

102 BIDDING REQUIREMENTS AND CONDITIONS

102.00 Field Office Responsibilities During Bidding

When the Department advertises a project, the Resident Engineer and the Project Supervisor may receive calls from potential bidders with questions about the Project Plans, Special Provisions, and other contract requirements. The Special Provisions will contain extra requirements for Federal Aid projects. During the advertisement the Field Office should register and download the contract documents and any addendums from the ADOT Contracts and Specifications website for distribution to other project stakeholders, ie RME, RTE or local agencies.

In the advertisement for bids the contractor is directed to submit all questions through BidExpress. If the contractors reach out to the Resident Engineer or Project Supervisor during the advertisement, the RE and PS should direct the contractor to submit the question in accordance with the advertisement instructions.

To obtain the most competitive bids, the Department needs to ensure that each contractor is bidding the same project with the same understanding of how to construct the work. Sharing information about the project site conditions may help ensure the Department receives competitive prices for the work it advertises. Cross sections, geotechnical reports, aerial photographs, and survey information are shared with the bidders through the ADOT Contracts and Specifications website.

Withholding information about site conditions or unusual regulatory requirements may lead to lower initial prices, but the low bidder will be quick to ask for extra work as soon as he or she finds actual site conditions different than anticipated. The Department, in the end, pays for the withheld information in the form of change orders and resolved contract claims.

Cross sections may not be available for pavement preservation projects (AC overlays, etc.), or small projects with very limited earthwork quantities (intersection improvements, etc.). For large earthwork projects, the Resident Engineer may want to have the survey crew stake the roadway centerline and any borrow limits. The staking can help bidders visualize the project work in relationship to its surroundings and the existing site conditions.

102.06 Interpretation of Quantities in the Bidding Schedule

Bid quantities are only approximate. They are not intended to precisely define the amount of work the contractor needs to do. The contractors should perform detailed takeoffs from the plans and specifications to accurately determine the required amount of work and quantity of materials.

The bid quantities are presented in the contract for three reasons:

1. They standardize the bid requirements so that each contractor is bidding for the same amount of work
2. Provide a method of measurement for portions of the work so partial payments can be made
3. Help to equitably adjust the contract amount when work needs to be added or deleted

The contractors should compute their own quantities when estimating work, contractors who rely on bid quantities for pricing their work do so at their own risk.

The problem of relying on bid quantities becomes particularly acute for subcontractors and Material Suppliers who may not have easy access to the project plans and specifications. ADOT's Contracts & Specifications Section (C&S) posts the Project Plans and Special Provisions to their website for anyone to download.

102.07 Examination of Plans, Specifications and Site of Work

The previous two subsections mentioned that ADOT has an obligation to contractors and their suppliers to both disclose all available site information and make contract documents readily available. The contractors have a reciprocal obligation to thoroughly examine all of this information, visit the project site, and ask for clarification of anything they don't understand about the project. The intent of this specification is that both partners have a shared responsibility to produce accurate bids that truly reflect what the Department wants built and the costs associated with that work.

Taking Advantage of Errors

Occasionally the Inspector or Project Supervisor may feel that the contractor is taking advantage of an error in the plans or specifications. This usually happens when the contractor is being paid an excessive amount for some portion of the work. The reason may be due to a large quantity variation or a change in the nature of the work not contemplated by Designers. Sometimes Designers miscalculate quantities or simply misjudge what is required to accomplish the work.

Regardless of the reason, in order to get the contractor to equitably adjust unit prices, the Department must show that the error or omission was readily apparent at the time of bidding. If the error or omission becomes apparent during construction, then the Department has no case under 102.07.

Other resources the Department may pursue in this situation include:

- A reverse differing site condition under 104.02(B)
- A breach of the covenant of good faith and fair dealing described in 104.01(A)
- A violation under 105.06 if the contractor is taking advantage in some other way

Oral Explanations

As mentioned above, ADOT staff needs to be careful about what they say to contractors during the project bidding period. The intent is not to inadvertently change the contract requirements or to give an unfair advantage to one or more bidders.

Although 102.07 contains a waiver about oral explanations or instructions, contractors will still defend the legitimacy of oral explanations, especially if documentation or other evidence substantiating the communication can be produced. During pre bid conferences, the discussions between the Department and potential bidders are recorded and transcribed. These discussions are no longer interpreted to be oral explanations or instructions since a written version does exist.

The bottom line is that representatives of the Department need to be very careful about what they say to bidders. This means researching and discussing questions internally, then answering accurately and consistently.

Keeping silent can be inappropriate especially when tough questions are asked about glaring defects in the plans or specifications. The intention shouldn't be to conceal, but to be honest and open to the bidders.