Mt. Contr. Assoc.
SB 349

SENATE JUDICIARY
EXHIBIT NO. 4
DATE 2/17/09
BILL NO. SB349

STANDARD SPECIFICATIONS
FOR
ROAD AND BRIDGE CONSTRUCTION

2006 EDITION

Adopted by
the
Montana Department of Transportation
and the
Montana Transportation Commission

Montana Department of Transportation

serving you with pride

DIVISION 100
GENERAL PROVISIONS

Underlining added

The contract, bond, and insurance are subject to legal approval after execution by the Contractor and Surety.

103.08 FAILURE TO EXECUTE CONTRACT

Upon failure to execute the contract and file acceptable bonds and insurance policies within 20 calendar days after receipt of the contract, under Section 18-1-204 MCA, the award will be canceled and the proposal guaranty forfeited. Award may then be made to the next lowest responsive, responsible and qualified bidder, or the work may be re-advertised.

103.09 SUBMISSION OF BID DOCUMENTATION

When required by the contract, no later than seven calendar days after the date of bid-opening (the date of bid opening to count as the first full day), the apparent low bidder must submit to the Contract Plans Bureau, during its regular work hours, a legible copy of all bid documentation it used to prepare its bid. If the seventh day is a holiday, turn the documentation in earlier. The term "Bid Documentation," as used in this specification, means any writings, working papers, computer printouts, charts, schedules of any kind (e.g., CPM, bar chart, etc.), and any data compilations, computerized or not, used by the Contractor to determine the bid it submits for this project. "Bid Documentation" includes, but is not limited to, Contractor equipment internal rates for ownership, Contractor overhead rates, labor rates, efficiency or productivity factors, scheduling calculations, written review or analysis of the site of the work, written analysis of how the work should be performed, arithmetic extension, worksheets used to prepare the bid (identifying by name and edition any software programs used to prepare them), and all quotations to the extent that these items were used in formulating and determining the amount of the bid. "Bid Documentation" also includes identification of all manuals which are standard to the industry used by the Contractor in determining the bid for this project. (Include these manuals in the bid documentation and the inventory by reference to their title, author, edition, date and page or section number.) The term does not include bid documents provided by the Owner (e.g., plans, specifications, etc.) for use by the Contractor in bidding on this project.

Place the bid documentation in sealed envelopes no smaller than 8 1/2-inch x 11-inch and no larger than 10-inch x 13-inch. If multiple sealed envelopes are provided in some form of container, do not lock or seal it. The container will be emptied and the sealed envelopes secured by an agent of the Department's Construction Administration Services Bureau at the place of storage in Helena. An agent of the Contractor, at its discretion, may be present at the time the documentation is placed in the storage container. Furnish with the bid documentation, a complete inventory on the Department-furnished form found elsewhere in the proposal titled "Bid Documentation Inventory." A copy of the inventory will be placed in the storage container, one will be kept in the Construction Administration Services Bureau's project file, and the Contractor retains one.

Bond

A bidder's failure to provide its full bid documentation automatically makes its bid unresponsive and it will be rejected. It will also be considered a refusal to enter into the contract, and the bidder's proposal guaranty will be forfeited due to its failure to evidence its good faith in fully submitting that bid. The second low, responsive responsible bid will then be reviewed and required to meet the above requirements.

If the apparent low bidder, for whatever reason, is not awarded the contract, the apparent second low bidder will be told that it has seven calendar days from the date of its verbal notification (followed immediately in writing) to comply with the above requirements. That Contractor must comply with those requirements.

The bid documentation will remain in the storage container during the life of the contract and will be returned after a certificate of completion has been issued for the project and a release of

claims has been signed. An agent of the Contractor may be present at the time the documents are removed from the storage container.

In the event that a claim requesting compensation, reimbursement or contract time is made, or an action in any court, based upon the contract, is filed, the copies of the bid documentation become the property of the Department for its use, specifically including use in preparing for and conduct of all claims, disputes, or litigation. Failure to submit all documentation and inventory as required above, or listing on the inventory documentation that is not actually provided as required, will be considered a material breach of the contract, is a failure to comply with a condition precedent to filing of a claim or lawsuit, acts as a total and final waiver of all claims or disputes involving matters that would have been included (e.g., claims of delay, changed site conditions, loss of productivity, etc.), and subjects the Contractor to action under ARM 18.3.101 et seq.