**APPROVED DOCUMENT—**This document is approved by the Office of the President and Office of the General Counsel for use by the Facility.

**Instructions to Bidders**

**Cover Sheet and Instructions**

|  |  |
| --- | --- |
| PURPOSE OF DOCUMENT: | Provides or explains the following: definitions of terms used in the bidding documents, bidder's representations, information regarding the bidding documents and the pre-bid conference, bidding procedures, bid consideration procedures, and bid protest procedures. |
| CROSS-REFERENCES TO FACILITIES MANUAL (FM): | *FM 5:5.1.5* |
| CONTENTS: | *Instructions to Bidders* |
| FOR USE WITH: |  | Long Form(LF & LF-UCIP) |  | Brief Form(BF) |  |  Multiple Prime(MP & MP-UCIP) |
|  | Design Build(DB & DB-UCIP) |  | CM at Risk(CM & CM-UCIP) | √ | Job Order Contract(JOC) |
|  | Mini Form (MF) |  |  |  |  |
| COMPLETED BY: |   | Filling In |  | Adding Text | √ | No Data Required |
| ITS USE IS: | √  | Required |  | Optional |

**NOTE:** This document is a core document. Revisions to this document are made and issued only by the Office of the President.

**Completion Instructions:**

1. Since the Instructions to Bidders is a core document, no completion is required except for the Project Name and Project Number in the header.

**Modifications and Additions:**

1. Since the Instructions to Bidders is a core document, no modifications are allowed to this document. Authorized modifications are made by way of the Supplementary Instructions to Bidders.

**Comments:**

The Facility must determine the date on which a protestor receives the Facility’s written decision on a bid protest because the time within which a bid protest appeal may be filed is measured from that date of receipt. The Facility should contact the protestor to confirm receipt of the decision or send the decision in a manner that will provide confirmation of delivery. (Section 7.2.3)

If the Specifications call for any brand name product, the product name must be followed by the words “or equal” and the Facility must have a procedure in place to evaluate “or equal” submissions.

**END OF COVERSHEET AND INSTRUCTIONS**

**INSTRUCTIONS TO BIDDERS**

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**ARTICLE 1**

**DEFINITIONS**

1.1 Except as otherwise specifically provided, definitions set forth in the General Conditions or in other Contract Documents are applicable to all Bidding Documents.

1.2 The term “Addenda” means written or graphic instruments issued by University prior to the Bid Deadline which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections.

1.3 “Adjustment Factor” – See Article 1, Subparagraph 1.1.1 of the General Conditions.

1.4 The term “Bid Deadline” means the date and time on or before which Bids must be received, as designated in the Advertisement for Bids and which may be revised by Addenda.

1.5 The term “Bidder” means a person or firm that submits a Bid.

1.6 The term “Bidding Documents” means the construction documents prepared and issued for bidding purposes including all Addenda thereto.

1.7 NOT USED

1.8 As used in these Instructions to Bidders, the term “Business Day” means any day other than a Saturday, a Sunday, and the holidays specified herein, and to the extent provided herein, if Facility or applicable office of University is closed for the whole of any day, insofar as the business of that office is concerned, that day shall be considered as a holiday for the purposes of computing time in these Instructions to Bidders. Holidays include January 1st and either December 31st or January 2nd, the third Monday in January, the third Monday in February, the last Friday in March, the last Monday in May, July 4th and either July 3rd or July 5th if it falls on a weekend, the first Monday in September, November 11th and either November 10th or November 12th if it falls on a weekend, Thanksgiving Day and the Friday after, December 25th and either December 24th or December 26th, and every day designated by University as a holiday.

1.9 NOT USED.

1.10 As used in these Instructions to Bidders, the term “Facility” means the University’s Facility office issuing the Bidding Documents

1.11 This Job Order Contract (JOC) is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual Job Orders, consisting of specific construction tasks, at different locations. The scope of this JOC Contract is for general construction, repair, remodel and other repetitive related work to be performed for the University.

As jobs are identified, the University will prepare a Detailed Scope of Work and issue a Request for Schedule of Values to the Contractor. The Contractor will then prepare a Job Order Schedule of Values for the work including a Job Order Sum, drawings and sketches, a list of subcontractors and materialmen, construction schedule, and other requested documentation. The value of the Job Order Sum shall be calculated by summing the total of the calculation for each Pre-priced Task (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

1.12 The term “Planholder” means a person or entity known by the Facility to have received a complete set of Bidding Documents and who has provided a street address for receipt of any written pre-bid communications.

1.13 The Scope of Work for this Contract will be determined by the Detailed Scopes of Work issued in connection with individual Job Orders. The Scope of Work, for each job will be explained to the Contractor at a Joint Scope Meeting. The University will provide a Request for Job Order Schedule of Values and Detailed Scope of Work to the Contractor. The Contractor will be required to review the Detailed Scope of Work and develop a Schedule of Values using appropriate tasks, quantities and the applicable Adjustment Factor. A separate Job Order Authorization will be issued for each job. Extra work, credits, and deletions will be contained in a Supplemental Job Order. The University will review the Contractor’s Schedule of Values in detail and if found to be reasonable and acceptable, a Job Order may be issued. The agreed upon price will be a fixed price for the performance of the Detailed Scope of Work.

1.14 The term “Total Composite Bid” means the calculated amount in the Total Award Criteria Figure Calculation section in the Bid Form used to determine the low bid as determined therein.

**ARTICLE 2**

**BIDDER’S REPRESENTATIONS**

**2.1 Bidder, by making a Bid, represents that:**

2.1.1 Bidder has read, understood, and made the Bid in accordance with the provisions of the Bidding Documents.

2.1.2 Bidder is familiar with the conditions under which the Work is to be performed and the local conditions as related to the requirements of the Contract Documents.

2.1.3 The Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception.

2.1.4 At the time of submission of the Bid, Bidder shall have the appropriate current and active licenses issued by the State of California Contractors State License Board for the Work to be performed and any licenses specifically required by the Bidding Documents. If Bidder is a joint venture, at the time of submission of the Bid, Bidder shall have the licenses required by the preceding sentence in the name of the joint venture itself. The State of California Business and Professions Code, Division 3, Chapter 9, known as the “Contractor’s License Law,” establishes licensing requirements for contractors.

2.1.5 Bidder has read and shall abide by the nondiscrimination requirements contained in the Bidding Documents.

2.1.6 Bidder has the expertise and financial capacity to perform and complete all obligations under the Bidding Documents.

2.1.7 The person executing the Bid Form is duly authorized and empowered to execute the Bid Form on behalf of Bidder.

2.1.8 Bidder is aware of and, if awarded the Contract, will comply with Applicable Code Requirements in its performance of the Work.

**ARTICLE 3**

**BIDDING DOCUMENTS**

**3.1 COPIES**

3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement for Bids at no cost.

3.1.2 Bidders shall use a complete set of Bidding Documents in preparing Bids.

3.1.3 University makes copies of the Bidding Documents available, on the above terms, for the sole purpose of obtaining Bids for the Work and does not confer a license or grant permission for any other use of the Bidding Documents.

**3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS**

3.2.1 Bidder shall, before submitting its Bid, carefully study and compare the components of the Bidding Documents; shall examine the local conditions; and shall at once report to University’s Representative errors, inconsistencies, or ambiguities discovered. If Bidder is awarded the Contract, Bidder waives any claim arising from any errors, inconsistencies or ambiguities, that Bidder, its subcontractors or suppliers, or any person or entity under Bidder on the Contract became aware of, or reasonably should have become aware of, prior to Bidder’s submission of its Bid.

3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be addressed only to the person or firm designated in the Supplementary Instructions to Bidders.

3.2.3 Clarifications, interpretations, corrections, and changes to the Bidding Documents will be made by Addenda issued as provided in Article 3.5. Clarifications, interpretations, corrections, and changes to the Bidding Documents made in any other manner shall not be binding and Bidders shall not rely upon them.

**3.3 PRODUCT SUBSTITUTIONS**

3.1.1 No substitutions will be considered prior to award of Contract. Substitutions will only be considered after award of the Contract and as provided for in the Contract Documents.

**3.4 NOT USED**

**3.5 ADDENDA**

3.5.1 Addenda will be issued only by University and only in writing. Addenda will be identified as such and will be mailed or delivered to all Planholders. At its sole discretion, the University may elect to deliver Addenda via facsimile to Planholders who have provided a facsimile number for receipt of Addenda.

3.5.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for inspection.

3.5.3 Addenda will be issued such that Planholders should receive them no later than 3 full business days prior to the Bid Deadline. Addenda withdrawing the request for Bids or postponing the Bid Deadline may be issued any time prior to the Bid Deadline.

3.5.4 Each Bidder shall be responsible for ascertaining, prior to submitting a Bid, that it has received all issued Addenda.

**3.6 BUILDER’S RISK PROPERTY INSURANCE**

3.6.1 University will provide builder's risk property insurance subject to the deductibles in the policy as required by the General Conditions if the requirements of the Project are not excluded by such coverage. A summary of the provisions of the policy is included as an Exhibit to the Contract; the policy may be reviewed at the Facility office. Bidder agrees that the University’s provision of builder’s risk property insurance containing said provisions meets the University’s obligation to provide builder’s risk property insurance under the Contract and, in the event of a conflict between the provisions of the policy and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University’s obligation to provide such insurance.

**ARTICLE 4**

**PRE-BID CONFERENCE**

**4.1** Bidder shall attend the Pre-Bid Conference at which the requirements of the Bidding Documents are reviewed by University, comments and questions are received from Bidders. University requires all Pre-Bid Conference attendees to arrive for the meeting on time and to sign an attendance list, which in turn is used to determine if Bidders meet this requirement. Any Bidder not attending the Pre-Bid Conference in its entirety will be deemed to have not complied with the requirements of the Bidding Documents and its Bid will be rejected.

**ARTICLE 5**

**BIDDING PROCEDURES**

**5.1 FORM AND STYLE OF BIDS**

5.1.1 Bids shall be submitted on the Bid Form included with the Bidding Documents. Bids not submitted on the University’s Bid Form shall be rejected.

5.1.2 The Bid Form shall be filled in legibly in ink or by typewriter. All portions of the Bid Form must be completed and the Bid Form must be signed before the Bid is submitted. Failure to comply with the requirements of this Article 5.1.2 will result in the Bid being rejected as non-responsive.

5.1.3 Bidder’s failure to submit an Adjustment Factor(s) will result in the Bid being considered as non-responsive.

5.1.4 Bidder shall make no stipulations on the Bid Form nor qualify the Bid in any manner.

5.1.5 The Bid Form shall be signed by a person or persons legally authorized to bind Bidder to a contract. Bidder’s Representative shall sign and date the Declaration included in the Bid Form. Failure to sign and date the declaration will cause the Bid to be rejected.

**5.2 BID SECURITY**

5.2.1 Each Bid shall be accompanied by Bid Security in the amount of $25,000 as security for Bidder’s obligation to enter into a Contract with University on the terms stated in the Bid Form and to furnish all items required by the Bidding Documents. Bid Security shall be a Bid Bond on the form provided by University and included herein, or a certified check made payable to “The Regents of the University of California.” When a Bid Bond is used for Bid Security, failure to use University’s Bid Bond form will result in the rejection of the Bid. Bidder must use the Bid Bond form provided by the University or an exact, true and correct photocopy of such form. The Bid Bond form may not be retyped, reformatted, transcribed onto another form, or altered in any manner except for the purpose of completing the form.

5.2.2 If the apparent lowest responsible Bidder fails to sign the Agreement and furnish all items required by the Bidding Documents within the time limits specified in these Instructions to Bidders, University may reject such Bidder’s Bid and select the next apparent lowest responsible Bidder until all Bids have been exhausted or University may reject all Bids. The Bidder whose Bid is rejected for such failure(s) shall be liable for and forfeit to University the amount of the difference, not to exceed the amount of the Bid Security, between the amount of the Bid of the Bidder so rejected and the greater amount for which University procures the Work.

5.2.3 If a Bid Bond is submitted, the signature of the person executing the Bid Bond must be notarized. If an attorney-in-fact executes the Bid Bond on behalf of the surety, a copy of the current power of attorney bearing the notarized signature of the appropriate corporate officer shall be included with the Bid Bond. Additionally, the surety issuing the Bid Bond shall be, on the Bid Deadline, an admitted surety insurer (as defined in the California Code of Civil Procedure Section 995.120).

5.2.4 Bid Security will be returned after the contract has been awarded. Notwithstanding the preceding, if a Bidder fails or refuses, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents, the University will retain that Bidder’s Bid Security. If the Bid Security is in the form of a Bid Bond, the Bid Security will be retained until the University has been appropriately compensated; if the Bid Security is in the form of certified check, the University will negotiate said check and after deducting its damages, return any balance to Bidder.

**5.3 SUBMISSION OF BIDS**

5.3.1 The Bid Form, Bid Security, and all other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the office designated in the Supplementary Instructions to Bidders for receipt of Bids. The envelope shall be identified with the Project name, Bidder’s name and address, and, if applicable, the designated portion of the Project for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation “SEALED BID ENCLOSED” on the face thereof.

5.3.2 Bids shall be deposited at the designated location on or before the Bid Deadline. A Bid received after the Bid Deadline will be returned to Bidder unopened.

5.3.3 Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

5.3.4 Oral, telephonic, electronic (e-mail), facsimile, or telegraphic Bids are invalid and will not be accepted.

**5.4 MODIFICATION OR WITHDRAWAL OF BID**

5.4.1 Prior to the Bid Deadline, a submitted Bid may be modified or withdrawn by notice to the Facility receiving Bids at the location designated for receipt of Bids. Such notice shall be in writing over the signature of Bidder and, in order to be effective, must be received on or before the Bid Deadline. A modification so made shall be worded so as not to reveal the amount of the original Bid.

5.4.2 A withdrawn Bid may be resubmitted on or before the Bid Deadline, provided that it then fully complies with the Bidding Requirements.

5.4.3 Bid Security shall be in an amount sufficient for the Bid as modified or resubmitted.

5.4.4 Bids may not be modified, withdrawn, or canceled within 60 days after the Bid Deadline unless otherwise provided in Supplementary Instructions to Bidders.

**ARTICLE 6**

**CONSIDERATION OF BIDS**

**6.1 OPENING OF BIDS**

6.1.1 Bids which have the required identification as stipulated in Article 5.3.1 and are received on or before the Bid Deadline will be opened publicly.

**6.2 REJECTION OF BIDS**

6.2.1 University will have the right to reject all Bids.

6.2.2 University will have the right to reject any Bid not accompanied by the required Bid Security or any other item required by the Bidding Documents, or a Bid which is in any other way incomplete or irregular.

**6.3 AWARD**

6.3.1 University will have the right, but is not required, to waive nonmaterial irregularities in a Bid. If the University awards the Contract, it will be awarded to the responsible Bidder submitting the lowest responsive Bid as determined by University and who is not rejected by University for failing or refusing, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents.

6.3.2 NOT USED

6.3.3 NOT USED

6.3.4 University will determine the apparent low Bidder on the basis of the Total Composite Bidas defined in Article 1 in these Instructions to Bidders.

6.3.5 The University will post the Bid results in a public place at the address where the Bids are received (unless another address is specified in the Bidding Documents).

6.3.6 University will select the apparent lowest responsive and responsible Bidder and notify such Bidder on University’s form within 50 days (unless the number of days is modified in Supplementary Instructions to Bidders) after the Bid Deadline or reject all Bids. Within 10 days after receipt of notice of selection as the apparent lowest responsive and responsible Bidder, Bidder shall submit to University all of the following items:

.1 Three originals of the Agreement signed by Bidder.

.2 Three originals of the Payment Bond required under Article 11 of the General Conditions.

.3 Three originals of the Performance Bond required under Article 11 of the General Conditions.

.4 Certificates of Insurance on form provided by University required under Article 11 of the General Conditions.

.5 Name of, qualifications of, and references for the Project Manager proposed for the Contract.

6.3.7 Prior to award of the Contract, University will notify Bidder in writing, if University, after due investigation, objects to Project Manager proposed by Bidder, in which case Bidder shall propose a substitute acceptable to University. Failure of University to object to a proposed Project Manager prior to award shall not preclude University from requiring replacement of the Project Manager based upon information received subsequent to award, information which cannot be properly evaluated prior to award due to time constraints, or information relating to a failure to comply with the requirements of the Contract.

6.3.8 If Bidder submits three originals of the signed Agreement and all other items required to be submitted to University within 10 days after receipt of notice of selection as the apparent lowest responsive and responsible Bidder, and if all such items comply with the requirements of the Bidding Documents and are acceptable to University, University will award the Contract to Bidder by signing the Agreement and returning a signed copy of the Agreement to Bidder.

6.3.9 If University consents to the withdrawal of the Bid of the apparent lowest responsive and responsible Bidder, or the apparent lowest responsive and responsible Bidder fails or refuses to sign the Agreement or submit to University all of the items required by the Bidding Documents, within 10 days after receipt of notice of selection, or that Bidder is not financially or otherwise qualified to perform the Contract, University may reject such Bidder’s Bid and select the next apparent lowest responsible Bidder, until all Bids are exhausted, or reject all Bids. Any Bidder whose Bid is rejected because the Bidder has failed or refused, within 10 days after receipt of notice of selection, to sign the Agreement or submit to University all of the items required by the Bidding Documents, shall be liable to the University for all resulting damages.

**ARTICLE 7**

**BID PROTEST**

**7.1 FILING A BID PROTEST**

7.1.1 Any Bidder, person, or entity may file a Bid protest. The protest shall specify the reasons and facts upon which the protest is based and shall be in writing and received by the Facility not later than 5:00 pm on the 3rd business day following:

.1 if the Bid Form does not contain any Alternate(s), the date of the Bid opening;

.2 if the Bid Form contains any Alternate(s), the date of posting in a public place of Bid results.

7.1.2 If a Bid is rejected by the Facility, and such rejection is not in response to a Bid protest, any Bidder, person or entity may dispute that rejection by filing a Bid protest (limited to the rejection) in writing and received by the Facility not later than 5:00 pm on the 3rd business day following the rejected Bidder’s receipt of the notice of rejection.

7.1.3 For the purpose of computing any time period in this Article 7, the date of receipt of any notice shall be the date on which the intended recipient of such notice actually received it. Delivery of any notice may be by any means, with verbal or written confirmation of receipt by the intended recipient.

**7.2 RESOLUTION OF BID CONTROVERSY**

7.2.1 Facility will investigate the basis for the Bid protest and analyze the facts. Facility will notify Bidder whose Bid is the subject of the Bid protest of evidence presented in the Bid protest and evidence found as a result of the investigation, and, if deemed appropriate, afford Bidder an opportunity to rebut such evidence, and permit Bidder to present evidence that it should be allowed to perform the Work. If deemed appropriate by Facility, an informal hearing will be held. Facility will issue a written decision within 15 days following receipt of the Bid protest, unless factors beyond Facility’s reasonable control prevent such a resolution, in which event such decision will be issued as expeditiously as circumstances reasonably permit. The decision will state the reasons for the action taken by Facility. A written copy of the decision will be furnished to the protestor, the Bidder whose Bid is the subject of the Bid protest, and all Bidders affected by the decision. As used in this Article 7, a Bidder is affected by the decision on a Bid protest if a decision on the protest could have resulted in the Bidder not being the lowest responsible and responsive Bidder for the Contract. A written copy of the Facility’s decision must be received by the protester, the Bidder whose Bid is the subject of the Bid protest, and all Bidders affected by the decision no later than 3 business days prior to award of the contract.

7.2.2 Notwithstanding the provisions of Article 7.2.1, at the election of Facility, a Bid protest may be referred directly to University’s Construction Review Board without prior investigation and review by Facility. The Chair of the Construction Review Board will either decide the Bid protest or appoint a Hearing Officer. If a Hearing Officer is appointed, the Hearing Officer will review the Bid protest in accordance with the provisions of Article 7.2.4.

7.2.3 Bidder whose Bid is the subject of the protest, all Bidders affected by the Facility’s decision on the protest, and the protestor have the right to appeal to the Construction Review Board if not satisfied with Facility’s decision. The appeal must be in writing and shall specify the decision being appealed and all the facts and circumstances relied upon in support of the appeal. A copy of the appeal must be received by the Chair, Construction Review Board, not later than 5:00 pm on the 3rd business day following appellant’s receipt of the written decision of Facility, at the following address:

Chair, Construction Review Board

University of California

Office of the President

1111 Franklin Street, 6th Floor

Oakland, CA 94607-5200

Attention: Director, Construction Services

and

constructionreviewboard@ucop.edu

A copy of the appeal must be sent to all parties involved in the Bid protest and to Facility, to the same address and in the same manner as the original protest. An appeal received after 5:00 pm is considered received as of the next business day. If the final date for receipt of an appeal falls on a Saturday, Sunday, or University holiday, the appeal will be considered timely only if received by 5:00 pm on the following business day. The burden of proving timely receipt of the appeal is on the appealing party.

7.2.4 The Chair of the Construction Review Board will review the Facility’s decision and the appeal, and issue a written decision, or if appropriate, appoint a Hearing Officer to conduct a hearing and issue a written decision. If a hearing is held, the hearing shall be held not later than the 10th day following the appointment of the Hearing Officer unless the Hearing Officer for good cause determines otherwise. The written decision of the Chair or Hearing Officer will state the basis of the decision, and the decision will be final and not subject to any further appeal to University. The Chair or Hearing Officer may consult with the University’s Office of the General Counsel on the decision as to legal form. The University will complete its internal Bid protest procedures before award of the Contract.

END OF INSTRUCTIONS TO BIDDERS