



COMMON SENSE RULES FOR BIDDING ON PUBLIC CONTRACTS

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Companies that have a history of being successful bidders on public construction projects are usually companies that take the time and make the effort to understand the dynamics of the bidding agency and the realities of the bidding process. Theory is wonderful, but when push comes to shove, having a complete understanding of the local bidding process, a good rapport with the contacting officer, and the ability to put together a complete response to a request for proposals will greatly enhance the probability that you will be the successful bidder.

I. The Earlier You Get Your Foot in the Door - - The Better

In many situations, you will hear a rumor that an agency is considering requesting proposals for a certain job. Contact the agency and see if you can find somebody willing to talk to you about what is intended. In some cases, you will be able to offer your expertise and actually assist the agency in establishing the parameters of the job. If you are a steel erector, you will want to make sure that the engineer designs a steel structure. However, if you are primarily a concrete contractor, obviously you will push concrete. If you have an opportunity to get involved with the contracting agency at the infancy of the project, you may be able to influence the terms of the final RFP.

Once you have an idea that you want to bid on the project, step up your contacts

with the agency responsible for the RFP and optimally with the contracting officer. Be aggressive without being obnoxious. Meet the contracting officer and leave information about your company. Explain that you want to make sure that you are on the bid list. This is a situation where emails and telephone calls are not sufficient. You want to be in a position where the contracting officer knows you and your company before any RFPs are actually published. Essentially, you want the contracting officer to understand that your company is a responsible contractor capable of doing the job and that you personally are one of the "good guys."

II. When the RFP is Published

When the RFP is published, make sure that your company experts go over the RFP in great detail. Make sure that you understand everything. If you don't understand something, there is usually a contact listed in the RFP to respond to questions. Don't guess. If you are unsure as to what something means, call the contracting officer or his/her representative and get a definitive answer.

If you decide that you are going to respond to the RFP make sure that you submit a complete response. Don't leave anything out. Don't fail to include required information about your company. If you do not file a complete response, you may be

found to be “non-responsive” and your bid will not be considered.

Don’t try to modify the RFP in your response. Unless the RFP specifically states that you are permitted to bid alternatives, you must bid exactly what the RFP calls for. Assume that the RFP calls for a bridge that is painted purple. If you are not given the option of suggesting an alternate color, you must bid a purple bridge. It will not suffice to bid a “gray” bridge and show how the agency will save \$100,000 by eliminating the “purple” requirement. If the bid says they want a purple bridge unless your RFP offers a purple bridge you will be non-responsive.

Get your bid in on time. If the RFP says all bids must be submitted by noon on October 1, don’t call up September 30th and ask for five more days. In all likelihood you won’t get it. Plan to get your bid in prior to the closing time. If the RFP requires that you submit certain additional documents with your bid, include them with the bid when you file the bid. It will not suffice to submit your bid with a notation that supporting documentation will be submitted later.

III. What to Do If the Bid is Awarded to Another Company

While you are in the process of reviewing the request for proposals to determine how to file an appropriate bid, also review the agency’s rules as to how to protest in the event that your bid is not accepted. In this area, time is of the essence. If the rules say that you have 15 days from the time that a bid is awarded to file a protest, that means that your protest must be filed within the 15 day period to be considered. If you file on the 20th day, your protest will not be considered.

Carefully review the bid that was accepted. Make sure that it is responsive. Make sure that it is complete. Determine why the successful bidder was awarded the contract and your bid was rejected. Have your lawyer assist you in developing a protest. Find out what you can find out from the contracting officer and the friends that you have developed at the agency. Before filing your protest, make an analysis of what your chances are for success. One factor to consider is whether you intend to bid on other projects from the same agency. If you expect to have a long term relationship with that agency, make sure that by filing the protest, you will not end up winning the battle but then losing the war.

IV. Conclusion

Bidding a public construction project is similar to other business relationships in that unless both parties to the agreement enter into the agreement with a full understanding of the facts and mutual respect, there is a good possibility that once the contract is executed, there will be problems during the performance phase. As the successful bidder on a public project, your profit will often be dependent on your maintaining a good relationship with the agency involved. No job is perfect and all jobs have problems. If the public agency’s project manager doesn’t want you on the job that project manager can effectively take the profit out of your pocket by being uncooperative. You need to know when to stand up for your rights, but you also need to understand what makes good business sense.

By applying these pragmatic suggestions as part of your business plan, you will increase your opportunities and ensure that when you are a successful bidder, you can maximize the profit opportunities available.