

CESAS-PM-M
DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 889
SAVANNAH, GEORGIA 31402-0889

DISTRICT REGULATION
NO. 1180-1-15

22 April 1993

Contracts
RESPONSE TO INQUIRES FROM PROSPECTIVE BIDDERS

1. Purpose. This regulation establishes the policy and procedures for handling prospective bidder inquiries.
2. Applicability. This regulation is applicable to all team members in the Savannah District.
3. Reference. Federal Acquisition Regulation (FAR) 14.208.
4. Procedure. All inquires from prospective bidders must be handled in a manner consistent with the requirement of the reference.
5. Responsibilities. All inquiries from prospective bidders are to be referred to the appropriate Project Manager (PM) as identified in the Invitation for Bids, Standard Form 1442. In the absence of the PM, the immediate supervisor or other designated PM will act. All inquiries will be recorded on SAS Form 1137, Prospective Bidders Telephone Conversation Log. The completed form will be transmitted to CT-C immediately after bid opening.
6. Policy. Each inquiry from a prospective bidder must be evaluated to see if a problem exists in the bid package.
 - a. When a prospective bidder does not have plans and specifications, he/she should be encouraged to obtain them or use sets available in the respective Dodge, SCAN, Associated General Contractors, Builders Exchange, Savannah Area Minority Contractor Association, and other Minority Associations plans rooms.

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b. Where the inquirer has plans and specifications and the answer to the inquiry is included in the bid documents, he/she should be referred to the proper location in the documents.

c. Where the inquiry brings to light to an area of doubt, the inquirer should be informed that the inquiry will be investigated, and the inquirer will be informed later of the results. A written record of the inquiry will be forwarded to CT-C and PM-A by close of business the day of bid opening.

d. Upon discovery of a problem in the bid documents, the PM, in conjunction with the technical element involved, will evaluate the impact of required changes for correction and furnish recommendations to his/her immediate supervisor.

e. When an amendment would be required to correct or clarify bid documents and it is not possible to issue in time to have it in the hands of the bidders 10 days prior to bid opening, the following evaluations must be made and cleared through channels to appropriate potential Contracting Officer.

(1) Does the correction or clarification require additional time for the bidders to prepare bids?

(2) Is the change small enough to accomplish by telegraph/telephone? All telephone instructions are to be made through CT-C to all prospective bidders and later confirmed in writing.

(3) Does a situation exist which would support a decision to not postpone?

(4) Which action should be recommended to the Contracting Officer?

(a) Telegraphic amendment maintaining bid date. (Permissible only when added time not required for bid preparation. See FAR 14.208).

(b) Postpone bid opening.

(c) Satisfy the Contracting Officer that no alternative to handle the problem exists other than a known construction change. However, known change will be considered only when sufficient time is not available for correction by amendment.

(d) Inform inquirer that bid opening cannot be postponed and to bid based on the interpretation.

(e) Take no action unless a protest is filed.

7. Execution.

a. For routine inquiries that will permit issuance of amendments without delaying bid opening or require telegraphic/telephone amendments, the PM will initiate preparation of the amendment which will be routed through the immediate supervisor for approval and release.

b. For all other inquiries, the PM will prepare the recommendations and carry through channels for final determination. Lowest level that can comfortably determine proper action should finalized the process.

c. On the inquiries that result in a recommendation to delay bid opening, concurrence of the Chief or Assistant Chief, Programs and Project Management Division, shall be obtained.

d. When the Project Manager considers the use of a known change (i.e., the bid opening will not be postponed to allow time for issuance of a clarifying amendment), he/she should consult with his/her Installation Manager/Section Chief (IM/SC), his/her Branch Chief, and CD-Q. After it is determined that a known change will be used, the following action will be taken:

(1) The PM will immediately prepare a memorandum through his/her IM/SC, branch chief, PM-X, PM-MM (military and HTW) or PM-P (civil) and to CT-C. The subject of the memorandum will included the solicitation number. The first paragraph will state that a known change will be issued on the subject PR and briefly state the nature of the known change. The second paragraph will direct PM-M or PM-P, as appropriate to contact the PM to determine the amount of funds to be included in the current working estimate (CWE) for the known change. The last paragraph will instruct CT-C that a Determination and Findings (D&F) regarding the known change will be provided and must be included with the contract package to be signed by Contracting Officer.

(2) The PM will hand-carry the memorandum through his/her IM/SC, branch chief, CD-Q, Chief or Assistant Chief, Programs and Officer. Once the Contracting Officer has approved the known change and initialed the memorandum, it will be hand-carried to PM-MM or PM-P, as appropriate, and a copy of the memorandum will be delivered to CD-Q within 3 days of approval by the Contracting Officer.

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(3) PM-M or PM-P will contact the PM and determine the amount of funds to be included in the award CWE for the known change and transmit the memorandum to CT-C. PM-MM or PM-P will not authorize award of the construction contract unless funds are made available to cover the known change.

(4) The PM will prepare a D&F which will address the following:

(a) Identification of the IFB.

(b) The nature of the known change.

(c) The justification for use of the known change.

(d) A statement that funds have been included in the award CWE to cover the cost of the known change. The PM will route the D&F through his/her IM-SC, branch chief, PM-MM or PM-P, as appropriate, DP, and to CT-C. During the routing, PM-MM or PM-P will annotate on the file copy to certify that sufficient funds are included in the award CWE for the known change.

(5) CT-C will not process the construction contract for signature by the Contracting Officer until the D&F is received and made a part of the package. Upon its receipt, CT-C will include the D&F as part of the package and process for signature.

e. Upon final determination of action to be taken, the PM will inform inquirer of results and fully document the file.

f. The PM will document the file with details of the inquiry and where bid opening is maintained, the basis of decision for not postponing the bid date. Separate log pages will be maintained for each invitation in order to facilitate reference in the event of litigation.

g. Documentation of inquiries are to be routed to PM-A and CT-C before bid opening.

8. Special notes.

a. DEH/BCE's should be notified prior to all bid postponements. SAD should be notified of all postponements except those for O&M projects.

b. Take appropriate action to disseminate requested information or clarification to all prospective bidders, except as noted in (c), below.

c. PM's, immediate supervisors, or higher responsible officials may provide answers to requests for information and clarification to the requester only when the answer is readily apparent to any other reasonable and competent bidder. Instances of this type generally will include clarification of illegibly printed sections of the specifications or sheets of the drawing sheets or specification provisions.

d. These procedures will not be relaxed to accommodate the frantic last-minute telephone calls before bid opening, or requests received too late for issuance of a clarifying amendment. Should such requests require actions and postponement of bid opening is deemed appropriate, the PM shall not hesitate to recommend such postponement to his/her immediate supervisor.

e. In those instances where corrections or clarifications are not issued by amendment, the PM will furnish the estimated cost to the appropriate programming element. Funds shall be reserved in the low bid current working estimate for a known change. The PM will initiate a request to the Construction Division Technical Manager to issue the modification for the known changes immediately after contract award. The request shall be covered in the documents forwarded with the checklist prepared for transition from design phase to construction phase, and furthermore, shall be discussed at transition meeting between the PM and Construction Division Technical Manager.

f. All bidders should be treated equally, i.e., all should be furnished with identical information at basically the same time so that one bidder does not gain an advantage over the others. In no case should information which would offer an advantage be given over the telephone to one bidder in lieu of issuing an amendment to all bidders.

Appendix A
SAS Form 1137

/s/
DONALD R. HOLZWARTH
Colonel, Corps of Engineers
Commanding

DISTRIBUTION C & D
Plus IM-SM (5)
PM-MX (32)

