



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Solicitation

NUMBER
6614C038

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
CRYSTAL RINK 304-558-2402

RFQ COPY

TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

DIVISION OF HIGHWAYS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED
09/17/2014

BID OPENING DATE: 09/17/2014

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM NO. 13						
THIS ADDENDUM HAS BEEN ISSUED TO CANCEL SOLICITATION IN ITS ENTIRETY PER THE ATTACHED DOCUMENTATION.						
0001	1	EA		968-61		
	PAINTING (BRIDGES, ETC.)					
***** THIS IS THE END OF RFQ 6614C038 ***** TOTAL:						

SIGNATURE		TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE	

WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

SOLICITATION NUMBER: 6614C038

Addendum Number: 13

The purpose of this addendum is to modify the solicitation identified as (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

To cancel the solicitation in its entirety per the attached documentation

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

ATTACHMENT A



EARL RAY TOMBLIN
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION
2019 WASHINGTON STREET, EAST
P.O. BOX 50130
CHARLESTON, WEST VIRGINIA 25305-0130

ROSS TAYLOR
CABINET SECRETARY
DAVID TINCHER
DIRECTOR

September 17, 2014

Keith Chapman
Business Manager
West Virginia Division of Highways
Building 5, Room A-109
State Capitol Complex
Charleston, WV 25305

Re: DOH Contracts

Dear Mr. Chapman,

Enclosed with this letter, please find requisition and solicitation documents related to solicitations identified as:

6614C034 – Grout with Application
85142004 – Impact Attenuator Replacement
6614C038 – Bridge Painting
0714C849 – Mortar for Bridges with Application
6614C031 – Equipment Rental with Operator

These solicitations are being cancelled and will not be processed through the Purchasing Division nor will any contracts that require payment for labor associated with road related construction, repair, or maintenance.

The Division of Highways has statutory authority to solicit bids and award contracts like those listed above. However, the Purchasing Division lacks that authority. The Commissioner of State Highways is given the power and authority to “contract for the construction, improvement and maintenance of the roads” under W. Va. Code § 17-2A-8(27) and separately to “[p]urchase materials, supplies and equipment required for the state road program and system” under W. Va. Code 17-2A-8(34) (emphasis added).

The Commissioner’s authority is further clarified by subsequent Code sections that make a distinction between what will be processed by the Purchasing Division and what will be

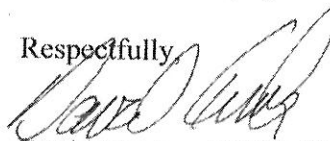
processed by the Commissioner. "All materials, supplies, and equipment required for the state road program and system shall be purchased . . . through the department of purchases . . ." W. Va. Code § 17-2A-13, see also W. Va. CSR § 157-4-1. The statute granting authority to the Purchasing Division to process solicitations on behalf of the Division of Highways ("DOH") mirrors the authority in W. Va. Code § 17-2A-8(34). That authority does not include road related maintenance, repair, or construction. Stated another way, the Purchasing Division lacks authority to process any contract with a labor component that is related to maintenance, repair, or construction of roads.

Conversely, West Virginia Code § 17-4-19 makes it clear that the Commissioner has authority to bid out "[a]ll work of construction and reconstruction of state roads and bridges, and the furnishing of all materials and supplies therefor, and for the repair thereof . . ." The statute omits a reference to maintenance, but it does include "repair" and the prior separation of materials, supplies and equipment from construction, improvement and maintenance makes the intent clear.

The intent has to be that the Purchasing Division assists DOH in procuring materials, supplies, and equipment only. Everything related to roads and involving some form of labor, construction, maintenance, or repair would be the responsibility of DOH to procure. This understanding is further supported by Purchasing Division law, which states that "the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation . . ." W. Va. Code § 5A-3-3(9).

Accordingly, the Purchasing Division lacks statutory authority to process contracts for DOH that include anything other than materials, supplies, and equipment. Any contract that relates to roads and contains labor, construction, repair, or maintenance, must be processed under the authority granted to DOH by West Virginia Code § 17-4-19 and 17-2A-8(27).

Respectfully



David Tincher, CPPO, Director
Purchasing Division

Encl:

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: 6614C038

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Company

Authorized Signature

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012