

ARTICLE 5

REQUIREMENTS FOR BIDDING OR PROPOSING ON AUGUSTA, GEORGIA CONTRACTS

Sec. 1-10-40. Responsibility of bidders and proposers.

- (a) *Determination of responsibility.* The level of responsibility of the bidder or proposer shall be ascertained for each contract awarded by Augusta, Georgia based upon full disclosure to the Procurement Director concerning the person's capacity to meet the terms of the contract and based upon the person's past record of performance on similar contracts, the bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by Augusta, Georgia. If an offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Procurement Director or the using agency and submitted to the Procurement Director. The failure of an offeror to promptly supply information in connection with an inquiry with respect to the level of responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror or proposer. A copy of the determination shall be sent promptly to the non-responsible offeror. The final determination shall be made a part of Augusta, Georgia's contract file and be made a public record.
- (b) *Right of nondisclosure.* Except as required by the Open Records Act, information furnished by an offeror pursuant to this Section shall not be disclosed outside of the Procurement Department, or using agency, by Augusta, Georgia staff without prior written consent by the offeror.

Sec. 1-10-41. Cost or pricing data.

- (a) *Required submissions relating to the award of contract.* A prospective contractor shall submit cost or pricing data when the contract is expected to exceed five thousand dollars (\$5,000) and is to be awarded by competitive sealed proposals (section 1-10-52; Competitive Sealed Proposals), by sole source procurement authority (section 1-10-56; Sole Source Procurement), or by competitive selection procedures for professional and consultant services (section 1-10-53).
- (b) *Exceptions.* The submission of cost or pricing data relating to the award of a contract is not required when:
 - (1) The contract price is based on adequate price competition;
 - (2) The contract price is based on established catalogue prices or market prices;
 - (3) The contract price is set by law or regulation;

- (4) Augusta, Georgia uses an alternative procurement method for obtaining the best value, such as Construction Management at Risk, Design/Build, etc.; or
 - (5) It is determined by the Procurement Director and approved by the Augusta, Georgia Administrator, in writing, that the requirements of this Section may be waived, and the determination states the reasons for such waiver.
- (c) *Required submissions relating to change orders or contract modifications.* A contractor shall submit cost or pricing data prior to the approval of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, whenever the change or modification involves aggregate increases or aggregate decreases of five percent (5%) or more of original bid or proposal price.
- (d) *Exceptions.* The submission of cost or pricing data relating to the pricing of a change order or contract modification is not required when:
- (1) Unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience; or
 - (2) It is determined in a written report by the Procurement Director and approved by the Augusta, Georgia Administrator that the requirements of subsection (c) hereof (Cost or Pricing Data; Required Submissions Relating to Change Orders or Contract Modifications) may be waived, and the determination states the reasons for such waiver.
- (e) *Certification required.* Any prospective or current contractor required to submit cost or pricing data in accordance with this Section shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete, and current, as of a mutually specified date prior to the award of the contract, or the pricing of the change order for contract modification.
- (f) *Price adjustment provision required in contracts.* Augusta, Georgia contracts shall include a provision stating that when detailed pricing data has been requested by Augusta, Georgia and submitted by the offeror/contractor under the terms of the contract which is later found to be in error, that the price of the products charged to Augusta, Georgia, including profit or fee, shall be appropriately adjusted. Such prices shall be accurate, complete, and current as of the date agreed upon between Augusta, Georgia and the contractor.

Sec. 1-10-42. Cost or price analysis.

A cost analysis or a price analysis, including life cycle costing as appropriate, may be conducted prior to award of a contract. If this technique is to be used, notice shall be provided the bidder/offeror in the bid solicitation or request for proposals. A written record of such cost analysis or price analysis shall be made a part of the contract file.

Sec. 1-10-43. Bid and performance bonds when required.

Bid and performance bonds or other security shall be requested for any contract as the Procurement Director, using agency head, and/or Administrator deem advisable to protect Augusta, Georgia's interest under circumstances specified herein. Any such bonding requirements shall be set forth in the solicitation.

Sec. 1-10-44. Bid security.

- (a) *Requirement for bid security.* Bid security shall be required for all competitive sealed bids for construction contracts when the price is estimated by the Procurement Director to exceed one-hundred thousand dollars (\$100,000).
- (b) Bid security shall be a bond provided by a surety company authorized to do business in the State of Georgia or the equivalent in cashier's or certified check (Checks shall be made payable to Augusta, Georgia), or such other security as approved by the Augusta, Georgia General Counsel.
- (c) Nothing herein prevents the requirements of such security on construction and other purchases less than one-hundred thousand dollars (\$100,000) when the circumstances warrant such requirements as determined by the Procurement Director and using agency head.
- (d) *Amount.* Bid security, when required, shall be in an amount equal to at least ten percent (10%) of the amount of bid or an amount certain specified in the solicitation.
- (e) *The bid security of the three (3) lowest bidders shall be held until contract award.* Securities posted by others will be returned shortly after receipt of bids. Except for the three (3) lowest bidders, unsuccessful bidders shall be entitled to the return of the bid security. Upon failure of a successful bidder to enter into a contract within an established time frame after Augusta, Georgia tenders the proposed contract, the bidder shall forfeit the bid security. Upon approval of the contract by the Commission, the remaining bid securities shall be returned.
- (f) Upon failure of an offeror to enter into a contract within ten (10) days after the contract is tendered by Augusta, Georgia, the offeror's security is subject to forfeit.
- (g) *Rejection of bids/noncompliance with bid security requirement.* When the procurement requires bid security, any bid or proposal submitted without such security shall be rejected and returned to the bidder with a written explanation of the action taken.
- (h) *Withdrawal of bids.* Withdrawal of a bid is considered cause to forfeit

bid security. However, the bidder may be entitled to the return of its bid security if the bidder is permitted to withdrawn its bid or proposal before award as provided in section 1-10-50(h).

Sec. 1-10-45. Payment and performance bonds.

- (a) *Requirement and amount.* When a contract for construction services is awarded in excess of one-hundred thousand dollars (\$100,000) the following bonds shall be delivered to Augusta, Georgia, and shall become binding on the parties upon the execution of the contract:
 - (1) A performance bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia, and in a form and fashion satisfactory to Augusta, Georgia; and
 - (2) A payment bond in the amount of 100% of the price specified in the contract executed by a surety company authorized to do business in the State of Georgia and in a form and fashion satisfactory to Augusta, Georgia.
- (b) Nothing in this chapter shall prohibit Augusta, Georgia from requiring other contractors or suppliers of professional services to comply with one or both bonding requirements if so determined by the Augusta, Georgia Administrator, and/or using agency head, to be necessary.
- (c) *Reduction of bond amounts.* Prior to the taking of bids, the Procurement Director and architect/engineer or project manager, upon approval of the Administrator, may reduce the amount of performance and payment bonds when a written determination is made that it is in the best interest of Augusta, Georgia to do so, provided Georgia law does not mandate the amount of such bond.
- (d) *Authority to require additional bonds.* Nothing in this Section shall be construed to limit the authority of Augusta, Georgia to require other security in addition to those bonds if warranted by the circumstances and other than specified in this Section.

Sec. 1-10-46. Insurance requirements.

Standard ranges and types of coverage shall be determined under the direction of the Augusta, Georgia Administrator and advice of the Augusta, Georgia General Counsel, Risk Management, Finance Director, Procurement Director and other appropriate staff. General requirements shall be reviewed at least once annually. Insurance shall be required within established ranges and for specific purposes for each solicitation and contract, except where otherwise provided for in the AUGUSTA, GA. CODE.

Sec. 1-10-47. Request for qualifications; pre-qualifications of contractors.

- (a) The Procurement Director, in consultation with the Administrator and using agency head

may determine that it shall be in the best interest of Augusta, Georgia to pre-qualify offerors for contracts of a particular type. The imposed standards shall be met by any contractor who wishes submit a bid or proposal for the subject project. The contractor shall submit required data in order to obtain a fair and impartial determination of whether the pre-qualification standards have been met. When pre-qualification is required, only those contractors who submit the required pre-qualification information and who are actually pre-qualified to submit a bid or proposal for the proposed solicitation.

- (b) *Public notice.* Public notice of pre-qualification shall be given in the same manner as provided in section 1-10-50 (c).
- (c) *Pre-qualification standards.* The Procurement Director and affected using agency heads shall review all information submitted by the suppliers and, if necessary, require additional information. The standards set for pre-qualification shall include but not be limited to factors set forth in section 1-10-50-Sealed Bids; Bid Acceptance and Bid Evaluation or section 1-10-52-Sealed Proposals; Evaluation and Selection. If the Procurement Director and Administrator determine that the contractor meets all standards, then the contractor shall be so pre-qualified. The contractor shall be notified in writing.
- (d) *Failure to pre-qualify.* Should a contractor not be pre-qualified, appropriate written notice shall be sent and the contractor may appeal such determination as provided in Article 9.
- (e) In no instance shall a contract be awarded from the solicitation of request for qualifications.