

Division Guidance Bulletin:

Division Guidance for Withdrawal of Bids

Purpose

To provide guidance on the process for bid withdrawal requests in accordance with specification and department policy. To ensure fair bidding practices and reduce delays of contract awards.

Background

Division lettings, notably SBE and ID/IQ, have seen an increase in the range of bids, inadequate bid preparation, and related requests to withdraw the bid or to not accept the award. Department expectation is for bidders to adequately develop and submit responsible bids with the intent to honor and follow through all bids to contract execution. The department will only allow bids with a verified mistake meeting the criteria to be withdrawn.

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The criteria for a verified bid mistake are listed in article 103-3(A). Clerical mistakes should be corrected per article 103-2. Any initial requests for bid withdrawal immediately failing the criteria should lead to a response from the Division that the bid withdrawal does not meet the specifications, bidders are expected to honor awarded bids, and failure to execute may lead to a review of the bidder's status. This would include any requests not meeting the 48-hour notice, failure to adequately research/price materials or insurance, and workload concerns. Requests such as refusing to accept an award, rescinding bid, or otherwise failing to honor legitimate bids should not be allowed and framed by the Division as rescinding award. When a project is awarded and the bidder fails to execute the contract within 14 days, the Division should contact CS&D/CCU and provide the documentation so notification can be sent to the bidder and a review of the failure. When warranted the bidder status may be revoked for a determined time. In rare cases the Division may extend the execution and submittal of documents in accordance with specifications for just cause, but it should be noted this could lead to dispute if the same allowance was not offered in the future.

Relevant Standard Specifications and details:

Article 103-2 CORRECTION OF BID ERRORS

- Lists the process for correction of errors identified by type; paper vs electronic bids and federal vs state funded.
- Details the criteria that may cause an error to rise to the level of a bid being considered irregular, non-responsive, or rejected.

Article 103-3 WITHDRAWAL OF BIDS-MISTAKE

(A) Criteria

- An actual mistake was made during preparation of the bid.
- Due to a clerical or mathematical mistake rather than carelessness or bad judgement.
- Greater than 3% of the bid amount.
- No prejudice or damage to the Department
- Initial notification must be reasonably made within 48 hours and accompanied by written notice of the mistake; additional bid preparation information must then be submitted.

(B) Hearing by the Engineer

- For Division let awards the initial hearing will be by the Division with direction from CCU; written affidavit required that the documents are original/unedited.
- If unresolved at the Division level, the Division may also share the findings and documentation to CS&D for additional guidance.

Article 103-4 AWARD OF CONTRACT

- Covers notice of award and timeline.
- Bidders may utilize the award limits to prevent being awarded an amount of work they are not capable of performing.

Article 103-5 CANCELLATION OF AWARD

- The department may rescind award for any reason.