OKLAHOMA
Office of Management & Enterprise Services

Construction and Properties

PROCEDURES FOR OBTAINING BIDS ON PROJECTS UNDER THE STATUTORY LIMIT

Capital Assets Management

These procedures have been developed for state agencies who wish to obtain written quotes for small projects for Award by OMES CAM Construction and Properties (CAP), as authorized by 61 O.S. § 103(B) & 61 O.S. § 208(C). The purpose of these procedures is to provide clarification and guidance regarding the necessary steps to obtain bids and standardize the documentation forwarded to OMES CAP for contract award.

1. **General.**
   Pursuant to the Public Competitive Bidding Act of 1974 [61 O.S. § 103(B)], projects under the statutory amount mandated therein, (currently $100,000) may be awarded to the lowest responsible bidder by receipt of written bids. Public advertising is not required. The procedures and suggestions contained herein are provided for the purpose of assisting state agencies with the solicitation process; providing compliance with sound procurement principles; standardization of the process across State of Oklahoma government; and increasing efficiency and expediency in the total acquisition process.

2. **Structure of the Acquisition Process.** As with any public purchasing procedure, the acquisition is broken down into the following:
   - The solicitation.
   - The contract award.
   - Contract management and closeout.

   This document will address both the role of the purchasing Using Agency and that of OMES CAP.

3. **The Solicitation.** The Invitation to Bid will have the following components:
   - **Bid Notice.**
     - OMES CAP recommends a minimum bid notice period of seven days. This period of time is subject to the project size, complexity and nature or scope of the work being performed.
   - **CAP Form D403, Solicitation Cover (Minor Projects under Statutory Amount).**
     - Using Agency solicitation number (Using Agency assigns and references in the contract).
     - Project name.
     - Date and time bids due.
     - Method of response.
     - Using Agency contact information.
   - **CAP Form D405, Bid Form Template (Minor Projects under Statutory Amount).**
   - **CAP Form A106, Standard Form of Agreement Between Owner and Contractor (Minor or Maintenance Projects).**
   - **Statement of Work (SOW) and/or Technical Specifications and Drawings.**
     - This document briefly discusses special requirements for trade work – mechanical, electrical, plumbing and/or roofing. Include any issues that affect risk management, licenses, compliance with codes, etc. OMES CAP is available for consultation to finalize the SOW.

   The intent is to execute a clear and fair bidding process as well as clearly defining what it is the Using Agency requires.

   - **Using Agency sends the solicitation to prospective vendors as follows:**
     - After identifying at least three suitable bidders, transmit the Invitation to Bid to the identified bid pool concurrently. In order to avoid bid protests, do not solicit additional bidders after receiving bids. The Invitation to Bid may include provisions for a prebid walk-through of the project site.
     - Solicitations may be transmitted to the bidders and responses received back to the Using Agency, by mail, fax or email. When using email, set your email options to request a return or read receipt in order to ensure that the bid request was received by the recipient.

     If all the bids exceed the expected prices, or the bidders cannot perform within the required time frame, the Using Agency should evaluate the scope of work, schedule or other proposed requirements and look for modifications that can be made to appropriately adjust the work to the Using Agency's constraints. After notifying the bidders that all bids are rejected, identify additional bidders and/or modify the SOW requirement and re-solicit to both the original and new bidders.

     While the bid period is open, it is acceptable to answer questions that the individual bidders may have. The questions and their responses should be documented and sent to all bidders in the form of addenda. If a specific question results in the Using Agency's desire to modify the requirements or SOW, an addendum should be sent to all bidders to clarify, change the requirement and extend the bid deadline if necessary.

The contract and conditions of the contract are included in the standard documents provided by OMES CAP for the Using Agency's use. The SOW or specifications should not contain legal Conditions of the Contract, such as an Audit-Records clause, State of Oklahoma's authority to terminate the contract, etc. These contract provisions are contained in the standard contract, the statutes or OMES CAP's Administrative Rules. **Do not reference provisions of the Oklahoma Central Purchasing Act (74 O.S. §§ 85.1 et seq.) as such provisions do not apply and often contradict the procurement authority of Title 61**.

It is acceptable for the SOW to include special provisions that pertain to the Using Agency's unique requirements, such as a drug-free workplace, special security requirements, client confidentiality, special work hours or any legal requirements that accompany the funding.

What to do if you cannot find three bidders: In the event the Using Agency cannot obtain three bids, the Using Agency must document the efforts and reasons thereof. If a bidder declines to furnish a bid, their "no-bid" statement is acceptable and will count as a response. If only a single bidder furnishes a bid, the Using Agency should document that reasonable efforts have been made. Photocopies of business directories showing contractors in that area are helpful, along with a phone log of calls made and responses from the companies. If the Using Agency cannot find any suitable vendors, contact OMES CAP for assistance.

4. The Contract Award.

Upon receipt of the bids, check each response to ensure that the required information is present and in order. In the interest of fairness and equality, it is not acceptable for a bidder to write in their own conditions or propose an alternate scope of work.

After tabulating the bids and establishing the lowest responsible bidder, a requisition package will be sent to OMES CAP for contract award.

- Please include the following items:
  - CAP Form M701, Project Request.
    - Designate the vendor (lowest responsible bidder) to receive award of contract in the Vendor Section.
  - Executed purchase order.
  - Copy of complete solicitation, outlined in Subparagraph 3 above, with any addenda.
  - Justification for Award if not to the lowest bidder (how did you determine lowest responsible?).
  - Obtain and include the vendor's Certificates of Insurance (COI) [refer to CAP Form A106, Standard Form of Agreement Between Owner and Contractor (Minor Projects Under Statutory Amount)].
  - If the vendor is exempt from worker's compensation insurance, they must submit CAP Form D312, Affidavit of Exemption from Workers' Compensation Act, available on the OMES CAP Forms webpage. No other form will be accepted.
  - Copy of the vendor's Bid Form, CAP Form D405.
  - Copies of the other bid responses.
  - Cover letter with any additional information or special requirements.

Upon receipt, OMES CAP will prepare the contract and route to the successful bidder for signature. If the Using Agency wishes to expedite the turnaround, arrangements can be made for the vendor to come to OMES CAP for the signature or Using Agency can hand-deliver. Let OMES CAP know in your cover letter.

The Bid Form, Certificates of Insurance and a complete copy of the solicitation will be attached to the contract.

When signatures have been obtained, OMES CAP will issue a Notice to Proceed. Copies of the final contract documents will be returned to the Using Agency and the contractor. The contractor is not to start work until a Notice to Proceed has been issued by OMES CAP.

5. Contract Management and Closeout.

- **Preconstruction conference.**
  - It is often beneficial to conduct a prework meeting with the contractor to establish a schedule, working hours, points of contact and any special notification requirements, such as advance notice when shutting off water or electrical power.
- **Progress inspections and payments to the contractor.**
  The Using Agency representative, acting as the supervisory official, should review the work progress. This can be periodic or by way of regularly scheduled progress meetings as identified in the preconstruction conference. If the project duration is more than one month, inspections should coincide with the contractor's monthly invoice in order to determine if the progress payment is commensurate with the state of completion. A lump sum payment may be issued for projects with a completion period of one month or less. For projects with longer durations, progress reviews shall be conducted at least monthly throughout the project lifecycle.

  If the Using Agency agrees with the contractor's invoice for payment, the application should be processed in a timely manner. The Fair Pay for Construction Act requires payment within 30 days for projects that total $25,000 or more. Retainage is not required for projects under the statutory amount and is generally not required. Any provision for retainage must be stated in the bid solicitation.

  61 O.S. § 123(A) requires that the supervisory architect or engineer, or other supervisory official (Using Agency representative) provide a written statement verifying that the work has been performed and the payment is due to the contractor. CAP Form G702-703, Contractor Invoice, is OMES CAP's Model Form provided to satisfy these requirements; Letterhead Invoices from the

contractor should not be used. The contractor is to complete the first section and submit with their invoice. If the supervisory official agrees with the amount, they complete the second section and submit for payment.

- **Change orders.**
  Occasionally, it will be necessary to process a change order due to unforeseen site conditions or Using Agency requested modifications to the work. The contractor should prepare a written proposal for the change using CAP Form G701, Change Order. If acceptable, the Using Agency must email to OMES CAP at cap@omes.ok.gov a copy of the completed form along with the updated purchase order.

  Change orders for projects under the statutory amount are limited to a net increase of 15% above the original bid amount.

  For corrective/preventive maintenance contracts, additional work using time and material unit pricing can be authorized at any time. If the Using Agency needs to increase the contract amount to cover additional work, submit an updated and executed purchase order with a completed 010A Funding Change Order Request for OMES CAP's records. Note: Corrective/preventive maintenance contracts resulting from the three-bid procedure are limited to the statutory amount ($100,000).

- **Contract disputes.**
  When issues such as nonperformance or noncompliance arise, it is important to intervene early by communicating with the contractor. The Using Agency should endeavor to find out what the problem is and what is required to correct the issue. This information should be documented with a written memorandum to the contractor.

  If these efforts are unsuccessful or the contractor becomes unresponsive, OMES CAP should be contacted for assistance without further delay.

- **Final inspection and closeout.**
  Prior to making the final payment, the work should be reviewed in the presence of the contractor. Any deficiencies should be noted on a written punch list, so the contractor knows exactly what needs to be corrected. The final corrections should be verified with a final inspection. At this time, the contractor is required to provide any equipment warranties, equipment manuals, shop drawings or other documents that may be required by the solicitation and provide a demonstration of any equipment that may be involved in the project. The final pay application is also submitted at this time.

  Once the final invoice is received, the Using Agency representative completes the supervisory official's portion of CAP Form G702-703, Contractor Invoice, and return a copy to OMES CAP to close out the project.

Please contact OMES CAM Construction and Properties at 405-521-2565, or email a request to cap@omes.ok.gov. All CAP forms are available on the OMES CAP Forms webpage.