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**STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION**

**CONSTRUCTION CONTRACT  
BIDDING AND AWARD MANUAL**

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## **I. GENERAL STATEMENT OF PURPOSE**

The purpose of this manual is to try to ensure that all parties involved or interested in the Department's construction contract bidding and awards will know and understand the Department's rules, requirements, policies, procedures, and practices regarding those matters. In this manual, the Department has brought together provisions concerning Department bidding and awards from various other documents (such as the Department's Administrative Memorandum No. 108 and portions of the Department's Standard Specifications) in order to establish a single document which interested parties may consult to learn about those subjects. This manual will supersede Administrative Memorandum No. 108, and if provisions of this manual conflict with provisions of other Department documents (not including statutes or regulations), the provisions of this document will govern.

This manual will also provide the Department with a vehicle for regularly updating the public's knowledge of any modifications that the Department makes in its bidding or award policies and practices. At all times, copies of the current version of this manual will be available on the DOT website, located under Doing Business with CONNDOT, Contractor Resources. The effective date of each edition of the manual will appear at the top of the first page of each such copy.

Modifications of rules set forth in this manual will not be applied retroactively, but only prospectively.

## **II. LIMITATIONS OF THIS MANUAL**

It should be understood that there will be no point in time when this manual can be comprehensive. Circumstances are constantly arising with respect to bidding and awards which the Department has never confronted before, and often those circumstances will require the establishment of a new principle, or the modification of an existing one. On occasion, the Department may also find cause to reconsider and reverse a past practice. Any such change in practice or policy will, however, become effective from the time of its first application, and will remain in effect for all pending bids and awards until such time as the practice or policy may be changed again. In addition, the Department will make its best effort to record any such

changes in policy or practice in the edition of this manual which is printed after such change is made.

It should be also understood that while bidders are required to know and to obey all applicable laws and other legal authorities that affect the bidding and award matters discussed in this Manual, the Department has not attempted to include or to cite in this Manual all of the applicable legal authorities; by their nature, such authorities already are matters of public, and published, information.

### **III. DEFINITIONS**

“Affiliate” means a company over which another company has significant control, *i.e.*, (1) one of the companies owns at least five percent (5%) of the voting stock of the other; (2) a director or officer of one of the companies owns at least five percent (5%) of the voting stock of the other; or (3) the two companies have at least one director or officer in common.

“Bid proposal form” means a document, including electronic documents, provided by the Department, on which a contractor is to provide its bid to perform construction or demolition work in accordance with an advertised Department contract.

“Bidding capacity” means the monetary value of construction work, in the aggregate, which the Department deems itself reasonably assured that a particular contractor is capable of executing and completing successfully at a given time. This value will be determined by a letter that satisfies the requirements set forth in Section VI.D.5b of this Manual.

“Classification of work” means a type of construction work for which the Department may prequalify contractors to bid, such as, but not limited to, highway construction; bridge construction, rehabilitation and painting; building construction, demolition and relocation; paving; landscaping; electrical work; other painting; line-striping; and fencing.

“Commissioner” means the Commissioner of Transportation of the State of Connecticut.



“Contractor” means any individual, partnership, corporation, joint venture, association or other legal entity which is engaged in the business of performing construction services.

“Contractor’s prequalification statement” or “prequalification application” means a set of documents which satisfies or is intended by a contractor to satisfy the requirements of Section VI(D)(2) of this manual, which set of documents consists of a completed set of the documents commonly known as the Department’s Form CON-16.

“Department” means the Department of Transportation of the State of Connecticut.

“Manager” means the Contracts Manager for the State of Connecticut Department of Transportation.

“Prequalification” means (1) the review process by which the Department determines which contractors shall be deemed qualified to bid and potentially receive awards of Department construction contracts, and, more particularly, (a) the classifications of work for which each such contractor shall be deemed qualified and eligible to potentially be awarded a contract, and (b) the bidding capacity of each such contractor; or (2) the status of having been prequalified, which enables a contractor to bid and potentially receive awards of Department construction contracts within the classifications of work and the bidding capacity determined by the Department.

“Project bid limit” means a monetary amount which may be set by the Department as an upper limit on the size of the contracts which a particular bidder shall be eligible to be awarded within a given classification of work; that is, a contractor may not be awarded a project contract if the Department engineer’s estimate of the cost of the project exceeds the contractor’s project bid limit for that classification of work.

#### **IV. ORGANIZATION OF THE DEPARTMENT WITH RESPECT TO BIDDING AND AWARD ACTIVITIES**

The Department’s Contracts Unit controls the advertising, bidding and award process, through the public competitive bidding system, of contracts involving the construction of roads, bridges, buildings, transportation-related

public works projects, demolition, supply of materials, or other transportation-related matters. The Contracts Manager is the head of the Contracts Unit. The Contracts Unit is contained within the Department's Division of Contract Administration, and the latter is contained within the Department's Bureau of Finance and Administration. The Bureau Chief of the Bureau of Finance and Administration reports directly to the Commissioner.

The Contracts Unit contains 3 main functions/sections: (1) the Prequalification Section, (2) the Pre-Bid Section, and (3) the Post-Bid Section. All three sections function under the direction of the Manager, who reports directly to the Director of Contract Administration.

The Prequalification Section is responsible for the prequalification of businesses that desire to bid as general contractors for Department contracts, and for the issuance of bid proposal forms.

The Pre- Bid Section is responsible for the coordination and administration of all activities associated with pre-bid procedures such as solicitation of bids, the preparation and sale of plans and specifications, the issuance of contract addenda, and the bidding process. Technically, the responsibility of this section ends with the opening of bids.

After the bids are publicly opened, checked for responsiveness in various respects, and read, they are turned over to the Post-Bid Section for further processing. The Post-Bid Section is responsible for the coordination of all post-bid activities, and for ensuring that all requirements necessary for the award of the contract are met.

Requests for prequalification applications or bid proposal forms; inquiries concerning the completion of prequalification applications or bid proposals forms; and inquiries concerning other bidding or award matters, should be submitted to the Manager. Any questions regarding the project requirements, bid conditions or proceedings, contract terms, or other matters related to a project contract for which bids have not yet been opened must be addressed in writing to the Manager.

## **V. REQUIRED USE OF FORMS PROVIDED BY THE DEPARTMENT**

In those cases in which the Department provides a form (to include, but not limited to: on paper, word document, excel document, pdf document or any electronic version used in an electronic bidding environment

approved by the Department) on which a particular submission is to be made (such as the bid proposal form, the non-collusion affidavit, or the bid bond), only that form/version will be accepted. Altered versions of the form, (as opposed to merely photocopied) versions of the form, will not be accepted and will not be considered valid for bidding purposes.

Privately-owned bidding and information services (not approved or utilized by the Department) that provide such forms, or information regarding Department bid solicitations, via the Internet or other media have not been given authority to do so by the Department. It is possible that if such persons or entities publish or provide inaccurate, incomplete, or unacceptable forms or information to potential bidders, the former could be liable to the latter for damages incurred as a result of such actions.

## **VI. PREQUALIFICATION OF CONTRACTORS TO BID FOR DEPARTMENT CONSTRUCTION CONTRACTS**

In accordance with the provisions of the Department's Standard Specification for Roads, Bridges and Incidental Construction (as revised) (the "Standard Specifications"), and pursuant to the duties and powers of the Commissioner as provided for in Section 13a-95 of the Connecticut General Statutes (as revised), and with few exceptions, only contractors prequalified by the Department are eligible to receive awards of Department construction contracts. The only exceptions to this requirement are for projects that do not require prequalified bidders; in such cases, this will be noted in the bid specifications for the project contract.

The Department's process of prequalification is not a means for determining which contractors may receive bid proposal forms, or which contractors may submit bid proposals, or which contractors may have their bid proposals considered by the Department. It is, rather, a process designed to ensure that the Department can determine, on a timely basis, the qualifications and responsibility of contractors who may be considered for contract awards. The Department would not have ample time to make those determinations, without undue delay and disruption of award and construction schedules, if it waited to begin the evaluation process until after a bidder was found to be the apparent lowest bidder for a Department contract. As a practical matter, therefore, bidders should understand that if they have not been prequalified prior to the bid opening for a contract award, they will not be awarded the subject contract.

Awards will be made only to bidders prequalified to perform the type

of work required by the subject contract, and only if they have sufficient bidding capacity remaining after taking into account all outstanding work to be completed by the bidder.

**A. PREQUALIFICATION OF ORGANIZATIONS OR INDIVIDUALS OTHER THAN CONSTRUCTION COMPANIES**

No individual as such, and no entity that is not itself a bona fide construction company, will be prequalified to bid for Department construction contracts either individually or as a joint venturer (except as provided in the following paragraph); nor will such an individual or entity be eligible for award of such a contract.

The one exception to this rule is that if at least one of the participants in a proposed joint venture is a heavy highway construction contractor, and is prequalified by the Department as such, that contractor may joint venture with one or more of its wholly-owned subsidiaries, provided (1) that the majority of each such subsidiary's assets (equipment, materials, etc.), as reflected in the subsidiary's most recent certified financial statement prepared by an independent accountant, are assets that are or may be used in heavy highway construction; (2) that the heavy highway construction contractor assumes the responsibility, under the terms of the letter required in VIII(A) of this manual, for the performance and completion of at least fifty percent (50%) of the project work; and (3) that the joint venture satisfies all other applicable requirements stated in VIII (A) below and elsewhere in this manual.

The provisions of this subsection A shall apply to vertical construction work as well, except that with regard to such work, the phrase "vertical construction" should be substituted for the phrase "heavy highway construction" in the two preceding paragraphs.

**B. MINIMUM PERIOD OF PREVIOUS CONSTRUCTION ACTIVITY**

To be eligible for prequalification, applicants must have been engaged in active business as a construction contractor for a minimum of one year under the name of the firm applying for prequalification, and must provide to the Manager a current one-year financial statement for that business.

**NOTE:**

This prohibition may not be absolute. If, for instance, a prequalified company that has one year of satisfactory construction experience merely changes its name, but maintains the same corporate structure, managers, and assets, that company will not likely be denied prequalification merely because of its name change. The same might be true for a family business which changes its name when one member of management leaves the business, provided that the departing manager's services had not been essential to the prior granting of Department prequalification.

If, however, a family construction business has, for instance, been divided into two new companies with new names and reduced or altered resources, the Department would likely require each to accumulate a year's experience in the construction business before prequalifying them individually, in order to gain knowledge and assurances regarding the competence and capabilities of each firm. If a contractor is not prequalified under its present or intended new name, and if any significant change has occurred in the corporate structure, financing, managerial staff, or assets of that contractor, the Department will likely require that the company accumulate a year's construction experience before the Department will grant or "renew" its prequalification.

This is necessarily a question of degree. The Department must, in its sole discretion, determine when it has sufficient assurance that a contractor has the competence and wherewithal to perform a given type and volume of Department work.

**C. PREQUALIFICATION OF INTER-RELATED ENTITIES**

Corporations related to each other through ownership interests or an interlocking directorate or in other significant respects, may not seek prequalification in combination, and may not submit consolidated financial statements in seeking prequalification. The legal independence of a corporation or joint venturer must be reflected in the presentation of information about its finances; e.g., in presenting the assets of an applicant corporation, one may include the value of the stock owned by the applicant in a wholly-owned corporate subsidiary, but not, for instance, the value of equipment owned by the subsidiary corporation. In addition, only organizations which the Department deems to be true construction

contractors with respect to a classification of work for which they seek prequalification (i.e., organizations having sufficiently-experienced personnel, sufficient equipment and finances, etc. to perform construction work within that classification) may seek or be granted prequalification to bid for work within that classification. If the Department deems that a substantial portion of the resources of an organization seeking prequalification is devoted to activities other than construction work within the pertinent classification(s), the Department may make what it deems to be an appropriate adjustment of the organization's bidding capacity or of the classification(s) of work for which it is prequalified.

If a subsidiary of a contractor wants to bid as an independent entity, that subsidiary must furnish to the Manager a contractor's prequalification statement based on the discrete finances and experience of that subsidiary. No so-called consolidated financial statements will be accepted for such subsidiaries, or for companies having a common owner.

#### **D. THE PREQUALIFICATION APPLICATION PROCESS**

In order to become prequalified, a contractor must obtain a prequalification application form, known as the Form CON-16 which is located on the Department's website at: <http://www.ct.gov/dot/lib/dot/documents/dconstruction/prequal.pdf>. Detailed instructions for completing the application form are included within the CON-16, and are repeated below.

##### **1. Time for Filing Contractor's Prequalification Statement**

In order to help ensure that they may become prequalified in time for the bid opening for a given contract, contractors should be certain to return a fully completed application form (CON 16) with all necessary information, signatures and notarizations to the Manager at least thirty (30) calendar days before requesting a bid proposal form for that contract. Please note that this time line is not an absolute. There may be situations where the Department chooses to decrease the bid advertisement period (i.e. 2 – 3 weeks) in order to expedite project delivery and construction. In these situations, contractors may not be able to submit their application per the timeline above. For example, a contractor who is unfamiliar with our bidding and prequalification process may be referring to a bid advertisement for the first time. In these cases, the Department will make every effort to review

prequalification applications in order to increase bidding competition, but cannot guarantee that applications will be approved in time to bid. With this in mind, a timely review and approval by the Department is contingent upon receiving a fully complete, accurate, and detailed application from the contractor.

The Department may prioritize application review based on the contractor's history of bidding with the Department, or if the contractor indicates they intend to bid on a CTDOT project in the near future. Priority will be given to those contractors that bid with the Department on a regular basis.

If a contractor is bidding on a project that is advertised and administered by a municipality that requires CTDOT Prequalification, it is the contractor's responsibility to ensure that their application is completed in full, and is submitted in time for the Department to conduct the application review. The contractor should indicate they are bidding on a municipal project when submitting their prequalification application.

## 2. The Contractor's Prequalification Statement

### **a. Contents of the Prequalification Application**

The prequalification application form (the CON-16) requires, among other items, the following information:

-- A statement as to the contractor's financial condition and resources, which statement shall set forth in detail the contractor's current assets and current liabilities, and shall include third-party verifications of any unsecured lines of credit extended to the contractor by banks or other financial institutions. The financial statement (non-consolidated) must be a certified audited financial statement or, if the Department deems it acceptable, a certified public accountant's review of financial statements. Such financial statements shall provide information covering a one-year accounting cycle. The financial statements must be complete, with a balance sheet, and with a related statement of income, retained earnings, and cash flows. The financial statement must be certified by an independent certified public accountant, and must conform with generally-accepted accounting principles.

-- A statement as to the contractor's plant and equipment, which shall give complete details as to the identity, age, condition, cost, and current book value of each piece of the contractor's construction equipment. In addition, the financial statement shall set forth the value of any outstanding loans for equipment identified therein.

-- A statement describing in detail the contractor's organization, setting forth the identity of the contractor's officers, principals, and owners, and the qualifications and prior experience of the firm and each of its officers, principals, and other key personnel.

-- A statement as to the contractor's prior construction experience, which shall indicate the length of time for which the contractor has been engaged in the construction business, and the nature of the contractor's construction experience during that period. In addition, the statement shall include a complete record of all construction work completed in the three (3) prior years and shall identify, for each project undertaken in that period, the type of work performed, the project location, the contract price for work actually performed by the applicant firm itself rather than by subcontractors, and the name, address, current telephone number and email address of the owner's project engineer or project manager in charge of each listed project.

-- A statement describing in detail any financial interest which the contractor has in any other construction-related business, as well as any financial interest which any of the contractor's officers, directors, or principal shareholders (*i.e.*, those shareholders holding at least [5%] of either the common or the preferred shares of the company's stock) have in the contractor or in any other construction-related business. The statement shall also include the name, address, and relation to the contractor of any affiliated or subsidiary firms (as opposed to internal divisions) of the contractor.

-- A statement describing, in detail, for the five (5) previous calendar years, the circumstances of

(i) any criminal violation by, and any criminal indictment or conviction of, and any civil debarment or suspension of, the contractor or any of its officers or affiliates, or of any officer of such an affiliate, by a governmental entity in any jurisdiction;



(ii) any finding by a governmental entity in any jurisdiction that the contractor or an affiliate of the contractor was nonresponsible as a low bidder; or

(iii) any formal charge or proceeding concerning the possibility of any such debarment, suspension, or finding of nonresponsibility by a governmental entity in any jurisdiction.

(iv) any agreement with any governmental entity not to bid for its contracts for a given period of time.

In addition, the statement shall identify any liens, default notices or claims filed by or against, or any penalties or liquidated damages assessed against, the contractor with regard to any project performed by the contractor within the previous five (5) calendar years. The statement shall also disclose the details of any formal complaints by or against the contractor with respect to its alleged noncompliance with any federal labor laws or the labor laws of any state.

-- A statement of the classifications of Department work for which the contractor wishes to be eligible for award of a contract, and a detailed description of the experience of the contractor and its key personnel in performing such types of work.

-- For corporations, a current Certificate of Incorporation (for domestic corporations) or current Certificate of Authority (for foreign corporations), whichever is applicable, from the Connecticut Secretary of the State. For limited liability companies (LLC's), certified documentation from the Secretary of State showing that the LLC has been legally formed and organized in accordance with the Connecticut General Statutes, and that the LLC is not in default for failure to have filed a proper annual report with the Connecticut Secretary of the State.

-- A current Society for Protective Coatings (SSPC) certification, if the applicant is seeking prequalification in surface preparation and painting classifications.

-- Documentation of the applicant's possession of a current Connecticut demolition license, if the applicant is seeking prequalification for demolition work.

The contractor's prequalification statement shall be based upon information which is current at the time of filing, except that the financial portion of the statement may be based upon the contractor's most recently-completed fiscal year for which data is available. The Department reserves the right to require a more recent financial statement at any time, as deemed necessary and in the best interest of the State. For example, if a contractor, with a fiscal year end of December 31, 2011 has applied for prequalification in February 2012, the Department may prequalify the contractor based on the 2010 financial statement, but also require the contractor to provide the 2011 financial statement as soon as it becomes available.

The contractor's prequalification statement and all amendments thereto shall be accompanied by a properly-notarized affidavit from an officer or principal of the contractor, attesting that all statements contained in the statement are true and accurate. All required signatures in the contractor's prequalification statement shall be provided by individuals duly-authorized to sign for the contractor in the pertinent capacity.

Any contractor's prequalification statement which is not accurate, responsive, and complete may be rejected by the Department. Further, any contractor who makes, or causes to be made, a false, deceptive or fraudulent statement in the contractor's prequalification statement may be deemed a nonresponsible bidder and may be subject to disqualification from bidding for Department contracts for a period of no more than two (2) years, as the Commissioner deems appropriate.

If at any time the Department obtains information concerning a prequalified contractor which, had that information been disclosed in the contractor's last statement, would, in the Commissioner's judgment, have led him or her to establish a different prequalification status for the contractor, the Department may modify the contractor's prequalification status accordingly. This shall be true even if the new information did not exist or was not known when the contractor submitted its last statement to the Manager.

## **b. Directions for Completing the Prequalification Application**

1. **DETAILS OF ORGANIZATION AND EXPERIENCE** - On pages 1, 2, 3 and 9 of the CON-16, the applicant must answer all questions and provide all items of information requested pertaining to the organization and experience of the firm.

Work Classifications Requested – The Department will determine the work classifications that the applicant is qualified to bid and potentially receive award of Department construction contracts.

2. **PREQUALIFICATION WORK CLASSIFICATIONS** - On pages 4 - 8 of the CON-16, the applicant must check off the type(s) of work (self-performed) for which prequalification is requested. Specific project experience related to the work classifications requested on page 4 - 8 must be described in detail on page 9. Vague project descriptions will not be accepted.
3. **REFERENCE LETTERS REQUIREMENT** – Page 10, #12.  
Applicants must submit, with this application, 3 recent letters of reference using the CTDOT standard form letter (see attached Appendix A) that is part of this prequalification application. **DO NOT ALTER THE FORM LETTER.** Letters must follow the format and instructions listed below and on the letter:
  - a. Reference letters must be from construction project owners other than CTDOT. Contractors that have worked solely on CTDOT projects within the time period specified in section c. below are exempt from the reference letter requirement.
  - b. Letters must be dated, completed, and signed within 6 months of the receipt date of the application by DOT.
  - c. Letters must be project specific and based on projects that have been completed within 2 years of the receipt date of the application by DOT. There may be instances where the project is older than 2 years and the applicant is submitting the letter to justify a work classification.
  - d. Letters must indicate and should justify “work classifications” (see pgs. 4 – 8) that the applicant is requesting to be prequalified for.
  - e. Applicants should not submit the same letters already submitted with a prior application.

- f. If the applicant wants to provide further information regarding contractor performance, responsibility and integrity, please attach this information to the reference letters.

***The Department reserves the right to request more reference letters directly from project/contract owners, at any time, including but not limited to, prior to award of contract, as deemed necessary and in the best interest of the State.***

4. **CONSTRUCTION EQUIPMENT OWNERSHIP** - On page 11 of the CON-16, list construction equipment owned by the applicant; also show equipment age, condition, purchase price, and book value. For purposes of prequalification, the book value is defined as the purchase price minus the total accumulated depreciation. Depreciation must be calculated by those methods permissible by "Generally Accepted Accounting Principles".
5. **FINANCIAL STATEMENT REQUIREMENT** - The applicant must submit the most recent audited or reviewed financial statement (non-consolidated) prepared by an independent Certified Public Accountant (CPA) and must conform with generally-accepted accounting principles (GAAP). If the financial statement is consolidated with other affiliates/subsidiaries of the applicant/firm, a consolidating balance sheet showing the allocation (breakout) of all the affiliates must be included in the financial statement. The financial statement shall include at minimum, the CPA's opinion statement, balance sheet, profit and loss statement, line(s) of credit information and all related notes.

The Department reserves the right to request a more recent financial statement at any time, as deemed necessary and in the best interest of the State.

6. **CERTIFICATION OF CONTRACTOR'S PREQUALIFICATION STATEMENT** - On page 12 of the CON-16, this statement must be properly completed and signed by a duly-authorized representative of the applicant; must bear the Corporate Seal, if applicable, and must be properly notarized.

7. **CERTIFICATE OF AUTHORITY** - On page 13 of the CON-16, this statement must be properly completed and indicate those individuals in your organization who have the authority to sign bonds, legal documents and contracts on behalf of your organization. The individuals given such authority under this document must affix their signatures and indicate their titles, on the Certificate of Authority (page 13). This form may not be altered and cannot be substituted for; must bear the Corporate Seal, if applicable and must be properly notarized. PLEASE NOTE: Individuals cannot certify themselves.
8. **BONDING / SURETY COMPANY LETTER REQUIREMENT – The Letter must be submitted with the application.**

The Department will determine the applicant’s maximum bidding capacity based on a letter provided by the applicant’s bonding company, which at a minimum, satisfies the following requirements:

- a. The letter must be from a bonding company that is listed on the current United States Department of Treasury’s listing of certified companies approved to issue bonding for federal construction projects (“U.S.Treasury list”) For a list of certified companies go to:  
[http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)
- b. The letter must be on the bonding company’s letterhead;
- c. The letter must state the full legal name of the surety company (if not noted on the letterhead), must be an original, must be dated, and must show the original signature;
- d. The letter must state the legal name and address of the applicant;

The letter must state the maximum value of construction work the applicant is capable of undertaking for all projects/work, both bonded and non-bonded (a/k/a “aggregate work capacity” or “maximum bidding capacity”). If only one amount is stated in the letter, that amount will be interpreted to mean the aggregate (total) of both bonded and non-bonded work.

The letter must set forth the contact information for the bonding company representative including the name, phone number and email address for such representative.

The maximum bidding capacity established by such letter cannot exceed the bonding company's underwriting limitation as set forth on the current U.S. Treasury list.

The applicant will be notified in writing of this determination.

9. **PAINTING REQUIREMENT** - Painting Contractors and subcontractors engaged in surface preparation and coating applications must be certified by the Society for Protective Coatings (SSPC) in accordance with contract provisions, and must submit proof of certification with this application.

### 3. Requests by the Department for Additional Information

The Department may at any time request that a contractor provide it with additional information pertaining to any of the matters addressed, whether directly or indirectly, in the CON-16. The Department shall have the right to prescribe the amount of time that the contractor will be allowed in which to provide such additional information. The provisions of this paragraph shall also apply to any requests that the Department may make for corrections in the form or contents of a contractor's statement. In addition, the contractor's prequalification statement shall include such additional information pertaining to the contractor's responsibility, finances, performance and any other qualifications as the Manager may request.

### 4. Questions about the Prequalification Application

Contractors should address any questions concerning the prequalification application to DOTcontracts@ct.gov or by contacting the Contracts Manager at (860) 594-3128.

### 5. Evaluation of the Contractor's Prequalification Statement: Bidding Capacity and Approved Classifications of Work

Each contractor filing a contractor's prequalification statement with the Department will be prequalified according to the classifications of work which the Contractor is approved to perform, and according to its bidding

capacity.

### **a. Classifications of Work**

The Contracts Manager or his/her designee, shall review the contractor's prequalification statement and shall determine, in consultation with the Department's Construction Division, the classification(s) of work which the contractor is qualified to undertake, based upon its record of construction work, the experience and expertise of its personnel, the adequacy of its plant and equipment, its past performance, and such other factors as may be deemed pertinent by the Department.

In order to be approved for a particular work classification, contractors must provide sufficient project descriptions and descriptions of work "self-performed" as stated in #10 - Work Experience, of the application form (CON 16).

Contractor's that are requesting to be prequalified for a new work classification that they were previously not qualified for, or requesting to "graduate" to the next level classification, such as with the bridge and vertical construction classifications, must submit detailed information to the Department in order to substantiate their request. The information submitted shall include, but not be limited to; project history of self-performed work for those classifications requested, project owner contact information, reference letters or project evaluations, list of key personnel and resumes justifying the requested work classifications, and any other information the Department deems as necessary.

Representatives of the Department may request, and must be allowed, to visit and inspect the applicant's home office, job sites, and storage sites as the Department deems necessary in order to verify information contained in the contractor's prequalification statement. If the Department deems it appropriate, the Department may prequalify a contractor for Department work within a particular classification of work, but establish a project bid limit for the contractor with respect to that classification of work, to be based on the complexity and monetary values of the projects which the contractor and his personnel has previously performed and any other factors that the Contracts Manager may deem relevant to the establishment of such a project bid limit.

## **b. Bidding Capacity**

The Department will determine an applicant's maximum bidding capacity based on a letter provided by the applicant's bonding/surety company, which, at a minimum, satisfies the following requirements:

The letter from the bonding/surety agent must be submitted with the Prequalification Application Form (CON 16).

(1) The letter must be from a bonding company that is listed on the current United States Department of Treasury's listing of certified companies approved to issue bonding for federal construction projects ("U.S. Treasury list"). For a list of certified companies go to [http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm), under updates click on certified companies;

(2) The letter must be on the bonding company's letterhead;

(3) The letter must state the full legal name of the surety company (if not noted on the letterhead), must be an original, must be dated, and must show the original signature;

(4) The letter must state the legal name and address of the applicant;

(5) The letter must state the maximum value of construction work the applicant is capable of undertaking for all projects/work, both bonded and non-bonded (a/k/a "aggregate work capacity" or "maximum bidding capacity"). If only one amount is stated in the letter, that amount will be interpreted to mean the aggregate (total) of both bonded and non-bonded work.

(6) The letter must set forth the contact information for the bonding company representative including the name, phone number and email address for such representative.

The maximum bidding capacity established by such letter cannot exceed the bonding company's underwriting limitation as set forth on the current U.S. Treasury list.



## **Bidding Capacity – Foreign Based Companies (outside of the United States)**

The Department reserves the right to determine the capacity of a foreign based company as deemed appropriate or in the best interest of the State. The Department has recognized that companies conducting work on an international basis may have other valid means of financial securities (accepted in those countries) to support their contract backlog in other countries. All contract work based in the United States must be supported by the required bonding letter.

### **c. Revisions of Work Classifications or Bidding Capacity**

The Department may reduce or revoke the contractor's prequalification status based on the contractor's performance record with regard to quality of work, timely completion, debarment by other public agencies, changed financial status, or other pertinent factors.

If, after filing a contractor's prequalification statement, changes occur in the contractor's organization, finances, other resources or experience, which a reasonable person would believe had significantly affected the classifications or amount of work for which the Department ought to prequalify the contractor, the contractor shall promptly give detailed written notice of said changes to the Manager. The Department may then alter the contractor's prequalification in any way which the Manager believes is warranted by said changes, and the Manager will notify the contractor of the Department's decisions regarding those matters.

A prequalified contractor that desires, in light of such changes, to have the Department change the classifications of work or bidding capacity for which it has been prequalified, may file a new or revised CON-16, and may then request reconsideration of its prequalification status.

So that the Department has time to consider such a request prior to a scheduled bid opening, the Department asks that additional information supporting such a request be submitted to the Department a minimum of twenty (20) days prior to requesting a bid proposal for the subject contract.

In any event, the contractor's bidding capacity may be adjusted, as determined appropriate by the Department and in the best interest of the State, whenever the contractor files a revised letter from a Surety Company, which satisfies the requirements of Section VI.D.5.b. of this Manual, stating the revised aggregate work capacity for the contractor.

### **E. EFFECTIVE PERIOD OF PREQUALIFICATION AND UPDATE CERTIFICATION FORM**

The effective period of a Contractor's prequalification application/statement will be determined by the Department using a system that will spread out the expiration dates of prequalified Contractors alphabetically by formal/legal business name, into two groups. Contractors with legal business names that are filed alphabetically A – K will expire on the same State Fiscal Year end date, while Contractors with legal business names filed alphabetically L – Z will expire on a different State Fiscal Year end date.

A Contractor's Prequalification Statement/Application (CON 16), when approved by the Department, will be valid for a period of up to three State Fiscal Years (July 1 – June 30), beginning with the initial approval date by the Department, as long as the Department receives the Update Certification Form as required. Failure to comply will result in the contractor's Prequalification Statement being placed in an inactive (on hold) status until the Department receives and approves the Update Certification Form.

Prequalified contractors shall update their current approved Prequalification Statement/Application (CON 16) on an annual basis by submitting the Update Certification Form including all requested information listed on the Form, due by June 1<sup>st</sup> of each year, excluding the application year. The Certification Form and the required attachments, if applicable, must be submitted to, and approved by the Department prior to the contractor being issued a Bid Proposal Form (Dept. approval of a Request for Bid Proposal – Part C). The Update Certification Form is available on the Department's website at:

<http://www.ct.gov/dot/cwp/view.asp?a=2288&q=259250>.

## **F . TIME TO FILE APPLICATION FOR RENEWAL OF PREQUALIFICATION**

Contractors that intend to renew/continue their prequalification status must submit (re-apply) a new Contractor's Prequalification Statement/Application form, due to the Department at least 30 days prior to the Firm's expiration date. The "renewal" period will be valid for the next three State Fiscal Years beginning on July 1, if the Firm's application is approved by the Department prior to, or on July 1, or beginning on the approval date by the Department, if the approval date is after July 1.

Contractors should understand that if they have not been prequalified prior to the bid opening for a contract award, they will not be awarded the subject contract.

As a general rule, extensions to a Contractor's prequalification period may not be granted. If extreme unforeseen circumstances arise, a Contractor may submit to the Manager a written request for an extension of its existing prequalification period. The request must state the reasons for the request, and the Manager shall determine, in his sole discretion, whether or not those reasons warrant the granting of the request.

Any such request must be submitted prior to the expiration date of the applicant's then-current prequalification period. If the request is granted, said prequalification period may be extended for 30 days at the sole discretion of the Manager. Ultimately, it is the Contractor's responsibility to be aware of their expiration date and to submit a complete application in a timely manner.

## **VII. BID SOLICITATION**

### **A. ADVERTISING OF BID SOLICITATIONS**

The Pre-Bid Section's responsibility begins with the receipt of project plans, specifications, design reports and proposed estimates. Inquiries are made on the status of any related Rights-of Way or utility agreements, and required permits such as environmental or Army Corp of Engineers permits. If the subject project is a federal participation project (that is, a project that is funded in part by a federal agency), the Department makes inquiries to the

applicable federal funding agency or agencies (usually the Federal Highway Administration [“FHWA”]) to determine the status of any necessary concurrence or authorization to proceed. At this time, the Department also inquires about any necessary PS & E approval (plans, specifications and estimate) by the federal agency, and requests wage schedules from the Department of Labor pursuant to Section 31-53 of the Connecticut General Statutes, as revised.

Once any necessary authorization to advertise is received from each federal funding agency, advertisements soliciting bids are posted to the Department of Administrative Services (DAS) Statewide Contracting Portal which can be accessed through the DOT website.

Contractors and/or the general public can access and download project specific bid information such as the invitation to bid, bid items and quantities, project specifications, plans, addenda, bid postponement notices, etc. It is the bidder’s responsibility to monitor the State Contracting Portal for the latest updates on projects out to bid.

## **B. ISSUANCE OF PLANS AND SPECIFICATIONS**

After the Pre-Bid section advertises a contract for bidding, the Contracts Unit often receives inquiries regarding recently advertised contracts. In many instances, general administrative type inquiries can be answered over the telephone or via email, but in any instance in which the response will provide the contractor with information that has not been given and is not available in public documents, the project specific inquiry (question/RFI) must be made through the CTDOT Pre-Bid Questions and Answers (Q and A) website. It may then be necessary for the Department to issue a notice or addendum to all bidders in order to clarify or resolve any related issue or problems.

Plans, specifications, addenda, and other bid documents are posted to the State Contracting Portal for download (free of charge). It is the contractor’s responsibility to monitor the State Contracting Portal for all current related bid documents (plans, specifications, addenda, bid invitation, etc). Contractors should not rely solely on the Department’s email notifications regarding any bid notification (i.e. addenda notifications)

### **C. BID PROPOSAL REQUEST FORMS**

Contractors must submit to the Manager a Bid Proposal Request Form, on the form provided by the Department (referred to by the Department as the Part C). All Bid Proposal Request Forms (Part C) must be emailed to dotcontracts@ct.gov for review. The Part C is available on the DOT website under Contractor Resources as well as in each specific project bid invitation which is posted on the State Contracting Portal.

The Part C, Bid Proposal Request Form, must be completed and submitted for the project/ contract for which the contractor intends to bid. In order to be eligible for award of a given contract, a bidder must have an approved CON-16 on file with the Department at the time of the bid opening for that contract. The Part C form must list ALL outstanding private and public work, both bonded and non-bonded, in-State and out-of-State, in any jurisdiction, for (a) which the contractor has contracted to perform (including all work by the contractor as a subcontractor and all subcontractor work to be performed under the contractor's contracts) and which has not yet been completed; and (b) for which the contractor is the apparent low bidder, but for which no contract has yet been awarded. Each request for a bid proposal form shall also list the then-current total dollar value and the percent-of-work-to-be-completed (both of these to be measured by contract dollar value of the work) of all private and public work, whether inside or outside of the State of Connecticut. The Part C must be signed by individuals authorized to sign on behalf of the bidder as indicated in the approved CON-16 on file for that firm. Bidders that fail to provide all requested information, or that misrepresent such information, may have their bid rejected as nonresponsive and, if they become the apparent low bidder for a contract, may be deemed non-responsible as such.

In addition, the contractor shall provide with its Bid Proposal Request Form, a written description of any suspension, debarment, or other adverse government action taken against the contractor which has occurred since the date of the contractor's last prequalification statement.

The information provided on the Part C shall be sworn to by an officer or principal of the contractor. If, however, the contractor has already provided such a written description of particular changes to the Manager, it need not submit that information to the Department with its Bid Proposal Request Form.

## **D. REVIEW OF BID PROPOSAL REQUEST FORMS**

The Department will review the Bid Proposal Request Form for completeness, accuracy, contractor's remaining bid capacity, and will also ensure (at that time) that the contractor is currently prequalified for the type of work related to the specific project the contractor is requesting to bid on. The Department will respond via email to the contractor with one of the following determinations; a validation/approval to bid, a denial to bid based on, but may not be limited to; current prequalification status, remaining bid capacity, the contractor not being prequalified for the type of work related to the specific project, debarment, suspension or a finding of non-responsibility as indicated in the CON 16 and this Manual.

If a contractor is denied a bid proposal based on not being prequalified for the type of work specified in the bid documents, and the contractor feels that they are qualified to perform the type of work specified in the bid/contract documents, the contractor must contact the Department immediately and submit additional information as outlined in Section VI. D. , 5. A. Classifications of Work, of this Manual, to justify the Department's approval to bid. Upon receiving and reviewing all additional information requested by the Department, the Department will notify the contractor of the decision whether or not to validate/approve the contractor to bid.

With this in mind, it is important that the contractor submit their Bid Proposal Request Form(s) in a timely fashion to allow the Department time to review.

This review process is not meant to deter bid competition in any way. It is rather a process to educate and ensure that bidders are aware of the Department's prequalification, bidding and award policies and procedures, and to ensure the timely award of construction contracts.

## **VIII. BIDDING**

### **A. BIDDING AS A JOINT VENTURE**

A lawful combination of contractors each of which is prequalified individually in accordance with the provisions of this Manual, shall be permitted to bid jointly as a joint venture; but contractors prequalified only as an identified member of a particular joint venture shall be allowed to bid

only as a member of that joint venture. Each participant in a joint venture must submit a letter with the venture's bid proposal request, stating the participants' agreement to bid as a joint venture with the other named joint venturer(s), and indicating the respective percentage(s) of the project work ("the Responsibility Percentage") which would be the responsibility of each of the joint venturers.

With regard to joint ventures, the bidding capacity of the joint venture as such will be the total of the bidding capacities of the joint venturers. Each joint venturer, at the time of the bid, must have available bid capacity equal to or greater than the total bid price multiplied by that venturer's Responsibility Percentage. The sum resulting from that multiplication will also be charged against that venturer's bid capacity. Such combination shall be limited to a maximum of three participants, unless otherwise allowed by the Department.

If a joint venture submits a bid proposal, it shall be considered to be a proposal by each of the joint venturers, jointly and severally, for the performance of the entire contract as a joint venture in accordance with the terms and conditions of the contract.

## **B. BIDDING BY RELATED ENTITIES**

No bidders that have mutual financial interests, or common ownership, directors, officers or principal shareholders (*i.e.*, shareholders holding at least [5%] of either the common or the preferred shares of the company's stock) may bid for the same Department contract. Such proscribed bidders shall include, but not be limited to, affiliates and subsidiaries of each other. If any non-bidding party has an ownership interest in more than one bidder that is bidding for a given contract, either directly or through the former's ownership interests in another company, no matter how removed in a vertical or horizontal chain of ownership that party might be from the bidders, the bids of those bidders shall not be accepted. In addition, with respect to any given Department contract that is advertised for bidding, no bidder owned by, or in the chain of ownership of, a bonding company may bid against a bidder for whom a bond has been or will be provided by that bonding company for the given contract bidding.

**C. BIDDING BY DISADVANTAGED BUSINESS ENTERPRISES AND SMALL BUSINESSES**

The Department hereby notifies all bidders that it will act affirmatively to ensure that for any Department contract DBE's, Small Contractors, and Small Contractor Minority Business Enterprises that have been prequalified as a prime contractor by the Department will be afforded full opportunity to submit bids in response to the bid solicitation, and that they will not be discriminated against on the grounds of race, color, national origin, sex, sexual orientation, mental retardation or physical disability, including but not limited to blindness, in the Department's award of the subject contract.

**D. REQUIREMENT THAT BID BE SUBMITTED BY THE CONTRACTOR THAT WAS ISSUED THE BID PROPOSAL FORM BY THE DEPARTMENT**

Bid proposal forms are nontransferable. Any prospective bidder that has been issued a proposal form and transfers the form to any other person, party or corporation may be found non-responsible as an apparent low bidder for any pending Department bids, or may, subject to statutory requirements, be disqualified for up to two (2) years from bidding for Department or State contracts. Any bid proposal from a bidder who was not issued a proposal form directly by this Department may be rejected.

**E. BID PROPOSAL CONTENTS AND SUBMISSIONS**

The Department's bid proposal form states the location and description of the work to be done, the estimated quantities of the work to be performed and materials to be furnished, the number of calendar days in which (or the date by which) the construction work must be completed, and the scheduled date and time for the opening of bids for the subject contract.

It is the bidder's responsibility to obtain, review, and become familiar with all bid documents posted and maintained on the State Contracting Portal, including but not limited to, contract plans, specifications, addenda, special provisions, bid invitation, other notices, etc.



## **F. EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS AND SITE OF WORK**

The bidder is required to examine carefully the site of work, and the proposal form, plans, special provisions, specifications, supplemental specifications, pre-bid questions and answers, Contract form and other Contract documents for the work contemplated; and it will be assumed that the bidder has judged for and satisfied itself as to the conditions to be encountered, as to the character, quality and quantities of the work to be performed, materials to be furnished, and as to the requirements of the above documents, and in particular, but not limited to, what is required under each Contract item, or under the general cost of the work, or under another or more general Contract item in the absence of particular items.

The subsurface information furnished is based on the interpretation by the Department of investigations made only at the specific locations indicated, and no assurance is given that these conditions are necessarily typical of other locations or that they have remained unchanged since the field data were obtained. No assurance is given that the presence or absence of water in subsurface explorations at the time of these explorations will be representative of actual conditions at the time of construction. Such subsurface information as was obtained by the Department for its use in the design of the Project will be available for inspection by bidders through the Division of Contracts. Also, if available, samples of the materials encountered in the subsurface explorations may be examined by bidders at a location specified by the Department under advance arrangements made through the Division of Contracts. The contractor shall be solely responsible for all assumptions, deductions, or conclusions it may make or derive from its examination of any Department subsurface information, document or sample. In furnishing or making available such information, the Department makes no warranty or representation as to the actual conditions that may be encountered or actual quantities or distribution of quantities of work which will be required.

## **G. BIDDERS' KNOWLEDGE OF APPLICABLE LAWS**

Bidders shall be deemed to know and understand all federal, state and local laws, ordinances and regulations and municipal bylaws which in any manner apply to projects for which they bid; such legal requirements shall include but not necessarily be limited to those which apply to the conduct of the Project work, the equipment and materials to be used on the Project, or

the treatment of individuals or classes of individuals in relationship to their involvement with the Project. A Contractor's ignorance of such requirements shall not, in any internal Department proceeding or in any claims or other legal proceeding, constitute justification for the Contractor's failure to consider such requirements in formulating a bid proposal, or for the Contractor's failure to ensure that such legal requirements are met with regard to any Department project in which that Contractor participates.

## **H. PREPARATION OF PROPOSALS**

The bidder must submit its electronic bid proposal (aka EBS file) on the forms furnished by the Department. The blank spaces in each applicable folder of the proposal (EBS file) must be filled in correctly where indicated. For each and every item listed on the Schedule of Items, the bidder must state in numerals, the unit prices for which the bidder proposes to complete each item of the work. The bidder shall also show the total amount of its bid in the space provided in the Schedule of Items. The bidder shall sign their proposal correctly per the bid proposal instructions (electronic/digital signatures are required/acceptable). If the proposal is made by a firm or corporation, the proposal must be digitally signed by an official of the firm or corporation authorized to sign contracts. The authorized official must also have a current digital ID in their name that is enabled/valid with Bid Express.

## **I. ADHERENCE TO THE BID PROPOSAL FORM AND ITS REQUIREMENTS**

Proposals may be rejected if they show any irregularities, omissions, alteration of form or additions not called for, or do not comply with instructions to bidders, or contain conditional or alternate bids, unless alternate bids or bids on alternate materials are specifically called for in the bid documents and/or proposal form.

## **J. ESTIMATED QUANTITIES IN BID PROPOSAL FORMS**

The quantities shown on the proposal form are approximate only and are given as a basis of calculation upon which the award of the contract is to be made. The Department does not assume any responsibility that these quantities shall remain unchanged in the actual construction, and the contractor shall not plead misunderstanding or deception because of any

variation between estimated and final quantities. The Department reserves the right to increase or decrease any or all of the quantities shown on the proposal form as may be necessary to properly complete the contract project.

**K. BIDDER'S OBLIGATIONS IF IT DISCOVERS AN ERROR IN THE CONTRACT**

Any bidder that discovers an error in the bid proposal or contract documents, including but not limited to the plans, must report that error in a letter to the Manager within two (2) business days of discovering the error. A failure to do so may result in the Commissioner's finding the contractor to be non-responsible as the low bidder for one or more Department contracts, and may be subject to other adverse action by the Department.

**L. SWORN STATEMENT BY BIDDER**

The bidder submitting a proposal shall file with the Department a sworn statement, on a form supplied by the Department, and executed by, or on behalf of, the person, firm, association, partnership or corporation submitting the proposal, certifying that such person, firm, association, partnership or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such proposal.

**M. REQUIRED CERTIFICATION OF ELIGIBILITY TO BID**

Except as a bidder may explain in a writing to the Manager, prior to bid opening, the signature on behalf of the bidder on its bid shall constitute certification that the bidder and all persons associated with it in the capacity of owner, partner, director, officer, manager, internal auditor, or in any position involving the control or use of funds received from a federal or state agency in connection with construction activities:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in contracts or other programs by any state or federal department or agency;

(b) have not, within a three-year period preceding preparation of the bid proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with

obtaining or attempting to obtain a government contract, or performing under the terms of a government or quasi-governmental transaction or contract; and have not violated any laws concerning antitrust practices, embezzlement, theft, forgery, bribery, falsification or destruction of records, the making of false statements, or receiving of stolen property;

(c) have not been indicted for or otherwise charged by a governmental entity with commission of any of the types of offenses described in paragraph (b) above; and

(d) have not within a three-year period preceding the preparation of the bid proposal, had a government transaction or contract to which it was a party terminated for cause or default:

If a bidder is unable to make the certification described above, the bidder shall attach to its proposal a detailed explanation of the extent and reason for that inability.

Any bidder submitting a proposal shall ensure that each of the bidder's lower-tier participants in the project (including, among any others, each subcontractor, supplier, materialman, lessor and vendor) prior to each lower-tier party's participation in the project, makes the same certification that is required of bidders under the preceding provisions of this article. A copy of the required certification shall be provided by the bidder to each of its proposed lower-tier participants.

If any such proposed lower-tier participant is unable to make the full required certification, it shall submit to the bidder a detailed explanation of the extent and reason for that inability and the bidder shall submit a copy of said explanation to the Manager. If no such explanation from any proposed lower-tier participant is submitted by a bidder, the bidder shall be deemed to have thereby certified that all of its proposed lower-tier participants in the project have made the full required certification as required under this article. By virtue of federal regulations, no person currently suspended, debarred or voluntarily excluded under 49 C.F.R. or otherwise determined to be ineligible, as defined by said regulations, will be eligible to bid for or participate in any federal-aid project administered by the Department. By submitting a proposal to the Department, the bidder agrees that if it should be awarded the contract for such a federal-aid project it will not knowingly enter into any lower-tier transaction on that project with a person (including

entities) who, by virtue of federal law or regulation, or by voluntary agreement, is currently ineligible to participate in such a project, unless after disclosure of such ineligibility, such participation is authorized by appropriate federal and State authorities.

#### **N. DELIVERY OF “PAPER” BID PROPOSALS**

Effective September 1, 2012, the Department no longer accepts paper bid proposals for construction projects. Bids must be submitted electronically through the Bid Express website ([www.bidx.com](http://www.bidx.com)).

#### **O. WITHDRAWAL OF ELECTRONIC BID PROPOSALS PRIOR TO BID OPENING**

A bidder may withdraw a proposal, already submitted electronically, prior to bid opening, by using the withdraw feature in the Expedite Bid Software. It is recommended that the bidder not wait until the last minute to successfully withdraw a bid. It is the bidder’s responsibility to learn and become familiar with the bidding software and to contact Bid Express if they have any problems.

#### **P. CONFIDENTIALITY OF PREQUALIFICATION APPLICATIONS AND BID PROPOSAL REQUEST FORMS**

Contractor’s statements and requests for bid proposal forms submitted to the Department may be subject to disclosure pursuant to the Freedom of Information Act. To the extent that a contractor claims otherwise, such a claim must be made at the time of the document’s submittal to the Department, including in accordance with Conn. Gen. Stat. §1-210(b)(5)(A and B). Upon a Freedom of Information request for a contractor’s prequalification statement or bid proposal request, the Department will evaluate whether the records claimed as trade secrets or commercial or financial information (or otherwise claimed as exempt from disclosure) meet the requirements of Conn. Gen. Stat. §1-210(b)(5) (or some other exemption from disclosure) and can be withheld.

## **Q. QUESTIONS ABOUT THE BIDDING PROCESS OR A PROJECT/CONTRACT ADVERTISED FOR BID**

If a question concerns general administrative type matters or procedures, the question may be answered by a member of the Contracts Section staff. If, however, the question asks for information that is not a matter of public record already, or for information or a clarification concerning the terms of the advertised contract or the underlying project, the question must be presented through the CTDOT Pre-Bid Questions and Answers (Q and A) website. It may then be necessary for the Department to issue a written notice or contract addendum to all bidders in order to clarify or resolve any related issue or problem.

## **R. CTDOT PRE-BID QUESTIONS AND ANSWERS (Q AND A) WEBSITE**

The purpose of this website is to allow contractors/bidders to present pre-bid questions related to DOT construction projects that are advertised for bid. This site is not meant for the expression of “general public” opinion, comments, or questions that are not related to a particular project for the purpose of bidding.

Questions should focus on the technical aspects of the contract plans, specifications, bid documents and requirements. General administrative type questions, such as, “where can I find the plans and specifications for this project”, should be asked outside of the Q and A website by contacting the DOT Contracts Unit directly. Questions will be posted for public view once they are vetted by the Department. Responses will follow.

Questions pertaining to DOT advertised construction projects must be presented through the CTDOT Pre-Bid Q and A Website. The Department cannot guarantee that all questions will be answered prior to the bid date. **PLEASE NOTE - at 12:01 am, the day before the bid, the subject project(s) being bid will be removed from the Q and A Website, Projects Advertised Section, at which time questions can no longer be submitted through the Q and A Website. At this time, the Q and A for those projects will be considered final, unless otherwise stated and/or the bid is postponed to a future date and time to allow for further questions and answers to be posted.**

If a question needs to be asked the day before the bid date, please contact the Contracts Unit staff and email your question to [dotcontracts@ct.gov](mailto:dotcontracts@ct.gov) immediately.

Contractors must identify their company name, contact person, contact email address and phone number when asking a question. The email address and phone number will not be made public.

The questions and answers (if any) located on the Q and A Website are hereby made part of the bid/contract solicitation documents (located on the State Contracting Portal), and resulting contract for the subject project(s). It is the bidder's responsibility to monitor, review, and become familiar with the questions and answers, as with all bid requirements and contract documents, prior to bidding. By signing the bid proposal and resulting contract, the bidder acknowledges receipt of, and agrees to the incorporation of the final list of Q and A, into the contract document.

Contractors will not be permitted to file a future claim based on lack of receipt, or knowledge of the questions and answers associated with a project. All bidding requirements and project information, including but not limited to contract plans, specifications, addenda, Q and A, Notice to Contractors, etc., are made public on the State Contracting Portal and/or the CTDOT website.

### **Reminders and Instructions on How to Submit a Pre-Bid Question**

1. Please review and become familiar with all contract bid documents (plans, specifications, addenda, special provisions, schedule of items, notice to contractors, etc.) available for download on the State Contracting Portal. Link - [http://www.biznet.ct.gov/scp\\_search/BidResults.aspx?groupid=64](http://www.biznet.ct.gov/scp_search/BidResults.aspx?groupid=64)
2. Please read all existing project questions to eliminate duplicate questions.
3. Submit/ask one question at a time in the "question text box". DO NOT ask multiple questions on different subject matter in the "question text box". The system will prompt you to ask another question for that project, or click "done".
4. Complete all required fields when entering a question or the question

will not be submitted.

5. Please present questions clearly. Be specific in asking your question. Be sure to reference page numbers, item numbers, plan sheet numbers, etc. where applicable.

**IX. Electronic Bidding  
Instructions/Requirements for Bidders –  
Effective February 1, 2012 with Bid Express  
([www.bidx.com](http://www.bidx.com))**

- A. As of September 1, 2012, the Department no longer accepts paper bid proposals. All bids must be submitted electronically through the Bid Express website ([www.bidx.com](http://www.bidx.com)).
- B. In order to participate in secure electronic internet submission of Bid Proposals, the bidding entity must:
  - (1) Be subscribed to the Bid Express ® Internet Bidding service;
  - (2) Have an approved Bid Express ® Digital ID (“Digital ID”) on file with Info Tech, Inc. that is enabled with sufficient time, in accordance to Bid Express ® policy, prior to the letting date; and
  - (3) Designate an authorized individual to sign all documents contained within the Bid Proposal and to submit the Bid Proposal on behalf of the bidding entity. That individual must be authorized, pursuant to the effective legal documents of the bidding entity, to sign and submit binding legal documents on behalf of the bidding entity. The effective legal documents designating an authorized individual must be on file with the Department of Transportation as part of the bidders Prequalification Statement.
  - (4) The authorized individual must:
    - a. in completing documents that require signature, type his/her name on the signature line on each document indicating his/her intent to sign the document; and



- b. upon submitting the Bid Proposal via the Bid Express ® Internet Bidding service, digitally sign the Bid Proposal with the bidding entity's Digital ID.

Digitally signing the Bid Proposal with the Bid Express ® Digital ID is the legal equivalent of having placed a handwritten signature on the Bid Proposal and its constituent documents, effectively certifying as to the accuracy of the information contained in the Bid Proposal and agreeing to be bound by it. Effectively, each of the documents contained within the Bid Proposal will be deemed digitally signed and certified by the authorized individual on behalf of the bidding entity.

- C. Bidders must submit the "Bid Proposal Request Form" (Part C) in order to be eligible to submit bids on specific projects.
- D. Bidders that submit a Bid Proposal Request Form to bid on a specific project will receive an email response from the Department acknowledging that the bidder has been approved/validated to bid on that specific project. **Bids will not be accepted from bidders that have not been validated by the Department to bid on a specific project.**
- E. Bidders are required to submit bids on the "official" Bid Proposal Form issued by the Department. Bids will be rejected if they are not submitted on the "official" Bid Proposal Form issued by the Department.
- F. **The "official" Bid Proposal Form has been revised and will no longer be issued (mailed or emailed) directly to the prospective bidders. Eligible/validated bidders will be required to download the official Bid Proposal Form (aka EBS file) and associated amendment files (.00#), if any, from the Bid Express website (bidx.com), only after they have received the email response from the Department approving them to submit a bid. Any proposal received without prior approval by this office maybe rejected.**
- G. It is the bidder's responsibility to ensure that they download the complete official Bid Proposal Form (EBS file) and any amendment files (.00#) associated with that specific Bid Proposal Form, from the latest letting date. Amendment files (.00#) are posted to the Bid

- Express website when there is a change to the Bid Proposal Form, including a letting date change. The Department is not liable for the bidder's failure to ensure that they download the official Bid Proposal Form (EBS file) and amendment files (.00#) from the Bid Express website.
- H. Bidders must download the latest version of the Expedite Bid software from the Bid Express website. The Expedite Bid software will allow the bidder to download the Bid Proposal Form and any associated amendment files (aka EBS and .00# files), prepare and submit their bid through the Bid Express website. The Expedite Bid software is free of charge. The Bid Express website is located at <https://www.bidx.com>.
- I. When submitting a bid electronically, bidders must complete all required bid documents and acknowledgements (folders) located in the Bid Proposal Form (aka EBS file), as applicable to the proposal.
- J. Bidders must scan and submit the bid bond in PDF format, properly completed and signed, prior to the date and time of the bid opening, via a single email to [dotbid@ct.gov](mailto:dotbid@ct.gov). In the subject matter of the email please enter "Bid Bond – Project Number(s) xxxx-xxxx". The original signed bid bond will be required of the low bidder within 7 days after the bid opening.
- K. DOT encourages all bidders to file an "Annual" Bid Bond with the Department so that the bidder does not have to submit a bid bond each time they bid on a specific project/proposal.**
- L. All bidders must file (upload) the Affirmation of Receipt of State Ethics Laws Summary (OPM Form 6) and the Consulting Agreement Affidavit (OPM Form 5) with the Department of Administrative Services (DAS) online system (Biznet). The Forms are no longer contract specific, but are required to be uploaded to the DAS online system (Biznet) prior to award and/or execution of any contract. Please access the LINK below to subscribe to Biznet and download the "Vendor Guide to Uploading Affidavits and Nondiscrimination Forms Online (PDF)".

<http://das.ct.gov/cr1.aspx?page=371>

Once the applicable “Forms” are on file with the DAS online system (Biznet), the contractor’s obligation is complete, until the need for revisions/updates and/or new annual submission as required by the specific Form.

#### M. Joint Venture Bidding

The Department must receive the Request for Bid Proposal Form and the letters from all parties related to the joint venture, explaining their intent to bid as a joint venture (per the Construction Contract Bidding and Award Manual) at least 30 days prior to the bid opening date to allow the joint venture sufficient time to obtain a Digital ID in accordance to Bid Express policy.

The bidder (all parties of the JV) will receive an email confirmation from the Department that will validate/approve the bidder (the joint venture) to bid on that specific project only. As part of the email confirmation, the Department will also assign the “joint venture” a “vendor ID”. The vendor ID will be needed to obtain a Digital ID with Bid Express, for the joint venture.

### **X. BID OPENING**

On the date, time, and place designated in the bid advertisement, and in the related Notice to Contractors or addendum notice, the encrypted electronic bid proposals are publicly opened, and the apparent bid totals are posted for public view.

### **XI. REVIEW OF BID PROPOSALS AND AWARD OF CONTRACTS**

After the bid proposals are opened and posted on the Bid Express website, the Department will review the bids for responsiveness and the Department may award the work to the apparent lowest qualified bidder.

Bid proposals are reviewed for “responsiveness” in various respects to determine if they comply with applicable bid requirements, statutes, regulations, the Department’s Standard Specifications and the requirements of this Manual. The standard Bid Proposal Form (aka EBS file) contains

the following documents: Schedule of Items, Bid Proposal Form, Non-collusion Statement, FTA-Buy America Certificate, Certification Regarding Lobbying, Affidavit/Certification/Affirmation Forms Acknowledgement, Approved/Validated Prospective Bidder Acknowledgement, Bid Bond Acknowledgement, Pre-Bid Q and A Acknowledgement.

The Department may only conduct a review of the 3 lowest apparent bids for responsiveness, and may only respond to the top 3 bidders with an official rejection letter if applicable. In a case where any of the 3 lowest bids are rejected, the Department will review the next lowest bid as applicable. As a matter of general practice, bidders should not expect to receive an official rejection letter, if applicable, if they are ranked the fourth lowest bid or greater. Ultimately, it is the bidder's responsibility to review, understand and adhere to all bid instructions, requirements and specifications.

Bidders shall not assume that just because the Department "received" their bid proposal (i.e. ranking 10 of 10 bids), that may have contained errors and/or omissions, that the Department will award a bid that contains errors and/or omissions, similar to, and submitted in previous bid proposals.

As required by the bid documents/project specifications or as directed by the Manager, but in no case more than fourteen (14) calendar days after the bid opening, the lowest bidder shall furnish to the Manager all required submittals, properly executed on the forms provided by the Department, such as, but not limited to:

1. Disadvantaged Business Enterprises or Small Business Enterprises documentation. (Due 7 days after bid opening, until January 1, 2017 at which time all Disadvantaged Business Enterprise or Small Business Enterprise documentation will be due 5 days after bid opening)
2. Contractor's Expected Progress Chart - Schedule of progress or a Bar Chart for the project work., This pre-award bar chart should generally meet the requirements of Section 1.05.08 of the Standard Specifications, identifying the major parts of the project work (including utility relocations) and the critical path at a higher level of detail. It should be clear to the reviewer that the low bidder understands the project requirements. The goal is that the pre-

- award schedule should be consistent with and/or the basis for the more detailed baseline schedule that is required after award.
3. Statement of Anticipated Source of Materials - If requested, samples of such materials will be furnished at the bidder's expense. They may be subjected to the tests provided for in the contract to determine their quality and fitness for the work.
  4. Affirmative Action Plan Certification – Contractors must have an approved Affirmative Action Plan on file with the Office of Contract Compliance.
  5. Certificate of Compliance with OSHA Standards (CGS Sec 31-57b)
  6. Department of Motor Vehicles – Motor Carrier Review for State Contract Awards (not an actual submittal) – Please refer to the DMV website at [www.ct.gov/dmv](http://www.ct.gov/dmv) to obtain important information about the process and qualifying requirements. A rating of "Does Not Meet Minimum Requirements (DNMMR)" may jeopardize the award of the contract.
  7. Additional Part C (Affidavit) – Statement of outstanding work as referred to in Paragraph C. below within this Section of the Manual.
  8. The original Bid Bond within 7 days of the bid opening date.

The apparent low bidder will be issued a "low bid" letter by the Contracts Office following the bid opening. The letter will provide direction regarding the above required submittals that are due prior to award (acceptance of bid).

Failure to make all required submissions within the time designated by the Department, unless a time extension has been approved by the Department, will likewise be deemed a failure to satisfy the conditions for voiding of the Bid Bond required for all bids and the Bid Bond shall be retained and used by the Department as specified in the Bid Bond.

The Commissioner reserves the right to do any of the following without liability: a) waive technical defects in bid proposals as he or she may deem best for the interests of the State; b) reject any or all bids; c) cancel the award or execution of any contract prior to the issuance of the "Notice to Proceed;" and d) advertise for new bids.

**A. RULES FOR AWARD OF CONTRACTS IF THE AGGREGATE AMOUNTS OF THE BIDS FOR WHICH A GIVEN BIDDER IS THE APPARENT LOWEST BIDDER ON A GIVEN DAY WOULD PLACE THAT BIDDER OVER ITS BIDDING CAPACITY**

A contractor may be issued and may submit proposals for more than one bid to be opened on the same day, but any and all bids which place the contractor in the position of exceeding its bidding capacity may be rejected. If the contractor is found to be the apparent lowest bidder for a project, and its bid for that project does not place the contractor over its bidding capacity or project bid limit, the contractor may be awarded a contract for that project; but any and all subsequent bids opened on the same day which would place the contractor in the position of exceeding its bidding capacity will be rejected. If a bidder proves to be the apparent low bidder for more than one contract on a given day, but its capacity is adequate only for the award of one of the contracts, the bidder shall not have the power to choose which contract to accept; the bidder will be awarded the contract(s) in the order of bid value, starting with the highest bid, to the lowest bid value, until the bidder's bid capacity is insufficient to cover the "next" contract.

If a bidder proves to be the apparent low bidder for more than one contract for which bids are opened on a given day, and if that bidder has sufficient bidding capacity to be awarded more than one of those contracts, **but** the bidder believes that it will not have sufficient other resources to perform all of its obligations under more than one of those contracts, it may submit a written request to the Manager, explaining its lack of adequate resources and asking to withdraw from consideration for the award of more than one of those contracts. The decision to grant or deny such a request will lie in the sole discretion of the Department, and such a request will not likely be granted, except under unusual circumstances of understandable mistake, improbable events, or other exceptional cause. The contractor may not, in any event, choose which of the contracts it will enter into from that day's bidding; it must accept them in the order of bid value as stated above, until its available resources are insufficient to meet the obligations of the "succeeding" contract.

**B. NON-COLLUSION AFFIDAVITS**

The statement of non-collusion which is part of the electronic bid proposal documents (aka ebs file) (which complies with the requirements of

Title 23, CFR Part 635.112) shall be completed and submitted with the bid. Failure to complete and submit this statement of non-collusion with the bid proposal will result in rejection of the bid as nonresponsive.

### **C. ADDITIONAL PART C**

The Part C statement of outstanding work required when requesting a bid package for bids must be submitted as a pre-bid requirement. In addition, the apparent low bidder must submit an updated Part C to the Department within 14 days after the bid opening, or as specified by the Contract Manager.

The information about the outstanding work indicated in the Part C must be the most recent that is available from the bidder's record-keeping and accounting system, after the date of the bid opening for the contract that is pending award.

The Part C must be an original, completed, notarized and signed by an individual authorized to sign legal documents and contracts on behalf of the bidder.

In submitting a Part C, a bidder may, in lieu of providing on the Part C itself all of the information required under "NOTE" in the Part C, provide that information on a spreadsheet or other such supplemental form which shall be attached to the Part C. Such a supplement must, however, provide all of the information required under "NOTE" in the Part C, and the Part C must contain a statement specifically incorporating the contents of the attached supplement. In addition, the Part C itself still must be an original, completed, notarized, and signed by an individual authorized to sign legal documents and contracts on behalf of the bidder.

If the Commissioner deems that a bidder's failure to provide timely and accurate information about its outstanding work was intentional on a contractor's part, and was designed to deceive the Department as to the bidder's true bidding capacity or in some other respect, the Commissioner may deem that failure to be sufficient cause for finding the bidder non-responsible if it should become the apparent low bidder for a Department contract.

A photocopy of the Part C may be used for a submission, provided

that it is a clear and complete reproduction of the Department's form. An altered version of the form is not acceptable.

Failure to comply with these requirements may result in the bid being rejected as nonresponsive. In addition, if the Additional Part C submitted by the apparent low bidder indicates that the apparent low bidder has insufficient bidding capacity to be eligible for award of the contract, and the Contractor is unable to provide a letter from a Surety Company that satisfies the requirements of Section VI.D.5.b. of this Manual, within the time specified by the Manager, the apparent low bidder's bid will be rejected as nonresponsive.

The Department reserves the right to determine whether or not a contractor has sufficient bidding capacity, or capacity to complete the work of a potential award of a contract as it may deem appropriate or in the best interest of the State, and to request any additional information necessary to substantiate or clarify the information in the Additional Part C.

## **D. BONDING**

Except when otherwise specified, no proposal will be considered unless a proposal guaranty in the form of a bond from a surety company, satisfactory to the Commissioner, on the form furnished by the Department, in an amount equal to at least 30 percent of the amount of the bid was submitted to the Department as required by the bid documents (via the [DotBid@ct.gov](mailto:DotBid@ct.gov) email) prior to the bid opening unless the bidder has on file in the Contract Section an annual bid bond in the proper amount. If a bid bond is not received per the requirements of the bid documents/instructions, the bid proposal will be rejected as nonresponsive. Refer to Electronic Bidding Instructions for details on Bid Bond submission.

### **1. Bid Bonds and the United States Treasury Listing**

No bid bond will be accepted by the Department unless: (a) it is written by a bonding company that appears in the United States Department of the Treasury's current listing of sureties approved to issue bonding for federal construction projects, and (b) the bond is written for an amount that does not exceed the bonding company's underwriting limitation as stated in the current edition of said listing. Any bid proposal which includes a bid bond that does not meet these requirements will be rejected as



nonresponsive.

## 2. Annual Bid Bonds

In lieu of submitting a bid bond for each individual contract project for which a contractor bids, the contractor may file with the Manager, on the form provided by the Department, an annual bid bond to cover any Department contracts for which the contractor becomes the apparent low bidder during the year covered by the bond. If the unused amount of an annual bid bond is insufficient to meet the bonding requirement for a given bid, the bidder must submit a separate bid bond in the full amount required for that bid; the remaining portion of the annual bid bond may not be applied toward the bid bond requirement for the subject bid.

## 3. Defects in Bid Bonds

Any defect in a bid bond submitted for a bid proposal may result in the rejection of the related bid proposal. Any defect in the bond which the Department deems to be material will result in the automatic rejection of the bid. No such material defect may be cured once the bid is opened, since the desired coverage must take effect at the moment the bid is opened.

## 4. Reinsurance and Coinsurance

No reinsurance or comparable offering or arrangement will be accepted in connection with bid, payment, or performance bonds. Neither will coinsurance be acceptable with respect to bid bonds. Coinsurance will be acceptable, however, for payment and performance bonds, subject to the following limitations:

- (a) For contracts with a bid price of less than ten million dollars (\$10,000,000), no coinsurance will be accepted.
- (b) For contracts with a bid price of between ten million dollars (\$10,000,000) and fifty million dollars (\$50,000,000), a maximum of two (2) insurers may provide the bonding as coinsurers.
- (c) For contracts with a bid price of more than fifty million dollars (\$50,000,000), a maximum of three (3) insurers may provide the bonding as coinsurers.

Proposed coinsurers must understand and agree that the Department will be entitled to hold all sureties which execute Payment and Performance Bonds as coinsurers jointly and severally liable for the entire obligation set forth by the bonds which they provide as coinsurers. Sureties will not be allowed to limit their individual obligations under such bonds to anything less than liability for the full amount of the bond.

#### **E. UNBALANCED BIDS**

While it is often impossible to designate precisely the dividing line between a balanced bid and an unbalanced bid, contractors should be aware that in some cases the Department may regard the unbalancing of a bid as so extreme, undeniable, or detrimental to the interests of the State that it may question the contractor about the apparent unbalancing of the bid proposal, and may, if the contractor cannot provide a satisfactory explanation of the apparent unbalancing, reject the bid as nonresponsive.

#### **F. BIDS WITH ERRORS REGARDING STATEMENT OF PRICES**

##### **1. Bid Proposals in Which the Bidder Has Left One or More Spaces Blank in the Listing of Unit and Total Prices for Contract Line Items.**

With respect to such bids, and as a result of electronic bidding, the Department will reject any bid, as incomplete, that leaves a contract item price blank. An item price entry of zero dollars (\$0.00) on the Schedule of Items (aka Bid Proposal) within the Expedite Bid Software is recognized as a bid price entry, and is considered to be a legitimate bid by the Expedite Software (although not recommended by the Department), as opposed to leaving the item price blank.

#### **G. REJECTION OF BIDS OR BIDDERS**

##### **1. Nonresponsive Bids**

The Commissioner may reject a **bid** proposal as **nonresponsive** if, for instance:

(a) the contractor's project bid limit (determined by the Department), if any, is not greater than or equal to the Department's Engineer's estimate

of the cost of the proposed work; or if the contractor's bidding capacity (determined by the Department) is not equal to or greater than the estimated project cost combined with the value of all other work

- (i) which the contractor has undertaken but not yet completed and
- (ii) for which the contractor is the apparent low bidder, but for which the contractor has not yet been awarded a contract;

(b) the contractor has failed to file with the Department a current contractor's prequalification statement and request for proposal which comply with this manual;

(c) the contractor, since its last submittal of a contractor's prequalification statement to the Department, has failed to provide the Department with revised information required under the provisions of this manual within such time as may have been prescribed by the Department for that purpose;

(d) the contractor has failed in some other way to provide accurate information or documents as and when requested by the Department (if, however, the Department deems a failure of this kind to have been designed to conceal or falsify the truth of a pertinent matter, that failure may constitute cause for finding the bidder non-responsible);

(e) the bid bond or the non-collusion affidavit submitted with the bid proposal is defective or incomplete;

(f) the contractor has not submitted to the Department an affirmative action plan which is currently acceptable to the Department;

(g) the contractor has altered the bid proposal without the written consent of the Manager to do so;

(h) the contractor submits an alternate bid when the bid solicitation and proposal form do not call for one;

(i) the contractor has submitted a bid which the Department regards as unbalanced in a way that is extreme, undeniable, or detrimental to the interests of the State; or

(j) the contractor has submitted a bid proposal which in some way fails to make a full commitment to satisfy all requirements of the subject contract, including all applicable plans and specifications (such failures would include, but is not limited to, any alteration by the bidder of the terms of the bid proposal, the submission of a defective or unenforceable bond, and the failure to provide pricing or other information required by the Department's bid proposal form).

## 2. Non-responsible Bidders

The Commissioner may reject an apparent low bidder as non-responsible if, for instance:

(a) in the opinion of the Commissioner, the contractor should not, for other reasons, be deemed to be qualified to receive an award of the pending contract under applicable laws and regulations;

(b) in the opinion of the Commissioner, the contractor does not have a satisfactory record of compliance with federal, state and local laws and regulations, including, but not limited to, those pertaining to the environment, discrimination, affirmative action obligations, occupational safety and health standards, labor and employment, and the prompt payment of subcontractors and suppliers;

(c) the contractor, or one or more individuals among the contractor's personnel, has been involved in acts of unethical business conduct, criminal conduct, or other wrongdoing;

(d) the contractor or an affiliate of the contractor is currently suspended or debarred by a government entity from bidding for contracts in a jurisdiction within this state or in any other jurisdiction;

(e) in the opinion of the Commissioner, the contractor lacks the necessary and sufficient organization, experience, equipment, skilled employees or agents, or the ability to obtain such equipment or personnel in a timely manner, which would enable the contractor to complete the project in accordance with the contract;

(f) in the opinion of the Commissioner, the contractor does not have a

satisfactory record on one or more of its previous projects with any owner

(i) of performance in accordance with contract provisions, and

(ii) of cooperation with parties for or with whom it has worked, whether those projects were inside or outside of the State of Connecticut, and whether those parties were public or private entities;

(g) in the opinion of the Commissioner, the contractor lacks the financial strength, resources or liquidity necessary to prosecute and complete the project in a timely and satisfactory manner;

(h) in the opinion of the Commissioner, the contractor lacks managers with the experience, knowledge, and good judgment in financial, business, and construction matters which the Commissioner deems necessary to ensure the satisfactory and timely completion of the project;

(i) in the opinion of the Commissioner, the contractor has made significant misrepresentations of fact to or about the Department; or

(j) the Commissioner deems, in his sole discretion, that there is reason to doubt that the contractor will fulfill all requirements of the contract and the law; that the contractor has the financial, managerial, and other resources necessary to do so; or that the contractor will exhibit integrity, honesty, cooperativeness, professionalism, and skill in all dealings related to the performance of the contract, and in all dealings that would arise from or relate to the contract or the underlying project.

## **H. Reciprocal Preference Provision in Award of State Funded Only Contracts**

The following provision does not apply to federal aid contracts.

**Connecticut General Statute Sec. 4e-48. (Note: This section is effective October 1, 2009.) Reciprocal preference provision in award of state contracts. Definitions. Application of provision. List of states with in-state preference published by the State Contracting Standards Board.**

(a) For the purposes of this section, "nonresident bidder" means a business that is not a resident of the state that submits a bid in response to an invitation to bid by a state contracting agency, "resident bidder" means a

business that submits a bid in response to an invitation to bid by a state contracting agency and that has paid unemployment taxes or income taxes in this state during the twelve calendar months immediately preceding submission of such bid, has a business address in the state and has affirmatively claimed such status in the bid submission, "contract" means "contract" as defined in section 4e-1 and "state contracting agency" means "state contracting agency", as defined in section 4e-1.

(b) Notwithstanding any provision of law, in the award of a contract, after the original bids have been received and an original lowest responsible qualified bid is identified, a state contracting agency shall add a per cent increase to the original bid of a nonresident bidder equal to the per cent, if any, of the preference given to such nonresident bidder in the state in which such nonresident bidder resides. If, after application of such per cent increase, the bidder that submits the lowest responsible qualified bid is a resident bidder, the state contracting agency shall award such contract to such resident bidder provided such resident bidder agrees, in writing, to meet the original lowest responsible qualified bid. Any such agreement by such resident bidder to meet the original lowest responsible qualified bid shall be made not later than seventy-two hours after such resident bidder receives notice from such state contracting agency that such resident bidder may be awarded such contract if such resident bidder agrees to meet the original lowest responsible qualified bid.

## **XII. AWARD AND EXECUTION OF CONTRACTS**

### **A. CONTRACT PERFORMANCE BOND AND PAYMENT BOND**

The apparent lowest qualified bidder that has received a written award notice from the Department must also, at or before the time set by the Department for signing the contract documents, deposit with the Manager of Contracts on forms provided by the Department, a surety company bond for the satisfactory completion of the work and surety company bond for the payment of debts pertaining to materials, rental of equipment, and labor used or employed in its performance under the Contract. These bonds shall each be in an amount equal to the amount of the contract at the time of contract signing.

The surety must be a corporate surety licensed to sign surety bonds in the State of Connecticut. The costs of these bonds shall be included in the

general costs of the Project, and the State shall not reimburse the Contractor for them under any listed Contract item.

## **B. FAILURE TO EXECUTE CONTRACT**

Unless the Department and the apparent lowest qualified bidder have agreed upon an extension of time to execute the contract, any apparent low bidder that fails to furnish the required submittals listed below or as defined in the project specifications, and execute the contract within the time specified by the Department after award of the work, shall forfeit its claim to the work; and its Bid Bond shall be retained and used by the Department as specified in the Bid Bond. The Department shall provide 10 calendar days prior written notice of the contract execution date whenever possible.

Submittals Required for Contract Execution:

1. Performance and Payment Bonds
2. Certification of Insurance (ACORD Form)
3. Certificate of Authority
  - a. All required Office of Policy and Management (OPM) forms shall be uploaded to the State's (DAS) Biznet website prior to contract signing. OPM Form 1 – Gift and Campaign Contribution Certification
  - b. OPM Form 5 – Consulting Agreement Affidavit
  - c. OPM Form 6 – Affirmation of Receipt of State Ethics Laws Summary
  - d. OPM Form 7 – Iran Certification

## **XIII. WITHDRAWALS OF CONTRACTS OR PROJECTS**

As bidders should understand, the Department will also not award the subject contract to an apparent low bidder in those cases in which the Department decides to reject all bids and solicit new bids for the contract, or else to withdraw the project with no current plans to readvertise it. Possible reasons for withdrawing a project include, but are not limited to: losses of anticipated project funding, failure to obtain a necessary permit prior to bid or award, discovery of a mistake in estimated bid quantities or a defect in project design, pre-bid or pre-award design changes that significantly change the project, failure to include a necessary contract item in the bid proposal form, elimination of the first two or three lowest bids, failure to receive a bid

price within the available funding limits, or failure to receive enough bids to assure the Department that it has received a competitive or reasonable proposal. In cases of such withdrawals for the best interests of the State or for purposes of maintaining the integrity of the bidding process, complaining bidders may or may not be afforded a meeting with Department representatives to discuss the Department's decision.

In some instances, events may have occurred which delayed the award of the contract for so long that it would not make economic sense for the Department to award the pending contract; **i.e.**, to do so would almost certainly result in the contractor's filing a claim against the Department for substantial delay damages. Such a situation may arise, for instance, because the Department has had unexpected difficulty in obtaining a permit which is necessary for the project. In such instances, as an alternative to its withdrawing and re-advertising the project contract, the Department may offer a responsible low bidder the opportunity to sign an agreement waiving all possible claims that might be based in part on the delay of the contract signing.

#### **XIV. SUBMISSION AND REVIEW OF COMPLAINTS REGARDING BIDDING OR AWARDS**

Connecticut law does not require the Department to provide for bid protests concerning its contract bid and award decisions, and the following does not establish any formal or enforceable right on the part of bidders to hearings on or appeals from the Department's bid and award decisions. Nonetheless, the Department is concerned that all such decisions be made on a sound, fair, and consistent basis. The Department gives, and will continue to give, serious consideration to all complaints from bidders concerning construction contract bids and awards. As most bidders know, the following describes the Department's longstanding practice regarding such complaints.

Any complaints regarding bids or proposed awards should be addressed in writing to the Transportation Manager of Contracts, Contracts Section, 2800 Berlin Turnpike, Room Number 1319, Newington, CT 06111. Such complaints must identify the pertinent project contract, and must state clearly and fully the nature of the complaint, all reasons for the complaint, and any action or remedy sought by the complainant.



The 3 lowest apparent bids are reviewed initially by the staff of the Department's Contracts Section. Any recommendation to reject a bid as nonresponsive will be reviewed by the Contracts Manager. If the Manager affirms such a decision, he or she will send (by email) a letter to the bidder in question, informing them that their bid has been rejected, and explaining the reason(s) for said rejection.

If the bidder wishes to persuade the Department that its bid ought not to be rejected, or wishes to discuss related matters with Department representatives, the bidder must, within five (5) business days following the date of the Department's rejection letter, send to the Manager (by mail and facsimile transmission) a letter stating (1) the bidder's reasons, if any, for believing that its bid ought not to be rejected; (2) any questions that the bidder wants to pose to Department representatives regarding the matter; and (3) the bidder's request, if any, for a meeting with Department representatives to discuss the matter. Following receipt of such a letter, the contents of the letter will be examined and considered by the Director of the Division of Contract Administration, or some higher Department official.

The Department will then either (1) respond in writing to the complainant's letter, affirming or elaborating upon the Manager's initial decision, or modifying or reversing that decision, with an explanation of the reason(s) for doing so; or (2) offer the complainant a meeting with Department representatives at Department headquarters in Newington, at a specified time on a specified date. The complainant may bring legal counsel to such meeting. At such meeting, the complainant may make to Department officials whatever presentation it reasonably deems appropriate, and the complainant should submit copies of any documents that it wants the Department to consider in reviewing pertinent matters or requests.

An apparent low bidder may also be denied award of the subject contract if the Commissioner deems the bidder unqualified or otherwise nonresponsive as such. Causes for nonresponsibility may include, but shall not be limited to, those described in Section X(G)(2) above.

In any instance in which Department representatives believe that there is reason to be concerned about the responsibility of an apparent lowest bidder, one or more internal meetings to inquire into and discuss the causes for that concern will be held among officials from the Department's Bureau of Finance and Administration, and other affected Department bureaus or

divisions. If the consensus of those in attendance is that there is good cause for such concern, a letter will be sent to the bidder by the Bureau Chief (the "Bureau Chief") of the Bureau of Finance and Administration, identifying the subject contract, stating the nature and cause of the Department's concerns, and inviting the bidder to a meeting ("nonresponsibility meeting") with Department representatives. If the bidder wishes to persuade the Department that the Commissioner should not deem it nonresponsible, or wishes to question Department officials as to what the bidder needs to do in order to avoid being found nonresponsible as the apparent lowest bidder for any future Department contracts, the bidder should accept the invitation in the manner prescribed in the Bureau Chief's letter.

Such a nonresponsibility meeting will be presided over by the Bureau Chief or by the Bureau Chief's delegee, and will be attended by other Department officials or employees involved with the causes for concern. Officials or employees from the bidder who have knowledge of matters related directly to the Department's concerns must attend the meeting. The bidder may also be represented at the meeting by any other individuals of its choosing, including legal counsel. (Depending on the circumstances, the Bureau Chief may decide that more than one such meeting is necessary or appropriate.)

Subsequent to such meeting, the Bureau Chief, in consultation with other Department representatives, will make a decision as to whether or not to recommend to the Commissioner that the bidder should be deemed nonresponsible. If the Bureau Chief recommends such a finding, he or she will transmit to the Commissioner a memorandum setting forth the recommendation and specifying the reasons and support for that recommendation. The Commissioner will then review the recommendation and findings with other Department officials, and will inform the bidder of the Commissioner's decision by letter, either adopting the Bureau Chief's memorandum of recommendation and findings (which, in such case, shall be attached to the Commissioner's letter), or directing the Bureau Chief to continue the process of awarding the subject contract to the bidder.

If (1) the causes for the Department's concern regarding the bidder's responsibility have been the subject of prior meetings or correspondence between the Department and the bidder, (2) the Commissioner deems that the bidder has already had ample notice of those concerns and an ample opportunity to be heard in that connection, and (3) time constraints (such as

those imposed by funding deadlines, public safety hazards, or scheduling sequences) make it impracticable to hold a nonresponsibility meeting of the kind described above, the Department may choose not to hold such a nonresponsibility meeting with representatives of the bidder before the Bureau Chief recommends a finding to the Commissioner.

If a bidder for a contract, although it was not itself an apparent lowest bidder for that contract, desires to pursue a complaint about the Department's decision **not** to reject another bidder's bid as nonresponsive, or **not** to find another bidder nonresponsive as the apparent low bidder for that contract, the complaining bidder should follow the same procedures described above for the complaints of apparent low bidders who are refused an award.

#### **A. FEDERAL TRANSIT ADMINISTRATION PROTEST PROCEDURES**

As stated in Federal Transit Administration (FTA) Circular C4220.1F, as may be amended from time to time, a protesting bidder must exhaust all administrative remedies with the Department before pursuing a protest with the FTA. The FTA will review a protest solely with respect to: 1) the Department's failure to follow its complaint/protest procedures as set forth herein or failure to review a complaint/protest; or 2) violations of federal law or regulation.

An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) days of the date the protesting party learned or should have learned of an adverse decision by the Department or other basis of appeal to the FTA.