

INSTRUCTIONS TO BIDDERS

A. EXAMINATION OF DOCUMENTS AND SITE CONDITIONS

1. Bidders are cautioned to review carefully the site and all parts of the Bid Documents, including, but not limited to, Instructions to Bidders, Bid Form, Owner-Contractor Agreement, General Conditions of the Contract for the Project, Supplementary Conditions of the Contract for the Project, Project Schedule, Drawings, and Specifications. These Bid Documents shall become the Contract Documents, as defined in the Owner-Contractor Agreement, that govern the relationship between the successful Bidder and the Owner when the Owner-Contractor Agreement is executed and will be referred to as Contract Documents throughout these Instructions to Bidders.
2. No allowance will be made subsequently for any omission, error or negligence of the Bidder.

B. OWNER, ARCHITECT

1. The Owner is: Jason Fleming, Treasurer
Highland Local Schools
6506 State Route 229
Marengo, Ohio 43334
2. The Architect is: Keith B Hall, NCARB AIA
MSA Design
14 E. Gay Street, Suite 300
Columbus, Ohio 43214
(khal@msaarch.com)

C. PROJECT

The Project consists of all labor, materials, and services necessary for the timely and proper completion of scope of work outlined in Bid Package for the Clear Fork Middle/High School HVAC Improvements ("The Project"), all in accordance with the Contract Documents.

D. WORK

1. The Project is a single General Contract:

F. BID DOCUMENTS

1. Legal Notice
2. Instructions to Bidders
3. Bid Form
4. General Conditions and Supplementary Conditions
5. Project Specifications
6. Drawings
7. Addenda
8. Bidder's Affidavit

Availability of Contract Documents. Copies of the Contract Documents can be obtained as indicated in the Legal Notice or as modified by addenda. Drawings are available from the Arc Document Solutions, Columbus, Ohio.

G. PREPARATION OF BIDS

1. All bids must be submitted on the "Bid Form" furnished with the set of Contract Documents.
2. All blank spaces shall be filled in, in ink or typewritten, in words and figures, and in figures only where no space is provided for words, and signed by the Bidder. The wording on the Bid Form shall be used without change, alteration or addition. Any change in the wording or omission of specified accompanying documents may cause the proposal to be rejected.
3. Bidders shall note receipt of Addenda on the Bid Form.
4. Each Bidder shall submit one (1) original copy of its bid to the Owner. Bids shall be signed with the name typed or printed below the signature. Bids shall not be submitted by facsimile transmission or email, however we would like a pdf copy of the completed bid documents emailed for our records following the bid. A Bidder that is a corporation shall sign its bid with the legal name of the corporation followed by the name of the state of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.
5. Bids shall be enclosed in a sealed opaque envelope with the Bidder's name, the name of the Prime Contractor, and the title of the Project printed in the upper left hand corner, addressed as follows:

Jason Fleming, Treasurer
Highland Local Schools
6506 State Route 229
Marengo, Ohio 43334

6. The completed Bid Form shall be accompanied by a bid guaranty as described in Paragraph G.8 below.
7. The Bidder shall take the following precautions in preparing its bid:
 - a. Sign the Bid Form and check to insure all blank spaces have been filled in with requested information and that the specified accompanying documents (listed in Paragraph 6 above) have been included in a sealed opaque envelope addressed as provided in Paragraph 5 above.
 - b. Where the Bid Form provides for quoting either an addition or deduction for an Alternate item, indicate whether the sum named is an addition or deduction.
 - c. Where the Bid Form provides for quoting a unit price, the Bidder should quote the unit price.
 - d. When applicable, make sure that the Bid Guaranty is properly executed and signed by:
 - 1) The Bidder
 - 2) The Surety or Sureties
 - e. Make sure that the amount of the Bid Guaranty is for a specific sum in an amount as instructed in Paragraph G.8.a below.
 - f. Where the bid form requires the identification of subcontractors, bidder shall list the subs as required.

8. Bonds and Guarantees

- a. Bid Guaranty: Bidder shall furnish a Bid Guaranty, as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code, in the form of either: (1) a bond for the full amount of the bid in the form of the Bid Guaranty and Performance Bond included in the Contract Documents; or (2) a certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid. The bid amount shall be the total of all sums of the bid including all add alternates but excluding all deduct alternates.
- b. Performance Bond: The successful Bidder who, as a Bid Guaranty, submits a certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid, shall furnish a Performance Bond in the form included in the Contract Documents in an amount equal to 100% of the Contract Sum.
- c. Any bid guaranty or bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio. A surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments must issue the bond. These criteria will be met if the surety currently has an A.M. Best Company Policyholders Rating of "A" or better and has or exceeds the Best Financial Size Category of Class VII.
- d. All bonds shall be signed by an authorized agent of an acceptable Surety Bonding Company and by the Bidder. (Affix Corporate Seals to all copies.)
- e. Surety Bonding Company bonds shall be supported by credentials showing the Power of Attorney of the agent, and a certificate showing the legal right of the Bonding Company to do business in the State of Ohio, and a financial statement of the Surety.
- f. The Bid Guaranty, as applicable, shall be in the name of or payable to the order of the Owner.
- g. The name and address of the Surety and the name and address of the Surety's Agent should be typed or printed on each bond.

H. METHOD OF AWARD

1. The Owner will receive bids for the project.

Subject to the right of the Owner to reject any and all bids and as provided below, the Owner will award a single contract for the Bid Package listed above. Bidders must furnish all information requested on or accompanying the Bid Form. Failure to do so may result in disqualification of the bid. The Owner will review the bid proposal received for responsiveness to the specifications; a bid may be deemed non-responsive and rejected if the bid deviates from the specifications in a material way or if it contains a material irregularity or deviation from the specifications that affects the amount of the bid or otherwise gives the Bidder a competitive advantage.

2. Determination of Lowest Responsible Bidder

Subject to the right of the Owner to reject any or all bids and as provided above, the Owner will award the Contract for the Work to the Bidder submitting the lowest responsible bid, taking into consideration accepted alternates. The Owner, in its sole discretion, will determine whether a bid is responsive to the specifications or whether a bidder is responsible. In determining whether a bid is responsive or a bidder is

responsible, the Owner may consider the following criteria and such other criteria as it determines proper:

- a. The Bidder's work history, including experience, conduct and performance on previous contracts, management skills, and ability to execute the contract properly.

The Bidder should have a record of consistent customer satisfaction and of consistent completion of projects, including projects, which are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the respective contract documents. If the Bidder's management (*i.e.*, president, chairman of the board, or any director) operates or has operated another construction company, the Owner may consider the work history of that company in determining responsibility of the bidder.

The Owner will consider the Bidder's prior experience on other projects of the Owner and/or the Architect, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time and its ability to work with the Owner and/or Architect.

The Bidder authorizes the Owner and its representatives to contact the owners and design professionals on projects on which the Bidder has worked, and authorizes and requests such owners and design professionals to provide the Owner with a candid evaluation of the Bidder's performance. By submitting its bid, the Bidder agrees that if it or any person at its urging, directly or indirectly, brings an action against any of such owners or design professionals or their employees as a result of or related to such candidate evaluation and such action is not successful, the Bidder will reimburse such owners, design professionals and/or their employees for all legal fees and expenses incurred by them that are related to such legal action, including the cost of collection. This obligation is expressly intended for the benefit of such owners, design professionals and their employees.

- b. The Bidder's financial condition and facilities. The Owner may consider, without limitation, the bidder's financial ability to complete the Contract successfully and on time without resort to its Surety and the experience, adequacy, and numbers of the Bidder's work force. The Owner will carefully consider the qualifications and experience of the Bidder's work force proposed to be used to complete the Project.
- c. The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act, and the State of Ohio's Equal Employment Opportunity Commission requirements, as applicable.
- d. The foregoing information with respect to each of the Subcontractors, which the Contractor intends to use on the Project.
- e. Depending upon the type of the work, other essential factors, as the Owner may determine.

If the apparent low bidder for any one or more of the contracts is found not to be responsive and responsible, the affected bidder shall be notified by the Owner of that finding and the reasons for the finding in writing, which shall be delivered to the bidder by certified mail, return receipt requested.

3. Within seven (7) calendar days after receipt of the bids, the apparent low Bidder, and any other bidder requested by the Owner, will complete and submit to the Owner or Architect, as directed, the following documents:
 - a. AIA Document A305, Contractor Qualifications Statement, and the information required by the supplement to that documents included with the Contract Documents, and thereafter will provide the Architect with such additional information as the Architect may request;
 - b. The list of all proposed Subcontractors, suppliers, and manufacturers;
 - c. The breakdown of Labor and Material for the Project, including the sum for each on the AIA Document G702, Schedule of Values; and
 - d. Affidavit as to Property Taxes, in the form included with the Contract Documents.
 - e. Anticipated construction schedule detailing coordination of all contractors consistent with the dates of substantial completion provided by the Owner.

After approval by the Owner and Architect of the list of proposed Subcontractors, suppliers, and manufacturers submitted by the successful Bidder, the list shall not be changed unless written the Owner and Architect authorize approval of the change.

4. The failure to submit requested information on a timely basis may result in the determination that the Bidder is not responsible.
5. By submitting its bid, the Bidder agrees that the Owner's determination of responsibility shall be final and conclusive.
6. No Bidder may withdraw its bid within sixty (60) days after the date bids are opened, except as provided for by law and as set forth in section (P), below.
7. The Owner reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.
8. Protest Procedure. If the Owner determines not to award any one or more of the contracts to the apparent low bidder or bidders, the procedures set forth in Ohio Revised Code Section 9.312 shall be followed if the affected contractor chooses to protest the Owner's decision.

I. SUBSTITUTIONS

1. Certain brands of material or apparatus are specified. Each bid will be based on these brands. The use of another brand may be requested as provided herein.
2. No Substitution will be considered prior to receipt of bids unless written request for approval has been received by the Architect at least ten (10) days prior to the date for receipt of bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed Substitution would require, shall be included. The burden of proof of the merit of the proposed Substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed Substitution shall be final.

If the brand or product is acceptable, the Architect will approve it prior to bidding in an Addendum issued to all Bidders on record.

3. In proposing a Substitution, the Bidder represents and warrants that each proposed substitution will not result in any changes to the Project, including changes to the Work of other contractors, or any decrease in the performance of any equipment or systems to be installed in the Project and agrees to pay any additional costs incurred by the Owner as a result of a substitution which is accepted.
4. Following the award of the Contract, there shall be no substitutions, except pursuant to a Change Order. The Owner in its sole discretion may decline to consider a substitution for a Change Order.

J. ALTERNATES

1. The Owner may request bids on alternates. If the Owner requests bids on alternates, the Bidder should include the cost of the alternates requested on its Bid Form.
2. At the time of awarding the contract, the Owner will select or reject alternates as it determines is in its best interest. A Bidder's failure to include in its Bid Form the cost of an alternate selected by the Owner and applicable to the Bidder's work may render the bid non-responsive and be grounds for the rejection of the bid. Otherwise, the failure to include the cost of an alternate will not be deemed material.
3. If, during the progress of the Work, the Owner desires to reinstate any alternate not included in the Contract, the Owner reserves the right to reinstate the alternate at the price bid by the Contractor provided

L. ADDENDA

1. Any explanation, interpretation, correction or modification of the Bid Documents will be issued in writing in the form of an Addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.
2. Contractors should submit questions to the Architect in advance, to allow sufficient time for the Architect to respond. All Addenda will be issued except as hereafter provided, and mailed or otherwise furnished to persons who have obtained Contract Documents for the Project, at least seventy-two (72) hours prior to the published time for the opening of bids, excluding Saturdays, Sundays and legal holidays. If any Addendum is issued within such seventy-two (72) hour period, then the time for opening of bids shall be extended one (1) week with no further advertising of bids required.
3. Copies of each Addendum will be sent only to the Contractors to whom Drawings and Specifications have been issued. Bidders in the space provided on the Bid Form shall indicate receipt of Addenda.
4. Each Bidder shall carefully read and review the Contract Documents and immediately bring to the attention of the Owner's Designated Representative any error, omission, inconsistency, or ambiguity therein.
5. If a Bidder fails to indicate receipt of all Addenda through the last Addenda issued by the Architect on its Bid Form, the bid of such Bidder will be deemed to be responsive only if:
 - a. The bid received clearly indicates that the bidder received the Addendum, such as where the Addendum added another item to be bid upon and the bidder submitted a bid on that item; or
 - b. The Addendum involves only a matter of form or is one, which has either no effect, or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

M. STATE SALES AND USE TAXES

1. The Owner is a political subdivision of the State of Ohio. Building materials that the successful Bidder purchases for incorporation into the Project will be exempt from state sales and use taxes if the successful Bidder provides a properly completed sales tax exemption certificate, executed by the successful Bidder and the Owner, to the vendors or suppliers when the materials are acquired. The Owner will execute properly completed certificates on request.

N. COMPLETION DATES

1. The dates for substantial completion, as defined in the Contract Documents for the project shall be as follows:
 - a. As noted in the Summary of Work.

O. BID RESPONSIVENESS; OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

1. The Bidder's bid shall be responsive to the Specifications for the Project in all material respects and shall contain no material irregularities or deviations from the Specifications that would affect the amount of the bid or otherwise give the Bidder a competitive advantage. .
2. The Owner reserves the right to waive any and all irregularities provided that the defects and irregularities do not affect the amount of the bid in any material respect or otherwise give the bidder a competitive advantage. If the Owner determines that a bid is not responsive to the specifications, the Owner may reject the bid on that basis.
3. By submitting its bid, the bidder agrees that the Owner's determination of whether a defect or irregularity affects the amount of the bid in any material respect or otherwise gives the bidder a competitive advantage will be final and conclusive

P. WITHDRAWAL OF BIDS

1. A bidder may withdraw its bid when all of the following apply:
 - a. The price bid was substantially lower than the other bids;
 - b. The reason for the bid being substantially lower was a clerical mistake, rather than a mistake in judgment, and was due to an unintentional and substantial error in arithmetic or an unintentional omission of a substantial quantity of work, labor, or material;
 - c. The bid was submitted in good faith;
 - d. The bidder provides written request for withdrawal to the Owner within two (2) business days after the bid opening for which the right to withdraw is claimed.

END OF INSTRUCTIONS TO BIDDERS