

GENERAL INSTRUCTIONS TO BIDDERS

PREPARATION OF BIDS: Each person making a Bid:

Certifies that he/she has fully informed themselves of the contents of the Bidding Documents by his/her personal examination of them;

Upon request each prospective Bidder will be given two complete sets of the Bidding Documents. One such set of the Bidding Documents shall be filled out by the Bidder and shall be submitted as the bid. Each set of Bidding Documents should contain:

- Item #1. The Advertisement for Bids
- Item #2. The Non-Collusive Bidding Certificate
- Item #3. The Waiver of Immunity
- Item #4. Certification of Bidder regarding Equal Employment Opportunity
- Item #5. General Instructions to Bidders
- Item #6. Well Rehabilitation Specifications
- Item #7. Well Detail Drawings
- Item #8. Statement of Bidder's Qualifications
- Item #9. Form for Submission of Bid
- Item #10. Bid Itemization Sheet

Each person preparing a bid shall set forth in the space provided at the end of the Form for Submission of Bid:

1. Their name and title
2. Their business address, email address, and telephone number
3. Their signature
4. The name of the person, firm, or corporation on whose behalf the bid is being made (if any)
5. The business address and telephone number of such person, firm or corporation (if not the same as 2 above)
6. The date

Each person preparing a bid shall sign the Non-Collusive Bidding Certificate, the Waiver of Immunity and Certification of Bidder regarding Equal Employment Opportunity. The Bidder's Qualifications form must also be completed and submitted with the bid.

The bid is to be submitted for the rehabilitation of Elmira Water Board Well as specified in the Specifications for Rehabilitation. Each price shall be typewritten, or written in ink, in words and in figures. Labeled spaces are provided for this purpose in the Form for Submission of Bid. In the event that the price stated in words is not the same as the price stated in figures, the price stated in words shall be binding.

All prices quoted shall exclude all Federal, State, and Municipal taxes.

Each bid must be accompanied by an acceptable bid security in the amount of 5% of the highest bid amount. Cash is not acceptable as such security. The security must be payable to the Elmira Water Board. The security is to ensure that the Bidder, if successful, will:

1. Enter into a written Contract with the Elmira Water Board which contract will provide that the Bidder and the Elmira Water Board are to perform according to the terms and conditions set forth in the Bidding Documents; and
2. Furnish good and sufficient Bonds for the faithful performance of said Contract and payment of labor and materials.

If the successful Bidder fails or omits to execute the Contract or to furnish the Bonds within 15 days following the award of the Contract by the Elmira Water Board, the security shall be forfeited to the Elmira Water Board. Bid securities of all unsuccessful Bidders will be returned promptly after the execution of the contract.

Each bid shall be delivered to the Office of the Elmira Water Board at 261 West Water Street, Elmira, New York 14901, enclosed in an opaque, sealed envelope clearly labeled with the name of the Bidder and the title of the proposal as taken from the title page of the Bidding Documents.

BID OPENING AND AWARD:

All Bids will be opened and read at the time and place specified in the Advertisement for Bids. The award of the Bid will be based on the Bid amount set forth in the Bid Submission Form.

The Elmira Water Board may, in its discretion,

1. Permit a Bidder to withdraw his/her bid if a written request to withdraw the bid is received by the Elmira Water Board prior to the time set for the bid opening; or
2. Reject any bid which lacks prices on all items included in the proposal, or which in any other way is incomplete.

The Elmira Water Board reserves the right:

1. To reject any and all bids if in its opinion the best interest of the Elmira Water Board will be promoted thereby; and

Bid acceptance and award to the lowest responsible Bidder by the Elmira Water Board will be made as soon as practicable after the bid opening.

Following the award by the Elmira Water Board, a contract providing that the Bidder and the Elmira Water Board are to perform according to the terms, conditions, and specifications set

forth in the Bidding Documents will be prepared by the Corporation Counsel for execution by both parties.

At or before the time of execution of the contract, the successful Bidder will be required to furnish a Performance Bond conditioned upon the faithful performance of the work in a manner satisfactory to the Elmira Water Board and a Labor/Materials Bond each in an amount equal to the contract amount. The Bonds must be approved by the Corporation Counsel.

The successful Bidder's failure or refusal to execute the contract or to furnish the Performance and Labor/Materials Bonds will cause the bid security to be forfeited to the Elmira Water Board.

Upon receipt of a Notice to Proceed, the successful Bidder has thirty (30) days from the date of the Notice to Proceed to commence work. The work must be completed within sixty (60) days from the start date.

Payment by the Elmira Water Board will be made in the manner set forth. Upon approval by an Elmira Water Board representative, the Elmira Water Board shall make payment within thirty (30) days of receipt of a final completion report and an invoice for the work performed.

All Bidders shall please take note that the Elmira Water Board is exempt from all sales tax.

Apprenticeship Programs: If the Elmira Water Board receives **identical bids** from two or more bidders, the Elmira Water Board will give preference to the bidder, if any, participating in one or more New York State Certified Apprenticeship Programs.

If this be a contract for the construction, maintenance and/or repair of public work and the total cost of all work to be performed under the contract is at least two hundred fifty thousand dollars, then all laborers, workers, and mechanics employed in the performance of the contract either by contractor, sub-contractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract, shall be certified prior to performing any work on the project as having successfully completed a course in construction safety and health approved by the United States Department of Labor's Occupational Safety and Health Administration that is at least ten hours in duration. (Labor Law Section 22-h).

Iranian Energy Sector Divestment:

1. Contractor/Proposer hereby represents that said Contractor/Proposer is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment", in that said Contractor/Proposer has not:

- (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

2. Any Contractor/Proposer who has undertaken any of the above and is identified on a list created pursuant to Section 165-a(3)(b) of the New York State Finance Law as a person engaging in investment activities in Iran, shall not be deemed a responsible bidder pursuant to Section 103 of the New York State General Municipal Law.

3. Except as otherwise specifically provided herein, every Contractor/Proposer submitting a bid/proposal in response to this Request for Bids/Request for Proposals must certify and affirm the following under penalties of perjury.

(a) "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder is not on the list created pursuant to NYS Finance Law Section 165-a(3)(b)." The Elmira Water Board will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

4. Except as otherwise specifically provided herein, any Bid/Proposal that is submitted without having complied with subdivision (a) above, shall not be considered for award. In any case where the Bidder/Proposer cannot make the certification as set forth in subdivision (a) above, the Bidder/Proposer shall so state and shall furnish with the bid a signed statement setting forth in detail the reasons therefore. The City reserves its rights, in accordance with General Municipal Law Section 103-g to award the Bid/Proposal to any Bidder/Proposer who cannot make the certification, on a case-by-case basis under the following circumstances:

(1) The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The Elmira Water Board has made a determination that the goods or services are necessary for the Elmira Water Board to perform its functions and that, absent such an exemption, the Elmira Water Board would be unable to obtain the goods or services for which the Bid/Proposal is offered. Such determination shall be made by the Elmira Water Board in writing and shall be a public document.

OBLIGATIONS OF SUCCESSFUL BIDDER: Each Bidder agrees, if awarded the Contract:

1. ASSIGNMENT: Not to assign or sublet the contract or any work covered by the contract without previous written permission from the Elmira Water Board.

2. PREVAILING WAGE RATES AND PAYROLL TRANSCRIPT RECORDS: Contractors will be required to adhere to prevailing New York State Labor Department and Federal Wage schedules in paying wages to employees. The prevailing wage schedules in effect at the time the work is performed shall control. Pursuant to Section 220, subdivision (3-a) of the Labor Law, the successful bidder to whom the Elmira Water Board awards the contract shall submit to the Elmira Water Board a transcript of its original payroll records within thirty (30) days of the issuance of said contract, and thereafter the contractor and subcontractor shall submit to the Elmira Water Board payroll records every thirty (30) days.

(a) Worker Notification: This provision is an addition to the existing prevailing wage rate law, Labor Law 220, subdivision 3-a. It requires contractors and subcontractors to provide written notice to all laborers, workers or mechanics of the prevailing wage rate for their particular job classification on each pay stub*. It also requires contractors and subcontractors to post a notice at the beginning of the performance of every public work contract on each job site that includes the telephone number and address for the Department of Labor and a statement informing laborers, workers or mechanics of their right to contact the Department of Labor if he/she is not receiving the proper prevailing rate of wages and/or supplements for his/her particular job classification. The required notification will be provided with each wage schedule, may be downloaded from the website www.labor.ny.gov under the heading “**Businesses**” and then “**Labor Standards**” or made available upon request by contacting the Bureau of Public Work at 518-457-5589.

3. COMPLIANCE WITH LAW: To comply with and fulfill all laws, orders, ordinances, rules and requirements of Federal, State, City, County or other political subdivisions and of any other department, bureau of governmental authority; all applicable OSHA and New York State Labor rules, regulations, and statutes.

4. To perform all work and to furnish all materials in strict accordance with the Bidding Documents unless written orders, describing a specific deviation from the Bidding Documents, shall previously have been issued by the Elmira Water Board’s Engineering Department.

5. That the Elmira Water Board’s Engineering Department shall determine whether or not the performance is in accordance with the Bidding Documents.

Note: Each Bidder should be sure to check the specification portion of the Bidding Documents for additional information relating to the preparation of bid, the bid opening and award, and the obligations of the successful Bidder.

The Elmira Water Board reserves the right to reject any and all bids and to waive technicalities.

CONTRACTORS INSURANCE:

The contractor shall not commence work under this Contract until he/she has obtained all insurance required under this paragraph and such insurances have been filed and approved with the Corporation Counsel, nor shall the contractor allow any sub-contractor to commence work on his/her sub-contract until such sub-contractor has been approved by the Elmira Water Board or its agents, and all similar insurance required of the sub-contractor has been so obtained and approved. The required insurance coverage is as follows:

- (A) Workers Compensation Insurance and Disability Benefits Insurance shall be obtained in accordance with the Laws of the State of New York.

- (B) Public Liability and Property Damage Insurance which shall protect the contractor and any sub-contractor performing work in connection with this Contract for claims for damages for bodily injury including accidental death, as well as from claims for property damage which may arise from operations connected with this Contract, whether such operations be by contractor or by any sub-contractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:
 - (1) Public Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) for injuries including accidental death to any one person, and subject to the same limit for each person, and in an amount not less than Two Million Dollars (\$2,000,000) on account of one occurrence.

 - (2) Property Damage Insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000) for damages on account of any one accident and in an amount not less than Five Hundred Thousand Dollars (\$500,000) for damages on account of all accidents.

 - (3) Motor Vehicle Insurance for motor vehicles required to have such insurance (if applicable):
 - (a) Bodily Injury \$1,000,000 each person
 \$1,000,000 each occurrence

 - (b) Property Damage \$ 500,000 each occurrence

- (C) All policies of insurance required of the contractor, except Workers Compensation and Disability Benefits, insuring, indemnifying and saving harmless the Elmira Water Board and the City of Elmira, shall be endorsed naming the Elmira Water Board and the City of Elmira and its officers and employees and agents, as an additional insured on a primary basis.

- (D) Proof of Coverage of Insurance: The contractor shall furnish the Elmira Water Board certificates of all insurance, each of which shall contain the following provision: Such insurance shall not be canceled, terminated, modified or changed by either contractor or the Insurance Company, except on ten (10) days prior written notice sent by the

Insurance Company via registered mail to the Elmira Water Board. Such notices shall be addressed to the Elmira Water Board, 261 West Water Street, Elmira, New York 14901.

- (E) Performance Bond and Materials/Labor Bond: The Successful Bidder will be required to furnish a Performance Bond or other security satisfactory to the Corporation Counsel and conditioned upon the faithful performance of the contracts for the amount of one Hundred (100) Percent of the Gross Sum Bid. The Bid Security will be returned to the Successful Bidder after he/she has executed the written Contract and provided a satisfactory Performance Bond. The successful Bidder must also furnish a materials/labor bond in an amount equal to the contract amount.
- (F) To the extent permitted by law, The contractor shall save and hold the Elmira Water Board and the City of Elmira harmless from and against all liability, claims and demands on account of personal injuries, bodily injuries and death (including, without limitation of the foregoing Workers Compensation) or property loss or damage of any kind whatsoever, which arise out of or are in any manner connected with, or are claimed to arise out of or be in any manner connected with, the performance of this contract, regardless of whether such injury, loss or damage shall be caused by, or claim to be caused by, the negligence or other fault of the contractor, or of a sub-contractor, or of some other person; or by any agents or employees of any of the foregoing; or by accident; or otherwise.

The contractor shall, at his/her own expense, investigate all such claims and demands, attend to their settlement or other disposition, defend all action based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

DEFAULT & TERMINATION OF CONTRACT:

The contractor shall be considered in default of his contract and such default will be considered as cause for the Elmira Water Board to terminate the contract for the following reasons:

- a. Fails to comply with any term or condition of the contract.
- b. Fails to provide contract materials, supplies, or services (including delivery time) compliant with the specifications.
- c. Supplies unsuitable materials/goods or neglects or refuses to remove materials/goods or to deliver anew such materials/goods as may be rejected as unacceptable and unsuitable.
- d. Discontinues the delivery of materials/goods.
- e. Becomes insolvent, voluntarily or involuntarily files for bankruptcy, or commits any act of bankruptcy or insolvency.

General Instructions Continued Item #5

- f. Allows any final judgment to stand against him unsatisfied for a period of ten (10) days or more.
- g. Makes an assignment for the benefit of creditors.
- h. Fails to timely pay employees, subcontractors, and or suppliers of materials or purchased services.
- i. For any cause whatsoever, fails to provide the materials in an acceptable manner.

Should the Elmira Water Board deem the contractor in default of the contract for any reason, it shall give written notice to the contractor and the contractor's surety as to the reasons for considering the contractor in default and the Elmira Water Board's intentions to terminate the contract.

If the Elmira Water Board terminates the contract, the Elmira Water Board may appropriate or use any or all materials or goods that have been delivered and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Elmira Water Board will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Elmira Water Board, together with the cost of procuring materials, goods, or supplies covered under the contract, will be deducted from any monies due or which may become due the contractor. If such expense exceeds the sum which would have been payable under the contract, then the contractor and the surety will be liable and shall pay to the Elmira Water Board the amount of such excess.