, and shall acknowledge their receipt on the Bid Form.

6. Substitute Material and Equipment

The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor, application for such acceptance will not be considered by the Contracting Officer until the "effective date of the Contract". The procedure for submittal of any such application by the Contractor and consideration by the Contracting Officer is set forth in the Contract Documents.

II. Conditions Governing the Procurement

1. Sequence of Events

ACTION	RESPONSIBILITY	DATE
Issue ITB	Procurement Manager	April 19, 2024
Acknowledgement of Receipt Form	Potential Offerors	April 29, 2024
Pre-Bid Conference	City of Bloomfield	May 7, 2024 10:00 AM MDT
Deadline to Submit Questions	Potential Bidders	May 13, May 23, 2024, by 1:00 PM MDT
Response to Written Questions (if applicable)	Procurement Manager	May 20, May 28, 2024
Deadline for Submission of Bids	Bidders	June 3, 2024, by 1:00 PM MDT Via USPS or In Person
Bid Opening	Procurement Manager	June 3, 2024, at 1:30 PM MDT
*City Council Approval	City of Bloomfield	June 10, 2024
*ITB Award	City of Bloomfield	June 11, 2024
*Protest Deadline	Bidders	June 26, 2024
*Notice To Proceed	City of Bloomfield	June 27, 2024

*Subject to change at the discretion of the Procurement Manager

2. Explanation of Events

A. Pre-Bid Conference:

The City of Bloomfield will conduct a Pre-Bid Conference on May 7, 2024 at 10:00 AM MDT at the City of Bloomfield Council Chambers, 915 N. 1st Street, Bloomfield, NM. The Owner and his consultants, as applicable, shall be represented.

- a. Prospective Bidders are **required** to attend in person or virtually and should be prepared to ask questions regarding substitutions and/or to request clarification of the Bidding Documents.
- b. Questions and requests for clarification are to be presented in written form. Responses will be written and issued as Addenda. No verbal response shall be binding.

B. Deadline to submit written questions/request for clarification.

Potential bidders may submit written questions or requests for clarification as to the intent or clarity of this ITB by 1:00 PM MDT ~~May 13~~ May 23, 2024. All questions **must be submitted in writing only** to the Procurement Manager specified in this ITB. Questions or communications submitted to anyone other than person specified are considered unauthorized and WILL result in disqualification of a submitted bid.

C. Response to written questions/ITB Amendments

Written responses to written questions and any ITB amendments will be posted to the City of Bloomfield's procurement portal at www.bloomfieldnm.gov/finance/page/bids and may be emailed to parties who ~~submitted questions~~ are known to the Procurement Manager and attended the Pre-Bid Conference in person or by Zoom.

D. Submission of Bid:

a. **BIDS MUST BE SUBMITTED VIA USPS OR IN PERSON**

In person submissions:
Submit to the CPO Only at:
915 North First Street
Bloomfield, NM 87413

Or

US Postal Service:
City of Bloomfield
Attn: Dustie Sheets, CPO
PO Box 1839
Bloomfield, NM 87413

Bids will be dated and time stamped upon receipt by the Chief Procurement Officer and at least one witness.

- b. **LATE BIDS WILL NOT BE ACCEPTED.** Bids received after the Deadline for Submission of Bids will be returned unopened.

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- c. The Bidder shall assume full responsibility for timely delivery of Bids at the City of Bloomfield City Hall, including those Bids submitted by mail. Hand-delivered Bids shall be submitted to the CPO or his designee and will be clocked in at the time received, which must be prior to the time specified.
- d. **Bid Packages** To be accepted as a complete Bid, all Bid packages **MUST** have the following written on the front bottom outer left-hand corner of the package: "ITB #2024-001 EAST BLANCO BRIDGE CONSTRUCTION PHASE II".
- e. **Correction or Withdrawal of Bids**
 - i. A bid containing a mistake discovered before bid opening may be modified or withdrawn by a bidder **prior to** the time set for bid opening. Bids withdrawn for correction may be resubmitted up to the time and date designated for the receipt of bids. The City of Bloomfield personnel may **at no time**, for any reason, assist with corrections of bids or opening of bids **for any reason** prior to date and time of official opening.
 - ii. After Bid receipt, no modifications in Bid Prices or other provisions of Bids shall be permitted. A low Bidder alleging a material mistake of fact which makes his Bid non-responsive may be permitted to withdraw his Bid if: (A) The mistake is clearly evident on the face of the Bid Document; or (B) The Bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. Any decision by the Owner to permit or deny the withdrawal of a Bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision. If withdrawal is permitted, Bid Security will not be forfeited (§ 13-1-106 NMSA 1978).

E. Bid Opening:

The Bid Opening for ITB # 2024-001 will be held live:

Date: June 3, 2024

Time: 1:30 PM MDT

F. Contract Award

After reviewing the bids to determine responsiveness, the City anticipates it will make the award on the date or during the timeframe indicated in the Sequence of Events. This date is subject to change at the discretion of the Procurement Manager.

G. Protest Deadline

Any protest by a bidder must be timely, in conformance with, and will be governed by, Sections 13-1-172 through 13-1-176 NMSA 1978 and the City of Bloomfield Procurement Policy. The fifteen (15) day protest period for timely bidders shall be for fifteen days following the notice of contract award. Protests must be written and must include the name and address of the protestor and the Invitation to Bid number and title. It must also contain a statement of grounds for protest including appropriate supporting exhibits and must specify the ruling requested from the CPO. The protest must be delivered to Dustie Sheets

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by email at dsheets@bloomfieldnm.gov or in writing to the City of Bloomfield, PO Box 1893, Bloomfield, NM 87413.

3. Submission Requirements

A. Number of Responses

Bidders may submit only one (1) response to this ITB.

B. Number of Copies

Bidders must deliver or send four (4) signed and complete copies of the bid to the City of Bloomfield as specified in this ITB, before the closing date and time for receipt of bids.

C. Bid Contents

- a.** Bids MUST contain forms that are watermarked "BID FORM." In addition, Bidder shall submit a copy of their NM Business License and documentation supporting proof of qualifications to perform work as stated in this ITB. Failure of Bidder to complete and submit required bidding documents, in accordance with all instructions provided, may be cause for rejection of the bid.
- b.** Each copy of the Bid shall include the complete name of the Bidder and a statement that the Bidder is a sole proprietor, a partnership, a corporation, or some other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the applicable New Mexico Certificate of Incorporation number or Certificate of Authority number. The Bid shall include the current Contractor's license number and type. A Bid submitted by an agent shall have a current Power of Attorney attached certifying the agents authority to bind the Bidder.
- c.** The address to which communications regarding the Bid are to be directed must be shown.

D. Bid Format

- a.** To preclude any possible errors or misrepresentations, bid prices must be affixed legibly in ink or typewritten. Corrections, erasures, or changes must be signed or initialed by Bidder prior to the scheduled bid opening. Failure to comply may be just cause for rejection of the bid. Bid prices shall exclude all state and local taxes.
- b.** Where so indicated by the makeup of the Bid Form, sums shall be expressed in both words and figures, and, in case of discrepancy between the two, the amount written in words shall govern.
- c.** All requested Additive or Deductive Alternate Bids shall be bid. If no change in the Base Bid is required, enter "No Change".
- d.** Where there are two or more major items of Work (identified as "Bid Lots") for which separate quotations are requested, the Bidder may, at his discretion submit quotations for any or all items, unless otherwise specified. Additionally, the Bidder

may submit a lump sum or unit price for all lots for which the Bidder has submitted separate quotations.

E. Bid Security

- a. Bid security in an amount equal to at least five percent of the amount of the Bid shall be a bond provided by a surety company authorized to do business in this State, or the equivalent in cash, a cashier's check, or otherwise supplied in a form satisfactory to the Owner (§ 13-1-146 NMSA 1978). All bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in federal Circular 570 (amended) by the Audit Staff Bureau of Accounts, United States Treasury Department (31 CFR 223).
- b. The bid security shall be in the amount of 5% of the highest Bid amount submitted, unless otherwise stipulated, pledging that the Bidder will enter into a contract with the Owner on the terms stated herein and will furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.
- c. The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.
- d. When the Bidding Documents require bid security, noncompliance by the Bidder requires that the Bid be rejected (§ 13-1-147A NMSA 1978).
- e. If a Bidder is permitted to withdraw his Bid before award, no action shall be had against the Bidder or the bid security (§ 13-1-147B NMSA 1978).

F. State License and Registration Requirements

- a. **CONTRACTOR's must be licensed in the State of New Mexico for the appropriate work being performed at the site. CONTRACTOR's must be actively registered with the Public Works and Apprenticeship (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.**
- b. **All of CONTRACTOR's Subcontractor's must be licensed in the State of New Mexico for the appropriate work being performed at the site. When CONTRACTOR's Subcontractor's bid exceeds \$60,000, the Subcontractor must be actively registered with the Public Works and Apprenticeship (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.**

G. Subcontractors

- a. The bidder shall list the Subcontractors or material suppliers he proposes to use for all trades or items on the Subcontractor Listing form. If awarded the contract, the Bidder shall use the Subcontractor listed, or himself if "General Contractor" has been listed, unless a request for a change or substitution is approved by the Contracting Officer and the Owner for any reason as outlined herein.
- b. The Contracting Officer or the Owner shall consider any request for a change in the listed Subcontractor if the Bidder can furnish evidence of being able to perform the Work in a manner more satisfactory and beneficial to both the Owner and the Bidder by not using the listed Subcontractor. Satisfactory reasons for a substitution may include the inability to bond or lack of evidence of being able to furnish acceptable materials on schedule. Also, if the Bidder has made a legitimate error in listing a low Subcontractor, a request for substitution, made after the Bid receipt date with the Contracting Officer and the Owner's approval, will be considered. The proof of error must be conclusive, based upon the approval of said evidence by the listed Subcontractor or material supplier and/or any other confirmation satisfactory to the Contracting Officer or the Owner.
- c. The Bidder shall not list himself as the supplier or as the Subcontractor for any trade unless he has previously performed work of this type or can prove to the Contracting Officer and the Owner's satisfaction that he actually has, or will obtain, fully adequate facilities and plans to perform the work with his own work forces.
- d. Omission or non-compliance with the intent of the Subcontractor Listing form will be grounds for considering a Bid as a **non-responsive** bid.
- e. Prior to the award of the Contract, the Contracting Officer will notify the Bidder in writing if either the Owner or the Contracting Officer, after due investigation and written findings of fact, has reasonable and substantial objection to any person or organization on such list. If the Owner or Contracting Officer has reasonable and substantial objection to any person or organization on such list and refuses in writing to accept such person or organization, the Bidder may, at his option, (1) withdraw his Bid, or (2) submit an acceptable substitute Subcontractor with no increase in his Bid Price. In the event of withdrawal under this paragraph, Bid Security **will not** be forfeited.
- f. The Successful Bidder shall, within 7 calendar days of notice of the award of a Contract for the Work, submit the following information to the Contracting Officer: (A) A signed list of the suppliers of principal items or systems of materials and equipment proposed for the Work, and (B) A list signed by all Subcontractors proposed for the principal portions of the Work in accordance with the Subcontractors Listing form submitted with the Bid.
- g. The Successful Bidder will be required to establish to the satisfaction of the Contracting Officer and the Owner the reliability and responsibility of the persons

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or entities proposed to furnish and perform the Work described in the Bidding Documents.

- h.** Persons and organizations proposed by the Bidder and to whom the Owner and the Contracting Officer have made no reasonable objection must be used on the Work for which they were proposed and other persons or organizations shall not be used to accomplish the work without the written consent of the Contracting Officer and the Owner.
- i.** No Successful Bidder shall be required to employ any Subcontractor, other person, or organization against whom he has reasonable objection.
- j.** The Bidder is specifically advised that any person, for, or other party to whom it is proposed to award a subcontract under this bid must be acceptable to the Owner after verification by the Funding Agency of the current eligibility status.

H. Notice of Contract Requirements Binding on Bidder

- a.** In submitting his Bid, the Bidder represents that he has familiarized himself with the nature and extent of the Conditions of the Construction Contract (General, Supplementary and other Conditions) dealing with federal, state and local requirements which are a part of these Bidding and Contract Documents.
- b.** Laws and Regulations: The Bidder's attention is directed to all applicable federal and state laws, local ordinances and regulations and the rules and regulations of all authorities having jurisdiction over construction of the Project. These laws, ordinances, rules and regulations shall apply to the contract throughout and will be deemed to be included in the Contract the same as though herein written out in full.

I. Rejection or Cancellation of Bids

Request for Bid may be canceled, or any or all Bids may be rejected in whole or in part, when it is in the best interest of the Owner. A determination containing the reasons therefor shall be made part of the Project file (§13-1-131 NMSA 1978). Bid security for rejected Bids shall be returned to the Bidder.

J. Protests

- a.** Any Bidder, Offeror, or Contractor who is aggrieved in connection with this solicitation or award of a contract (Bid) may protest to the Chief Procurement Officer in accordance with the requirements of the Owner's Procurement Regulations and the State Procurement Code. The protest should be made in writing within 24 hours after the facts or occurrences giving rise thereto, but in no case later than 15 calendar days after knowledge of the facts or occurrences giving rise thereto (§13-1-172 NMSA 1978).
- b.** In the event of a timely protest, the Contracting Officer and the Owner shall not proceed further with the procurement unless the Contracting Officer or the Owner

makes a determination that the award of the contract is necessary to protect substantial interests of the Owner (§ 13-1-173 NMSA 1978).

- c. The Contracting Officer or Owner shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Bidder, Offeror, or Contractor. This authority shall be exercised in accordance with adopted regulations, but shall not include the authority to award money damages or attorneys' fees (§ 13 -1-174 NMSA 1978).
- d. The Contracting Officer or Owner shall promptly issue a determination relating to the protest. The determination shall: (A) State the reasons for the action taken; and (B) Inform the protestant of the right to judicial review of the determination under § 13-1-183 NMSA 1978.
- e. A copy of the determination issued under § 13-1-175 NMSA 1978 shall immediately be mailed to the Protestant and other bidders or offerors involved in the procurement (§ 13-1-176 NMSA 1978).

4. Consideration of Bids

Bids received on time shall be accepted by Owner and considered for award. The name of each Offerer submitting a Bid in accordance with procedure will be recorded. (§ 13-1 107 NMSA 1978).

A. Bid Award

- a. The Owner may waive technical irregularities in the form of the Bid of the low Bidder which do not alter the price, quality, or quantity of the construction Bid (§ 13-1-132 NMSA 1978).
- b. If the Base Bid is within the amount of funds available to finance the construction Contract, contract award will be made to the responsible Bidder submitting the Bid most advantageous to the Owner.
- c. Discrepancies in the Bid Form between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the correct multiplication sum between the unit of Work and the unit prices.
- d. Conditional Bids or Bids with additional terms will not be accepted.
- e. Contracts solicited by competitive sealed bids shall require that the bid amount exclude the applicable state gross receipts taxes or applicable local option tax, but the Owner shall be required to pay the applicable tax including any interest, in the applicable tax becoming effective after the date the Contract is entered into. The applicable gross receipt tax or applicable local option tax shall be shown as

a separate amount on each billing or request for payment made under the Contract (§13-1-108 NMSA 1978).

- f. A written Notice of Award shall be issued by the Owner to the selected Bidder after review and approval of the Bid and related documents by the Owner with reasonable promptness (§13-1-100 and §13-1-108 NMSA 1978).

B. Identical Bids – When two or more of the Bids submitted are identical in Bid price and Statement of Qualifications and are the low bid, the Contracting Officer or the Owner may : (A) Award pursuant to the multiple source award provisions of § 13-1-153 and § 13-1-154 NMSA 1978; (B) Award by lottery to one of the identical Bidders; (C) Award to a resident business if the identical Bids are submitted by a resident business and a non-resident business; or (D) Reject all Bids and resolicit for the required construction (§ 13-1-110 NMSA 1978).

C. Post-Bid Information

- a. **Submittals to Contracting Officer** – Within seven (7) days after Notice of Award, the following shall be submitted to Contracting Officer:
 - i. The Required Bonds and Certificates of Insurance
 - ii. The requirements under Section II.3.G.f.
 - iii. A resume of the successful Bidder's Superintendent
- b. **Return of Bid Security** – All Bid Security in the form of checks, except those of the Bidders being considered for award based on technical merit, will be returned immediately following the receipt and checking of the Bids. The retained Bid Security of the Successful Bidder, if in the form of a check, will be returned after a satisfactory contract bond has been established and the Contract has been executed. Bid Securities in the form of Bid Bonds will be returned only upon the request of the unsuccessful Bidder but will be released by the Contracting Officer or Owner after the Notice of Award is sent by the Owner.
- c. **Execution and Approval of Contract** – The Contract shall be signed by the Successful Bidder and returned, together with both the Contract Bonds and Certificate of Insurance within fifteen (15) calendar days after the date of the Notice of Award. If the Contract is not executed by the Owner within thirty (30) days following receipt from the Bidder of the signed Contract with Bonds and Certificates, the Bidder shall have the right to withdraw his Bid without penalty. No Contract shall be effective until it has been fully executed by all of the parties thereto.
- d. **Notice to Proceed** – The Owner will issue a written Notice to Proceed to the Contractor stipulating the date from which Contract time will be charged and the date Contract time is to expire subject to valid modifications of the Contract authorized by Change Order.

- e. **Failure To Execute Contract** – Failure to return the signed Contract with acceptable Contract Bonds and Certificate of Insurance within fifteen (15) days after the date of the Notice of Award shall be "Just cause" for the cancellation of the award and the forfeiture of the bid security which shall become the property of the Owner not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsible Bidder, or the work may be re-advertised and constructed under contract or otherwise, as the Owner may decide.
 - f. **Contractor's Qualifications Statement** – Bidder's to whom award of a Contract is under consideration shall submit, as required in the Technical Bid, information and data to prove that their financial resources, production or service facilities, personnel, and service reputation and experience are adequate to make satisfactory delivery of the construction described in the Bidding Documents (§13-1-82 NMSI 1978).
- D. Cancellation of Award** – When in the best interest of the public, the Owner may cancel the award of any contract at any time before the execution of said contract by all parties without liability against the Owner (§13-1-131 NMSA 1978).

III. Section deleted as part of an addendum