

MANUAL OF RECOMMENDED PROCEDURE FOR COMPETITIVE BIDDING AND AWARD OF BUILDING CONTRACTS

Purpose:

The purpose of the Council is to enable major segments of the Construction industry to better serve the public through improved communications, greater efficiency and economy in the construction process, and understanding of the responsibility and obligations of Owner, Architect, and Contractor.

The Council provides a forum for interchange of information and discussion of common problems and to formulate and publish statements of recommended policy on all aspects of bidding, contract award and contract performance.

FOREWORD

The *intent* of this document is to provide recommended ground rules for competitive bidding procedure and award of building construction contracts.

This Manual was first conceived in 1946 through joint cooperation of the Iowa Chapter, American Institute of Architects; the Iowa Engineering Society and the Master Builders of Iowa. In 1970 this group was expanded to include a broader representation of the construction industry, with representation from each of the following organizations:

American Institute of Architects, Iowa Chapter
Iowa Engineering Society
Master Builders of Iowa
Mechanical Contractors Association of Iowa
National Electrical Contractors Association, Iowa Chapter
Sheet Metal Contractors of Iowa, Inc. (added-1988)
Central Iowa Chapter, CSI (added-1988)

This group adopted the name "Construction Council of Iowa"

At the heart of these recommendations is the conviction that ethical competition is good for everyone. Use of these guidelines by the Architect or Engineer will secure for the Owner the best value per dollar spent and assures the Contractor his bid will be processed fairly, thus enabling him to price competitively.

The Construction Council of Iowa continues the aim of the originating organizations to produce a document that will help eliminate misunderstandings that arise in the course of bidding and making contract awards.

Originally adopted and issued 1946
Amended and revised 1953, 1958, and 1967
Reprinted August 1976
Reprinted December 1979
Amended and revised November 1982
Amended and revised January 1988
Amended and reprinted April 1995

Article 1

Types of Contract

Administration of contracts for building construction projects generally falls into one of two classifications:

1. A single contract for the entire Project.
2. Separate contracts for various divisions of the Project.

Single Contracts

Under the single contract system, overall and undivided responsibility for performance of all divisions of the Project is placed on one Prime Contractor, usually a General Contractor, with subcontracts awarded by him for performance of specific specialties of the Project

Separate Contracts

Under the separate contract system, responsibility for performance of the principal divisions of the Project is placed on individual Prime Contractors usually General, mechanical and Electrical. Coordination of the prime Contractors must be the responsibility of the Owner or his agent

Under either system the owner should appoint during the construction process, an agent which may be an Architect, Professional Engineer or Construction Manager. This agent should be the first interpreter of the conditions of the contract and the first judge of its performance and contract administrator.

Article 2

Selection of Bidders

Qualification of Bidders

Except where otherwise prohibited by legal requirements, bidders should be limited to Contractors of established skill, integrity and responsibility and of proven competence for work of the character and size involved. The Architect or Engineer should select them with the concurrence of the Owner.

Number of Bidders

If a potential bidder's qualifications are in doubt standard pre-qualification procedures should be utilized in determining whether a given Contractor has adequate resources that will make him eligible to bid upon a given Project.

A sufficient number of bidders should be invited to bid to insure adequate price competition. Normally, this can be accomplished with not more than six bidders. An excessive number of bidders may have the effect of discouraging some desirable bidders from entering the competition.

Article 3

Owner's Obligations

Bid Documents

The Owner has specific responsibilities in the preparation of Bid Documents. He is responsible for providing the following information to the Architect or Engineer for inclusion into the Contract Documents:

The Owner shall provide:

Complete Information

1. Full and complete information regarding special requirements for the Project including, but not limited to special schedules, constraints, space requirements and relationships, equipment and system and site requirements.

Survey

2. A complete survey of the proposed Project site including, but not limited to, descriptions of physical characteristics, legal description and limitations, location and size of all utilities, grades, right-of-ways, easements, drainage ways, etc.

Geo-technical

3. All geo-technical engineering including, but not limited to, test borings, evaluations of hazardous material(s) etc.

Insurance

4. All risk property insurance in the amount equal to the initial contract(s) sum. The insurance coverage and the deductibles that will be the responsibility of the Contractor shall be defined and stipulated in the bid documents.

Drawings and Contract Documents

5. Sufficient number of copies of both Drawings and Contract Documents, which represents drawings, specifications, conditions of the contract, addenda, and modifications - changes, as is reasonably necessary for the proper preparation of bid(s). The Owner shall provide the Contractor awarded the Project with an adequate number of copies of both Drawings and Contract documents for proper execution of the work.

Approvals, Easements, and Assessments

6. All necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities

Ability to Pay

7. The Owner shall, at the request of the Contractor, prior to execution of the Agreement and promptly from time to time thereafter, furnish to the contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract.

Article 4

Form of Proposal

Bids should be in writing and submitted on standard form of proposal as prepared by the Architect or Engineer. A copy of the bid form should be bound in the contract documents. . It should not be necessary for the bidders to attach bulky contract documents as a part of the proposal or to make copies of contract document items.

Extra unbound copies of the form of proposal should be furnished to the bidders to facilitate submission of the bid.

Alternates should be limited to major items absolutely essential to the awarding of the Project. (See Article 12, 12, Alternates.)

Price breakdowns, unit price or other information schedules should not appear on the proposal but should be negotiated with the successful bidder. (See Article 12, Unit Prices.)

Article 5

Contract Documents

Standard Forms

The Contract Documents for every building construction contract should consist of the AIA Standard Forms of Agreement Between Owner and Contractor and the General Conditions of the Contract for Construction, current edition; the Supplementary Conditions or other conditions, the Drawings, the Contract Documents, the Addenda and all Modifications.

Use of standard documents promotes greater efficiency of bid preparation and contract administration, thereby resulting in the lowest possible bid to the benefit of the purchasing public. These Standard Forms of Agreement and the General Conditions are drafted with careful regard to the rights and responsibilities of both

Owner or Owner's Agent and Contractor, and outline the duties and functions of the Architect, or Engineer, or Construction Manager.

On Certain types of Projects the standard documents of the Associated General Contractors of America, Inc., the National Society of Professional Engineers, the American Society of Civil Engineers, the Associated Specialty Contractors, and the American Consulting Engineers Council are available.

General Conditions

The General Conditions of the Contract for Construction, current edition, should be used without change.

The formulation and adoption of the standard General Conditions has been one of the most important contributions to modern construction practice. But the whole purpose of standardizing general conditions is lost when Architects or Engineers alter or change portions of the standard documents to suit individual convenience. Any additional articles, if required, should be added in properly numbered sequence under a general heading, "Supplementary Conditions", so that Contractors will instantly recognize particular requirements of the Project and will not be required to recheck the basic General Conditions for changes or alterations in the standard provisions.

Supplementary Conditions

The Supplementary Conditions should include such modifications of the standard provisions only as may be required by local physical, legal, climatic or other conditions.

Special Conditions

Under this heading the Contractor should be informed of conditions not covered elsewhere which are applicable to the specific Project.

Special Form of Contract

If a special form of contract is to be used, a copy should be included in the document furnished to the bidders.

Article 6

Payment to Contractors

Bidding documents should set forth the time and method of payment to the Contractors, monthly or otherwise, and payment should be made accordingly. If the Owner's financial arrangement is such that payments cannot be made regularly, and without delay, the Owner is obligated to make this condition known, or state the conditions under which payment will be made, in the bidding documents, so that bidders can take this into account when preparing their bids. for reference see AIA Document A201 (current edition) par. 2.2.1.

Owner's Ability to Pay

Delays or defaults by Owners in meeting their contractual payment obligations to Contractors is a growing cause of litigation, liens, long delays in completion of construction, abandonment of contracts, and bankruptcy of contractors and subcontractors. Qualified Contractors are often unwilling to bid on Projects for Owners whose financial capacity and credit rating are not widely known. This results in reduced competition and the possibility of high bids to the detriment of the Owners.

Invitations for bids should contain clear statements that the Owner has made sufficient arrangements for the completion of the Project and administrative arrangements for timely disbursement of every payment; and bidders should be invited to make inquiry to these arrangements so that they may satisfy themselves about financial details. Inquiries from Contractors who have been invited to bid the Project should be answered candidly by the Owner or the construction lender.

5% Retainage

Bidding documents should set forth retainage requirements, if made a part of the contract, and should be established with full regard for the fact that they normally add to the expense of the Project. In no case should retainage requirements exceed 5 percent as set forth in Chapter 573.12 Code of Iowa as amended.

Schedule of Payments

The schedule assumes normal trade contract terms allowing monthly progress payments for work performed and materials suitably stored through the end of the billing period.

It is important to note that along the sequence of events, any recipient of a payment request who takes exception to an item of billing should immediately initiate corrective action.

A Recommended Sequence of Events

Day of Month	Events
20 th	Sub-subcontractors request payment from Subcontractors.
25 th	Subcontractors request payment from Contractor, incorporating the sub-subcontractor's request in the billing.
1 st	Contractor submits to the Owner's representative an itemized application for payment with the necessary supporting data, covering the monthly progress of the entire contract being performed.
5 th	The Owner's representative issues the certificate for payment to the Owner for the amount certified.

10th or Sooner The Owner makes payment to the Contractor the amount certified by the Owner's representative.

No More Than 7 The Contractor pays each subcontractor

Days after Receipt The amount received from the Owner on his account promptly, but not later than seven days after receipt. Material suppliers shall be dealt with likewise.

No More Than 7 Days After Receipt Each subcontractor pays each subcontractor and supplier the amount received from the Contractor on his account promptly, but not later than seven days after receipt. Material suppliers shall be dealt with likewise.

The schedule should be adjusted by making appropriate billings and payments on the last working day prior to any listed Saturday, Sunday or holiday. It is also recommended that collection efforts, including interest on unpaid balance, be commenced immediately following the day any payment due was not paid.

Article 7

Distribution of Contract Documents

The Architect or Engineer should furnish each bidder sufficient drawings and contract documents to enable him to intelligently prepare his bid. In any event, drawings and contract documents should show as completely as possible the nature of all elements of all work affecting construction.

Issuance of Drawings and Contract Documents

Each Contractor who is invited to bid on the Project should be furnished, free of charge, drawings and contract documents covering all branches of the Contract which his bid is to include and at least one set of the drawings and contract documents for all branches of the Project for which separate bids may be taken by the Owner.

Owner Reimburses A/E for documents

When bidding time is limited or the Project is complicated, or there is a multiplicity of subtrades involved, it will be in the Owner's interest to increase the number of sets of documents commensurate with the type of work to be done and the time within which the general bids are to be submitted. It should be noted that the Owner reimburses the Architect or Engineer for the cost of providing bidding documents to the Contractors unless another arrangement is made between the Owner and Architect or Engineer.

Each bidder should be allowed to retain these sets until the Contract has been awarded, or until he is definitely out of the competition, whereupon the documents should be returned to the Architect or Engineer.

If a deposit is required, the deposit shall be refunded upon return of the drawings and contract documents, in good condition within a specified number of days after award of the Project. If the documents are not returned the Contractor's deposit should be forfeited.

Inability to Bid

If a Contractor requests drawings and contract documents as a preliminary to the bidding of a Project but later decides not to bid, he is obligated to notify the Architect or Engineer at the earliest possible moment prior to the bid opening. The **drawings and contract** documents should be returned to the Architect or Engineer without delay. Failure to do so may result in forfeiture of deposit.

Plan Rooms

Accredited plan rooms should be supplied with two or more sets of all drawings and contract documents to secure greater benefit from this plan room service. This should assist also in reduction of number of drawings and contract documents Architects or Engineers might be required to supply on individual requests.

The Architect or Engineer should list in the contract documents the names of the plan rooms where drawings and contract documents have been filed. A list of plan holders should be prepared by the Architect or Engineer and distributed to all plan holders at least seven (7) days prior to bid opening.

Article 8

Time of Estimating

Ample time should be allowed the bidder after distribution of bidding documents with adequate allowance for delivery time for the takeoff of quantities, preparation of his estimate, and the receipt of subbids. To facilitate this, the following minimum schedule is suggested.

SUGGESTED MINIMUM ESTIMATING TIME

Time in Calendar Days

	Up To \$500,000	\$500,000 To \$10,000,000	Over \$10,000,000
Complex bldgs.	16	32	42
Average bldgs.	14	28	38
Simple bldgs.	14	24	36

When prior approval of products is specified, the length of time required for approval should be added to the above schedule.

Article 9

Receiving Bids and Awarding Contracts

Time and Place

The architect or Engineer should clearly set out in the bidding documents the date, hour, and place for the opening of bids. It is to the Owner's advantage to open the bids in a place that is reasonably convenient to the bidders. It is also to the Owner's advantage to open bids in the afternoon or, as a less desirable alternative, in the early evening. Bid openings on weekends or on Mondays or on days immediately preceding or following a recognized holiday should be avoided.

Bidding Deadline

The hour set forth in the bidding documents should be the deadline for submission of bids and the deadline should be strictly observed. Bids received after the deadline should be returned to the bidder unopened.

GC-SC Bid Period

The subcontractor should get his bid to the Contractor at least two (2) hours before the bid is due. The subcontractor should have a complete bid for the section of work quoted or report any omissions. The Contractor should never divulge one subcontractor's price to another subcontractor.

Scheduling Dates

The Architect or Engineer is encouraged to contact the Master Builders of Iowa office prior to setting a bid opening date with the Owner to determine the best date for receiving bids. This avoids conflicting bid openings and at the same time provides better spacing and time for estimating. Increased cooperation in this regard will bring greater benefits to all concerned.

Form of Bid

Bids should be Sled on time, as specified, regardless of the method of delivery. Oral or telephoned bids should not be considered. Written corrections of previously submitted bids should be considered if received prior to scheduled bid opening time and properly confirmed. Mailed bids should be mailed in sufficient time for delivery in advance of the deadline. Any bidder choosing to send a bid through the mail must incur the risk of late delivery. Any bids received after the deadline should be returned to the sender unopened.

Facsimile Bids

Facsimile bids must be approved by the Owner, and if approved, be subject to established guidelines determined prior to the bid date.

Private Openings

To promote and maintain harmony in the industry it is deemed in the best interests of all concerned that private opening of bids be avoided and that bids be read in the presence of the bidders whenever possible.

Article 10

Action of Bids

Honor Low Qualified Bid

It is recognized that the competitive bidding system, in which contracts are awarded to the lowest responsible bidder, has brought great benefits to the public and the construction industry and that awarding contracts to other than the lowest responsible bidder will tend to weaken this system. Wherever the terms "low bidder", "lowest qualified bidder" or "lowest responsible bidder" are used in this document, they are understood to mean the lowest qualified, responsible, and responsive bidder.

Therefore, all who are concerned with the preparation, acceptance, or disposition of bids should honor the lowest responsible bid, provided that it is in accordance with the contract documents, and refrain from any action which would cause the contract to be awarded in violation of this principle.

Action on Bids

The bidding documents should state the number of days which the Owner shall require to act on bids. This action should be within ten days of the opening of bids or, at the most, thirty days.

Completion Time

If time of completion is of the essence of the contract, the architect or Engineer should set a realistic completion date based on existing conditions at the site, and each bidder should provide in his bid all costs necessary to complete the Project on or before the time stated.

When the Architect or Engineer requests the Contractor to estimate the completion time on his proposal, this should not be a determining factor in awarding the contract.

The Owner should be advised that strikes, "Acts of God", and other situations beyond the control of the Contractor and Architect or Engineer may extend the time of completion and that the Contractor and Architect or Engineer cannot be held responsible for such delay.

Changes

Minor changes required before signing of contract should be negotiated only with the successful bidder. If major changes are necessary the original bids should be rejected and new bids should be secured on the basis of revised drawings and contract documents. It is recognized that on private work the Owner has more latitude to negotiate than on public work.

Article 11

Bid Security

Private Work

Certified checks or bid bonds should not be requested from invited bidders on private work.

Bid Security

Where required by statute, bid security may be in the form of a bid bond, or certified check. When a certified check is used the amount should be set as a stipulated sum rather than as a percentage of the bid.

Strict Conformance

There should be strict conformance with the requirements of the contract documents on bid security provisions. Architects or Engineers, awarding authorities and Contractors should respect the bid security provisions and Contractors should respect the contingent hazards of bid rejection for nonconformance.

Bid security should be submitted in a separate envelope. Bid security conformance should be determined before reading or announcing the bids and any bid not in conformance should be returned to the bidder unread.

Return of Bid Security

The Owner should return checks to the bidders as promptly as possible and checks tendered as security for bids on one contract should not be held pending determination of award of another contract. The Architect or Engineer should lend his efforts to the prompt return of such checks.

Article 12

Alternate Proposals, Addenda And Unit Prices

Selection of alternates should be made by the Owner, acting upon the Architect's or Engineer's recommendations, for the best interest of the Project in line with available funds. The selection of alternates should not be manipulated to favor any one bidder over another.

Better bids will be obtained with a minimum of alternates.

Contract Documents should contain clear and unmistakable language describing the procedure as to how the alternates are to affect the awarding of the contract. Volunteered or optional alternates should not be a factor in determining the low bidder.

Alternates

Alternates should be limited to major items absolutely essential to the awarding of the Project. Any further adjustments should be determined in conference with the successful bidder. Bidders should quote on each and every alternate requested; however, if the information required to make a quotation on the item is not available, then the bidder should state "no bid".

The statement "no change" shall be understood to mean a valid bid and may be accepted at the Owner's option. "No change" is neither a cost addition nor cost deduction to the base bid.

If a bidder has failed to make clear whether his bid on an alternate is additive or deductive, or where the space for the inserting of a figure is left blank, this portion of the bid should not be read or given consideration.

Addenda

No alternates, addenda or special instructions should be issued subsequent to four (4) working days before bidding date. Contractors should check contract documents as early as possible and immediately contact the Architect or Engineer for clarification of doubtful items thus assisting in adherence to the foregoing recommendation to eliminate the issuance of last-minute addenda.

Provisions should be made in all proposal forms requesting the Contractor to acknowledge receipt of all addenda and that same had been considered and were reflected in the bid.

Unit Prices, Etc.

Unit prices should not be requested from the competing bidders since they are difficult to quote accurately for units of concrete, excavations, forms, partitions, etc. Unit prices should be discussed with the successful bidder. Where the Owner has held that unit prices are essential to his planning, separate prices should be asked for "additions to" and "deductions from". Also, bid forms requesting unit price (and alternate price) quotations should have companion blank space on the form for the Contractor to state the length of time the prices remain valid because the cost to

provide these items could vary greatly as the job progresses through the various phases of the work.

Alternate Design

No bids for construction should be solicited which request alternate designs be submitted by the bidder. Voluntary alternates should not be considered in the award of a contract.

Article 13

Owners Furnishing Materials

Recognizing that the furnishing of materials for building construction Projects is part of the business management function in construction, which can most efficiently and economically be performed by the Contractor, it is recommended that the purchase of material by the Owner be discouraged.

Article 14

Rejection of Bids

The Owner has a right to reject any or all bids for good and sufficient cause but this should not be done as a subterfuge to accept a bidder who did not submit a proposal until after the prices of others were made known, or to obtain an estimate of the cost of the Project so as to award it by separated contracts or to a bidder definitely selected in advance.

Article 15

Refiguring Work

When for any reason the bids received in competition are not acceptable and must be rejected, extreme care must be taken to avoid any requirement in a rebidding of the Project, which will compromise the principles of or the spirit of competitive bidding.

Inasmuch as the reasons which require the rebidding of a Project will differ in each instance, it may be impossible to lay down a guide for ethical practices with specific application to every circumstance. Nevertheless, it should be understood that if competitive bidding is to produce the lowest possible price for the Owner which is consistent with the design requirements of the Project each bidder must have assurance that his bid will not subsequently be subjected to price cutting without commensurate reductions in design requirements.

The right of the Owner to reject any or all bids or to waive any irregularity must be measured against the fundamental principle of competitive bidding: This is, is it "fair" to each and every bidder? The conditions of the rebidding, as in the original bidding, should not give an advantage to one bidder over another.

After original bids have been rejected new bids should not be solicited until (1) sufficient time has elapsed to induce different cost factors in labor or material components, or (2) design changes will bring the Project cost within the funds available. As a general rule, three months should be the minimum time between the initial and subsequent bidding unless the Project is redesigned. Where redesigning takes place, the changes in Project requirements should be such as to affect a change of at least 15 percent in the bidding.

When Only One Bid is Received

In the event only one bid is received it is the Owner's obligation (1) to return the unopened bid to the bidder or (2) to be prepared to make an award on the basis of the single bid received, if the bid is not over a stated figure given to the bidder before the bid is opened.

If only one bid is received the bidder should be given the option of withdrawing his bid or allowing it to be opened. If he chooses to allow it to be opened and the bid is rejected there is no ethical obligation on the part of the Owner to redesign the Project or to wait three months in soliciting new bids as described above.

Article 16

Meeting the Low Bid

It would defeat the purpose of fair competition for one competing bidder, after he has knowledge of the bids, to reduce his bid so as to deprive a lower bidder of his legitimate advantage. It is unfair for the Owner or Architect or Engineer to whom the bids were tendered to induce a competing bidder to do this.

Conversely, since all bidders know their competitor's bids, it would be unfair for the low bidder to raise his bid and still remain the low bidder.

Article 17

Errors in Bids

If, after bids are opened, the low bidder should claim he has made a serious error in the preparation of his bid, and can support such claim with evidence satisfactory to the Owner and the Architect or Engineer, he should be permitted to withdraw his bid and his bid guarantee should be returned. In such event, action on the remaining bids should be considered as though the withdrawn bid had not been received.

Under no circumstances should a bidder be permitted to alter his bid after the bids have been opened. If major changes are necessary, new bids should be secured on the basis of revised drawings and contract documents.

The bidder whose bid has been withdrawn by reason of the error shall not be permitted to again bid the Project.

An excessive number of alternates adds disproportionately to the work of the Contractors in preparing bids and contributes to the increased possibility of error.

Article 18

Bidding and Award Of Specialty Contracts

An important part of the construction procedure is the bidding and award of specialty contracts for various portions of the Project. Specialty Contractors perform essential and vital portions of the Project.

If a Prime Contractor is to be completely responsible to the Owner for the execution of all the operations essential to the construction of the Project, he requires the authority to engage the services of the necessary Specialty Contractors and to coordinate their work.

It is obvious that the bidding and award of such contracts should be done ethically and in accord with sound business practices.

The operations of the Contractor are made possible through the functions of those agencies which furnish him with service or products, and in contracting with them he is rightfully obligated by the same principles of honor and fair dealing that he desires should govern the actions toward himself or the Architect or Engineer and Owner.

In furtherance of this principle, it is recommended that:

1. Proposals should not be invited from anyone who is known to be unqualified to perform the proposed work or to render the proper service.
2. The figures of one competitor shall not be made known to another before the award of the subcontract, nor should they be used by the Contractor to secure a lower proposal from another bidder.
3. The contractor should be awarded to the lowest bidder if that bidder is qualified to perform the contract. If the award is made to another bidder, it should be at the amount of the latter's bid. (The statement "latter's bid" meaning the next higher bid.)
4. When the Contractor has been paid by an Owner for work or material he should make payment promptly, and in just proportion, to subcontractors and others.
5. It is unethical and detrimental to good competition for a Contractor, prior to the opening of bids or the awarding of the contract, to disclose the amount of a subbid or quotation obtained in confidence for the preparation of his bid.