

Division Guidance Bulletin:

Responsible Bidder, Non-Responsive and Irregular Bids determination

Purpose

This bulletin provides clear guidance on determining responsible bidders and identifying irregular or non-responsive bids during letting and bid opening. The goal is to ensure consistent application of Federal requirements and Department policy when evaluating bids.

Background

During bid openings, each bid must be evaluated to determine whether it is responsive and whether it was submitted by a responsible bidder before it can be read into the record. Bid submittals that appear incomplete or contain discrepancies may require prompt review to ensure they meet minimum requirements. Misunderstandings around the definitions of responsive and irregular bids and responsible bidders can lead to inconsistent application of policies. Clear guidance is necessary to support uniform interpretation, alignment with Federal regulations, and proper handling of bids that could impact award decisions.

Division Guidance

The initial review during bid opening must efficiently determine if each bid is both responsive and submitted by a responsible bidder and will be read into the record. A responsive bid meets all the clearly defined requirements of the advertisement and proposal, while a responsible bidder meets all the defined statutory, regulatory, and department qualifications. Examples that could cause a bid to be non-responsive would be failing to register on the interested parties list, not attending a mandatory pre bid, failing to include issued addendums, or failing to include a bid bond. Examples of a bidder failing to be responsible would be not meeting prequalification or certification requirements, currently under state or federal suspension or debarment, or at the time of letting removed from the directory of firms. Declaring a bid or bidder being nonresponsive or not responsible is not a subjective decision, and reasons often differ based on proposal requirements. Be cautioned this declaration invalidates the bid, the bid will not be read into the record and has no path forward. For any submitted bids not read, the bidder should be identified by name and noted as non-responsive or not responsible in the record.

Bid irregularities differ from responsiveness and responsibility determinations. Irregularities may be identified at letting or during post-letting review, and a bid irregularity does not automatically result in bid rejection. Bid irregularities typically require a detailed review, may require additional evaluation or calculations, or submission of additional documents. Examples of irregularities are calculation errors for unit cost or amount bid

prices, clerical errors, discrepancies, or minor omissions that do not affect responsiveness. Irregularities must be reviewed according to the procedures outlined in the Standard Specifications.

The Contract Standards and Development Unit can be contacted with any concerns and for additional assistance.

Relevant Standard Specifications and details:

Article 102-2 CONTRACTOR PREQUALIFICATION

- Prequalification requirements, types, renewal and requalification.

Article 102-13 RECEIPT AND OPENING OF BIDS

- References base requirements for bid opening and delay of opening.

Article 102-14 REJECTION OF BIDS

- Rejection of irregular bids and unbalanced bids after review.

Article 103-2 CORRECTION OF BID ERRORS

- Details review and correction of errors and irregularities and rejection.
- ★ Details non-responsive bids and differences for certain criteria.

FHWA Links

FHWA 23 CFR Part 635 Subpart A section 635.114 (specifically c to g)
eCFR :: 23 CFR 635.114 -- Award of contract and concurrence in award.

FHWA 23 CFR Part 635 Subpart A section 635.112 (specifically f & h)
eCFR :: 23 CFR 635.112 -- Advertising for bids and proposals.

FHWA Contract Administration Library

- [Bid Opening and Tabulation - Construction Program Guide - Contract Administration - Construction - Federal Highway Administration](#)
- [Rejection of Unbalanced Bids - Contract Administration - Construction - Federal Highway Administration](#)