

**SECTION 2 – BID REQUIREMENTS AND CONDITIONS
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SECTION 2 BID REQUIREMENTS AND CONDITIONS

2-1 BID PROPOSALS

The Agency will furnish to each prospective Bidder a bid proposal form, which, when properly completed and executed, is the Bidder's Bid for the Work. Bids must be submitted on the Agency-furnished bid proposal form to be valid and accepted. Bids that are not submitted on the Agency-furnished bid proposal form can be rejected. The Bid must also comply with the following requirements:

It must be in English, be legible, and be properly signed by the Bidder if the Bidder is an individual, or by a member of a partnership, or by an officer of a corporation authorized to sign contracts on behalf of the corporation, or by an agent of the Bidder. If submitted by a corporation, the Bid must identify the State under the laws of which the corporation is chartered or organized. Signatures scanned or transmitted electronically are acceptable, with such scanned signatures having the same legal effect as original signatures.

2-1.01 Unit Price Bid

Where the Bid for an item of Work is to be submitted on a unit price basis, the Bidder must bid a unit price as total compensation for completion of one unit of the Work described under that item. Multiply the bid unit price by the Estimated Quantity included in the bid proposal form to derive a total bid price for each bid item. The total amount bid for a unit price contract must be entered on the space provided on the bid proposal form as a grand total of all individual items.

The Estimated Quantities included on the bid proposal form are approximate and are only included in the bid proposal form as a basis for comparison of Bids. The Agency does not represent or agree, expressly or by implication, that the actual amount of Work will equal the Estimated Quantities. Payment will be made for the actual quantity of Work performed in accordance with the Contract. The Agency reserves the right to increase or decrease the amount of any class or portion of the Work or to omit portions of the Work. If the final quantity of an item of Work required under the Contract varies from the Estimated Quantities by 25 percent or more, compensation may be adjusted in accordance with the State Specifications, except that markups are to be applied per Section 9-9, "Markups for Changed Work."

2-1.02 Lump Sum Bid

Where the bid for an item of Work is to be submitted on a "lump sum" or "job" basis, the Bidder must enter a single lump-sum price in the appropriate place on the bid proposal form. Items bid on a lump-sum basis must result in a complete structure, operating plant, or system in satisfactory working condition with respect to the functional purposes of the installation as described in the Contract, and no extra compensation will be paid for anything omitted but reasonably and fairly implied.

2-1.03 Allowances

Where allowance items have been included on the bid proposal form by the Agency, the total amount entered on the bid proposal form must be included in the Total Bid Price. However, the total amount to be paid for the Work included in the Allowance is the amount of the Allowance actually utilized in the course of completing the Work.

2-2 PREPARATION AND SUBMISSION OF BIDS

By submission of a Bid, the Bidder acknowledges that the Bidder has examined the job site and Bid Documents and that the Bidder understands and accepts the nature and location of the Work, the general and local conditions to be encountered, conditions of the site, the character, quality and scope of the Work, the availability of labor, electric power, water, the character, quality, and quantity of surface and subsurface (as identified in the Bid documents or as are readily predictable by an observant person) materials or obstacles on the site, the quantity and type of materials and equipment to be furnished, and all requirements of the Contract or other matters which can affect the Work or the cost. Failure of a Bidder to become acquainted with all of the available information concerning conditions does not relieve the Bidder of the responsibility for properly estimating the difficulties or cost of the Work.

Bid prices must include everything necessary for the completion of the Work and fulfillment of the Contract, including, but not limited to, furnishing all materials, equipment, tools, excavation sheeting, bracing and supports, plant, labor and services, except as provided otherwise in the Contract. Bid prices must also include labor and material escalation and all federal, State, and local taxes, and all other fees and costs not expressly paid for by the Agency as stated in the Special Provisions.

If the estimated Contract amount is \$1,000,000.00 or more, the Bidder must include with the Bid a completed, signed Iran Contracting Act Disclosure Form in accordance with Public Contract Code sections 2202 through 2208. A sample of the required form is included in Appendix A of these Specifications.

Bids must be submitted on the Agency's eProcurement system website as indicated in the Notice to Contractors. All Bid pricing, forms, and attachments requested in the online bid posting must be completed and submitted no later than the date and time indicated in the Notice to Contractors or subsequent Addendum in order for the Bid to be considered by the Agency. Bidders will receive confirmation from the Agency's eProcurement system providing the date and time that the Bid was received by the Agency. Late Bids will not be accepted by the Agency. Bids delivered by hand, fax, telephone, e-mail, or any postal carrier will not be accepted by the Agency.

2-3 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE WORK

The Bidder must carefully examine the site of the proposed Work and the Plans, the Special Provisions, these Specifications, and Bid Documents and must be satisfied as to the character, quality, and quantity of the Work, including surface and subsurface materials or obstacles to be encountered. The submission of a Bid is conclusive evidence that the Bidder is satisfied through the Bidder's own investigation as to the conditions to be encountered; the character, quality, quantity and scope of work to be performed; and the materials and equipment to be furnished.

If material discrepancies or errors are found in the Plans and Special Provisions prior to the opening of Bids, an Addendum may be issued (see Section 2-9, "Addenda," in these Specifications). Otherwise, discrepancies or conflict among the Plans, the Special Provisions, these Specifications, and Bid Documents are governed by Section 4-1, "Intent of Contract Documents."

2-4 SUBSURFACE CONDITIONS

Investigations of subsurface conditions by the Agency are made for the purpose of design only. There is no guarantee, either expressed or implied, that the conditions indicated are representative of those existing throughout the Work, or any part of it, or that unusual site conditions might not occur. Unusual site conditions are defined in Public Contract Code section 7104 and Section 7-6, "Unusual Site Conditions," of these Specifications.

2-5 CONTRACTORS/SUBCONTRACTORS TO BE LICENSED AND REGISTERED

The Bidder must hold a valid Contractor License under the provisions of chapter 9 of division 3, of the Business and Professions Code (commencing with section 7000) and be registered pursuant to Labor Code section 1725.5 as noted in the Notice to Contractors. Unless specified otherwise in the Special Provisions, the Bidder must indicate the license number and class in the space provided on the Bid proposal.

Subcontractors engaged to perform portions of the Work must be licensed under the provisions of Business and Professions Code section 7000 et seq. and be registered pursuant to Labor Code section 1725.5 to do the type of work for which they are subcontracted. Subcontractor license numbers must be provided to the Agency as required by Section 2-8, "Subcontractors," of these Specifications.

Failure of the Bidder to obtain proper and adequate licensing prior to Bid opening may render the Bid non-responsive. Pursuant to Public Contract Code section 20103.5, projects that receive federal funding may not be subject to this requirement.

2-6 COMPETENCY OF BIDDERS

It is the intent of the Agency to award a Contract only to a Bidder who furnishes satisfactory evidence of requisite experience and ability and has sufficient capital, facilities, and plant to prosecute the Work successfully and promptly and complete the Work within the time stated in the Contract.

If required by the Special Provisions, a statement of experience and business standing, together with that of all Subcontractors designated in the Bid, must be submitted on an Agency-provided form by the three (3) apparent low Bidders within three (3) Working Days of Bid opening.

To determine the experience of a Bidder, relevant evidence that the Bidder, or Bidder's personnel, has satisfactorily performed on other contracts of similar nature and magnitude or difficulty will be considered.

2-7 JOINT VENTURE BIDS

If two or more prospective Bidders desire to bid jointly as a joint venture on a single project, the joint venture Bid must be accompanied by a notarized copy of a valid license issued to the joint venture by the Contractors State License Board. If a copy of the joint venture license is not filed with the Bid, award of the Contract might be delayed, or the Bid may be rejected.

2-8 SUBCONTRACTORS

Unless noted otherwise in the Special Provisions, the Contractor agrees to perform with its own organization Contract work amounting to at least thirty percent (30%) of the total bid price, excluding specialty items designated by the Agency on the bid proposal form. The total price bid includes the cost of material and manufactured products that are to be purchased or produced by the Contractor under the Contract. Specialty items may be performed by subcontract, and the amount of any such specialty items performed may be deducted from the total bid price before computing the amount of work required to be performed by the Contractor's own organization. "Its own organization" means only workers employed and paid directly by the Prime Contractor, and equipment owned or rented by the prime contractor, with or without operators. Employees or equipment of a subcontractor, assignee, or agent of the Prime Contractor are not part of the Contractor's organization. "Specialty Items" are limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and are limited to minor components of the overall contract. Where an entire item is subcontracted, the value of work subcontracted is the Contract item bid price. When a portion of an item is subcontracted, the value of work

subcontracted is the estimated percentage of the Contract item bid price, determined from information submitted by the Contractor, subject to approval by the Agency. In accordance with the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.), each Bidder must list in his or her Bid each Subcontractor that will perform work in an amount in excess of 1/2 of 1 percent of the total bid or, in the case of a Bid for the construction of streets or highways, including bridges, \$10,000, whichever is greater, and the name, address, Contractors State License Board number and work portions to be performed by each Subcontractor listed. Show work portions by bid item number, description, and percentage of each bid item subcontracted. Each Subcontractor must have an active and valid State Contractor's license with a classification appropriate for the work to be performed. Bidders must complete all requested fields for each Subcontractor listed on the designation of subcontractors form provided in the Agency's eProcurement system, and upload and submit a completed form with their Bid. Failure to do so may render the Bid non-responsive. The Contractor may not list a debarred Subcontractor; a current list of debarred contractors is available at the Department of Industrial Relations' website. If a Bidder fails to specify a Subcontractor for a portion of the Work or specifies more than one Subcontractor for the same work, the Bidder agrees that the Bidder is fully qualified to perform and will perform that portion of the Work. If, after the award of the Contract, the Contractor subcontracts a portion of the Work, except as provided in Public Contract Code sections 4107 and 4109, the Contractor may be subject to the penalties specified in Section 4110 of the Act, and the Agency may refer the violation to the Contractors State License Board. A listed Subcontractor must perform, with the Subcontractor's own organization and with workers under the Subcontractor's immediate supervision, work of a value of not less than 75 percent of the value of each item of work for which the Subcontractor is listed. Pursuant to Public Contract Code section 6109, a Contractor cannot perform work with a Subcontractor who is ineligible to perform work on public works projects pursuant to Labor Code sections 1777.1 and 1777.7. The apparent low Bidder must submit the license numbers of all Subcontractors to the Agency within 3 Working Days of Bid opening. If the low Bidder is not the apparent low Bidder, the low Bidder must submit the license numbers of all listed subcontractors to the Agency within 3 Working Days of the date notified. The Contractor must include provisions in every Subcontract that the Contract between the Contractor and the Agency is part of the Subcontract, and that all terms and provisions of the Contract are incorporated in the Subcontract. Copies of all Subcontracts are to be provided to the Agency within 2 Working Days of a written request. No Subcontract releases the Contractor from the Contract or relieves the Contractor of their responsibility for a Subcontractor's work. If the Contractor violates Public Contract Code section 4100 et seq., the Agency may exercise the remedies provided under Public Contract Code section 4110. The Agency may also refer the violation to the Contractors State License Board as provided under Public Contract Code section 4111. Each Subcontract must comply with the terms of the Contract.). The Contractor shall provide copies of Subcontracts to the Engineer upon request.

Subcontractor who fails to prosecute the work satisfactorily shall be immediately removed by the Contractor and not used again.

2-9 ADDENDA

The correction of material discrepancies in, or material additions to/omissions from, the Plans, the Special Provisions, these Specifications, or Contract Documents, or an interpretation thereof, during the bidding period will be made only by an Addendum issued by the Agency. Addenda will be posted on the Agency's eProcurement system website and available for review by all Bidders. Bidders must acknowledge all Addenda before submitting a Bid. All Addenda become part of the Contract Documents upon issuance. Interpretations or explanations not included in an Addenda shall not be considered binding.

2-10 ASSIGNMENT OF ANTITRUST ACTIONS

The Bidder must comply with Public Contract Code section 7103.5(b), as follows:

“In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment must be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.”

2-11 BID GUARANTEE

The Bid must be accompanied by a Bid Guarantee in the form of cash, a certified check, a cashier's check, or a Bidder's bond. The Bid Guarantee must be executed by an admitted surety insurer in favor of the Agency, the amount of which must be not less than 10 percent of the base Bid amount, or other security acceptable to the Agency. Bids not accompanied by a Bid Guarantee will be rejected.

The Agency is authorized to forfeit sums of the Bid Guarantee as specified in Section 3-8 of these Specifications.

Bidders must upload a copy of their Bid Guarantee and submit it with their Bid in the Agency's eProcurement system. After Bids are opened and the apparent lowest bidders identified, the apparent low Bidder must deliver their original Bid Guarantee to the Agency by 4:00 PM the first Monday following Bid Opening, to: County of Sacramento, Contracts & Purchasing Division, 9660 Ecology Lane, Sacramento, CA 95827. If the Agency rejects the apparent low bid, subsequent bidders must deliver their original Bid Guarantee within two working days of the County's written request.

2-12 WITHDRAWAL OF BID

A Bid may be withdrawn prior to the time stated for the submission of Bids in the Notice to Contractors by canceling or deleting the submitted Bid in the Agency's eProcurement system. The withdrawal of a Bid does not prejudice the right of a Contractor to file a new or revised Bid in accordance with the Notice to Contractors. Bids may be revised in the Agency's eProcurement system at any time prior to the Bid due date and time.

2-13 PUBLIC OPENING OF BIDS

Bids will be publicly opened by electronically unsealing the Bids on the Agency's eProcurement system website as indicated in the Notice to Contractors or a subsequent Addendum. Bidders and the public can view Bids received on the Agency's eProcurement system website after the Bid due date and time.

2-14 REJECTION OF BIDS

The Agency reserves the right to reject any and all Bids. Bids containing omissions, erasures, alterations, conditions, or additions not called for may be rejected. The Agency reserves the right to waive irregularities in a Bid and to make an award in the best interests of the Agency.

A bid in which the prices are unbalanced may be rejected. For purposes of this section, a Bid is “unbalanced” when unreasonably high values are placed on certain items in a unit price contract, and unreasonably low prices are placed on other items for the purpose of receiving large

payments at the beginning of the Contract period, or for maximizing the Bidder's profits on items that will be used in greater quantities than what is estimated in the bid proposal form (and, consequently, under-pricing items the Bidder believes will be used in significantly lesser quantities.) The Agency's determination on what constitutes reasonable pricing shall be final.

2-15 STATEMENT OF NON COLLUSION

Each Bidder is required to file a statement of non-collusion in accordance with Public Contract Code section 7106 of the Public Contract Code. Failure to submit a statement will result in the Bid being considered non-responsive. If there is collusion among Bidders, Bids submitted by those Bidders will not be considered. A sample of the required form is included in Appendix A of these Specifications.

2-16 RELIEF OF BIDDERS

Attention is directed to Public Contract Code sections 5100 through 5107 concerning relief of Bidders, and in particular to the requirement in section 5103 that, if the Bidder claims a material mistake was made in its Bid, the Bidder must give the Agency written notice of the mistake within 5 Working Days after the opening of the Bids, specifying in detail how the mistake occurred.