



# Construction Procurement & Wage Compliance



Your partner in capital project delivery!

## Contract Management Department

# Mission

The mission of the Contract Management Department is to administer the procurement of professional and construction services and to execute and manage contracts essential for the delivery of efficient capital improvements resulting in improved quality of life for all city of Austin residents.

# Presentation Purpose

- Describe:
  - Construction Procurement Process
  - Prevailing Wage Requirements
- Answer questions.
- Request Input:
  - What works what doesn't

# Solicitation Information

- Advertisement – Two to Six weeks:
  - Vendor Connection
  - Austin-American Statesman
- Documents are available at OTC plan room Suite 760 and at plan rooms located throughout the city.
- No Contact Period – Section 00020.
- Attend Pre-Bid Conference (Mandatory Pre-Bids are a must as bid will not be accepted from a Bidder who did not attend).

# Bid Submittal

- Project Manual and Addenda supersede all other sources of information.
- Bids must be received no later than due date and prior to time indicated in Section 00020:
  - 105 W. Riverside Dr., Suite 210
- Bid and Compliance envelope will be time stamped when received.
- Bids will be opened publically:
  - Bidder Names and Base Bid Prices will be read aloud
- Bidder must be registered with City of Austin or Bid will not be opened.
- Technical Review will be conducted after public opening:
  - Ensure all required documents have been provided
  - CPD will verify Prime is registered with City

# Bid Package

- Ensure all Documents are signed legibly in ink by person empowered to do so (corporate resolution).
- Section 00810 – Supplemental General Conditions:
  - May have modification to Bid Submittals – such as No goals, prioritization of Alternates, ROCIP.
- Addenda:
  - May include changes to original documents and must be acknowledged by the bidder.

# Bid Package – Section 00100

- Instructions to Bidders Item 7 – Submission of Bid:
  - Bid Form – 00300U or 00300L
  - Statement of Bidders Experience – 00400
  - Certificate of Non-Suspension – 00405
  - Affidavit – Prohibited Activities – 00440
  - Non-Resident Bidder Provisions – 00475
  - Bid Bond
  - Corporate Resolution
  - MBE/WBE Compliance Documents

# Bid Package – 00300 Bid Form

- Be aware of allowances and Alternates.
- If using Computer print out ensure signature and addenda section is attached:
  - Make sure your bid items correspond **exactly** to the bid item and item description on the City's 00300 bid form.
- Ensure Signature is of person empowered to do so.
- Unit Prices prevail if any mathematical errors.
- Any corrections must be initialed.

# Bid Package – Bidders Experience 00400

- Be complete in answering - Attachments A thru D:
  - Specific areas of relevant experience must be noted. Don't assume City knows.
- If using Subcontractors experience, Attachment E must be submitted with bid.
- Ensure a complete Resume on Project Manager and Superintendent including required work experience.

# Bid Package – Bid Submittal

- Review all documents prior to sealing Bid Package:
  - Brown Envelope – BID.
  - White Envelope – Compliance Plan.
- Allow enough time to deliver Bid Package and Compliance Plan.
- 105 W. Riverside Drive, Suite 210.

# Compliance Plan

- Contract Procurement staff will review to ensure completeness.
- SMBR will evaluate Compliance:
  - Goal Achievement
  - Good Faith Effort documentation
- Subcontractors listed on 00400 **must also** be included on the Compliance Plan.
- All documents must be legible.

# Post Bid information

- Three apparent low bidders.
- Section 00400 attachments E – J if applicable.
- Section 00410 – Statement of Bidder’s Safety Experience including OSHA logs for past 5 years.
- Other information as required to evaluate bid or bidder.

# Clarifying Information Submitted with Bid

- Clarification may be used when information submitted on the Section 00400 or 00410 cannot be properly evaluated.
- Same process may be used for Compliance Plan issues.
- In either case there can be Clarification but not augmentation.

# Non-Responsive Issues

- Bidder is notified if Non-responsive or Non-Responsive when:
  - Person signing documents does not have signature authority
  - No Bid Guaranty
  - Failure to attend Mandatory Pre-bid, if applicable
  - Failure to demonstrate Minimum Experience requirements
  - Failure to submit MBE/WBE Compliance documents
  - Failure to acknowledge Addenda
  - Bidder is Debarred or Suspended
  - Failure to Sign Bid Form
  - Unacceptable Safety Record
  - Violation of Anti-Lobbying Ordinance

# Bid Certification

- A Bid is considered “certified” when all reviews and approvals have been successfully conducted.
- Successful Low Bid is certified and all bidders are notified.
- Bid Bond is returned to each bidder with the exception of Low Bidder.
- Bid Bond is returned to Awarded Bidder after Contract execution.

# Council Award

- Letters of Intent (LOI) required for all subcontractors.
- All vendors , including Subcontractors, must be registered with the City of Austin or Contract can not be executed.
- Council award normally occurs six weeks after Bid certification. Depends on Council Meeting Schedule.
- Item will be posted on draft Council Agenda two weeks prior to actual Award Date during Council Meeting.

# Contract Execution

- Contract Development staff becomes single point of contact.
- Awarded Bidder is notified and required to return:
  - Signed Agreement
  - Payment and Performance Bonds
  - Insurance
  - Updated Corporate Resolution
- All required documents must be received no later than five days after notification.
- Awarded Bidder will receive copies of executed contract.
- Project Manager will:
  - Schedule Pre-Construction Meeting.
  - Issue Notice to Proceed within 60 days after execution.

# General Recommendations

- Know your strengths, weaknesses and business capacity.
- Register as a vendor (online or via mail) and if already registered, update your profile, particularly with email address.
- Check opportunities (online or via email).
- Review solicitation documents carefully – ask for clarifications in writing.
- Attend Pre-Bid Conferences (Mandatory Pre-Bids ) and ask questions.
- Be willing to test the local government markets – by bidding.
- Attend vendor education sessions.

# Prevailing Wage

Davis Bacon and Texas Statute 2258 mandate that prevailing wages be paid for all public construction projects.

# Section 00830 Requirements

- Payment includes wage classifications, minimum wages, and overtime.
- Apprentices must be registered in a DOL approved program or be paid journeyman wages.
- Pay discrepancies can result in payments being withheld.
- Payrolls have record-keeping and accessibility requirements.
- Complaints and Penalties.
- Area Practice – which wage schedule applies.

# Prevailing Wage Rate Determination

- Wage Rate Determination Scales are checked and updated weekly.
- Version in contract applies through contract completion.
- Wage Rates are located in COA Construction contract Section 00830.
  - Heavy and Highway rates.
  - Building Construction rates.
  - Others (Heavy Tunnel, Onshore Pipeline, Offshore Pipeline).
- If more than one determination is included in the contract, the location of the work determines which schedule applies.

# Site Observations

- Initial visit takes place within 3 weeks of the Notice to Proceed. Additional visits can occur at any time. We will:
  - Closely observe workers on site.
  - Check for vendors not on the compliance plan.
  - Verify required Postings.
  - Conduct employee interviews.

# Wage Audits

- Verify compliance with Section 00830 of the Contract by reviewing:
  - Weekly Certified Payroll.
  - Proof of Fringe Benefits (if applicable).
  - Statement of Compliance.
  - Employee Certifications.
  - Payroll Deduction Authorization Forms.
  - Employee Interviews and Observations.

# Wage Audits

- Federally-funded projects
  - Federally-funded projects are monitored throughout their duration.
  - All payroll information must be provided at the beginning of the project.
  - All employees must be paid not less than once weekly for the work performed the previous week.
  - All payrolls must be provided to the City weekly.
  
- Non-federally funded projects:
  - Complaint-driven
    - We can receive a complaint from anyone or discover something during a site visit that will trigger an audit.
  - Random
    - A project is pre-selected for random audit based on Risk Assessment and guidelines for Random Selection of Wage Audits.

# COA Expectations

- Comply with the “Conditions of the Contract”
  - Ensure workers are classified and paid proper prevailing wages.
  - Ensure workers are paid on time.
  - Ensure workers are paid time-and-a-half for overtime hours worked.
  - Ensure required posters are displayed at work site.
  - Ensure that payroll records and required forms are filled out and retained for three years after completion of the contract.

# Common Issues of Non-Compliance

- Failure to provide documents to Owner within 2 working days of request.
- Failure to display required Postings on job site.
- Employees allowed to work under more than one classification without time recorded under each classification or without paying the highest wage rate of the multiple classifications.
- Failure to maintain weekly payroll reports, compliance statements, and other documentation, including documentation from subcontractors.
- Failure to pay employee proper wages due to misclassification of duties.
- Contractor paid straight time for overtime hours worked.
- Apprentices were not enrolled in a DOL approved apprenticeship program.

# How we Ensure Compliance

- What happens if a Contractor violates the Conditions of the Contract?
  - Funds may be withheld from Prime Contractor until back wages are paid.
  - If funds are withheld from Prime, then Prime may withhold from subcontractors until back wages are paid.
  - Future implementation of a Contractor Evaluation Program will consider evaluation of prevailing wage compliance.

# Council Determination

- Recent Changes in Statute Interpretation requires Council make an Initial Determination of a prevailing Wage Violation.
- If arbitration occurs a possible penalty of \$60 per day per occurrence, plus court cost and back wages due may be assessed.
- CMD is reviewing current process to align with new direction.
- CMD will conduct outreach/education effort to ensure Contractors are informed of any changes.

# CMD Contacts

- Contract Management Department: **Contract Administration Division**  
City of Austin, 505 Barton Springs Rd, Suite 1045, Austin, TX 78704
  - **Russell Kyle**
    - Contract Compliance Specialist, Sr.
    - (512) 974-1404
  - **Andrea Pimentel**
    - Contract Compliance Specialist
    - (512) 974-9377
  - **Baldemar Maldonado (Spanish)**
    - Contract Compliance Specialist
    - (512) 974-5629