

BIDDING PROCEDURES GOODS PURCHASES

GENERAL

These Bidding Procedures for Goods Purchases shall apply only to those solicitations that reference the procedures specifically for Manitoba Infrastructure.

By submitting a Bid to Manitoba, Bidders agree to the terms and conditions of the Bidding Procedures for Goods Purchases. Failure to comply with the Bidding Procedures for Goods Purchases may disqualify the Bid.

In the event of any conflict or disagreement between the Bidding Procedures for Goods Purchases and the RFQ documents, the RFQ documents take precedence and will be assumed to be correct.

These Bidding Procedures are intended to cover a wide range of procurements. As such, not all clauses will be applicable in all situations. If Bidders have questions regarding any of these procedures, a contact name will be provided in the RFQ document for inquiries.

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1.0 REQUEST FOR QUOTATION DEFINITIONS

AMMENDMENT: means any document issued by the owner for the purpose of correcting, clarifying or modifying any of the tender documents.

BID: means the Bidder's bid/quotation or offer submitted in response to the RFQ.

BIDDER: means the person who or company which obtains a copy of the RFQ for the purpose of submitting a bid/quotation or offer to provide the goods and/or services.

BIDDING PROCEDURES: means the document governing the bidding process from advertisement of the RFQ to award of the Purchase Order.

GENERAL TERMS AND CONDITIONS FOR GOODS PURCHASES: means the document governing the administration of the Purchase Order from contract award to final payment and any surviving provisions.

INDIGENOUS BUSINESS: means a business that is at least 51% Indigenous owned and controlled and, if it has six or more full-time employees, at least one-third of its employees must be Indigenous persons.

INDIGENOUS BUSINESS DIRECTORY: means a business directory of Indigenous businesses that meet Manitoba's definition of an Indigenous business.

INDIGENOUS BUSINESS STANDARD: means terms and conditions that indicate that Indigenous business participation is desirable but not mandatory.

INDIGENOUS PERSON: means a First Nations, Non-status Indian, Métis or Inuit person who is a Canadian citizen and resident of Canada.

MANITOBA: means the Government of Manitoba or the purchaser for a department or branch of the Government of Manitoba that requires the goods and/or services listed in the RFQ or PO.

MERX: means Manitoba's Corporate Electronic Tendering System.

NOTICE: means summary information on a tender opportunity posted to Manitoba's Electronic Tendering System (MERX).

PURCHASE ORDER (PO): means the Purchase Order issued by Manitoba to the Vendor as written acceptance of their bid/quotation or offer to supply the goods and/or services. The General Terms and Conditions for Goods Purchases and Special Terms and Conditions for Goods Purchases form part of the PO.

REQUEST FOR QUOTATION (RFQ): means the tender document to request pricing to provide the goods and/or services listed therein.

SPECIAL TERMS AND CONDITIONS: means the document governing the special requirements of the goods or services being purchased and which takes precedence over the Bidding Procedures for Goods Purchases and the General Terms and Conditions for Goods Purchases.

VENDOR: means the person who or company which will provide the goods and/or services as the successful bidder.

2.0 TERMS

- 2.1 The Bidding Procedures for Goods Purchases shall apply to all Bids except where Special Terms and Conditions are stipulated elsewhere in the RFQ. In that case, the Special Terms and Conditions shall take precedence over the Bidding Procedures for Goods Purchases.
- 2.2 Failure to comply with the Bidding Procedures for Goods Purchases or any other terms and

conditions listed in the RFQ may result in rejection of the Bid. Manitoba shall be the sole judge as to whether a Bid is accepted or rejected. A decision to reject a Bid is final.

- 2.3 The words “must” “shall” and “will” mean a requirement is mandatory and must be met in order for the Bid to receive consideration.
- 2.4 All information requested of the Bidder in the RFQ documents shall be provided by the Bidder. Bids not containing the required information may be rejected.
- 2.5 Where the Bidder is awarded a Purchase Order, that Vendor will be required to provide the goods or services in accordance with the General Terms and Conditions for Goods Purchases and the Special Terms and Conditions referred to in the RFQ documents.

3.0 FEDERAL TAXES AND OTHER FEES

- 3.1 GOODS AND SERVICES TAX (GST): Manitoba is GST exempt. The GST Registration number for Manitoba is R107863847.
- 3.2 EXCISE TAX: Federal Excise Tax shall be included in the unit bid prices for applicable items.
- 3.3 DUTY: Federal duty charges shall be included in the unit bid prices for imported items unless an exemption is shown in the RFQ.

4.0 PROVINCIAL TAX

- 4.1 Manitoba is subject to the Manitoba Retail Sales Tax. This tax shall **not** be included in unit prices but will be added by Manitoba to the total contract value when a Purchase Order is issued. Vendors are required to show Manitoba Retail Sales Tax as a separate item on all invoices submitted for payment.

5.0 BID SUBMISSION

- 5.1 The Bidder shall obtain all RFQ documents directly from MERX. Manitoba, may at any time and without notice waive this requirement depending on extenuating circumstances.
- 5.2 The Bidder shall be responsible for all costs of preparing its Bid. Manitoba will not reimburse any Bidder for any costs if the RFQ is cancelled or reissued.
- 5.3 Bids must be submitted electronically through the MERX platform unless otherwise permitted in the RFQ document. Manitoba may permit Bidders to submit a Bid document another way which will be set out in the RFQ document. Failure to complete the bid submission or include all information and documents requested may result in rejection of a Bid.
- 5.4 The Bidder shall be solely responsible for obtaining and verifying all information including any amendments that may be necessary in order to understand the requirements of the RFQ and submit a Bid in accordance with the terms and conditions of the RFQ documents. No claim shall be entertained or allowance made for the failure of a Bidder to obtain such information or make such investigations or to obtain any amendments before the RFQ closing date and time.
- 5.5 The Bidder warrants it has the right to offer the goods for sale in Manitoba.
- 5.6 Notwithstanding Section 3 and 4 respecting taxes, the Bid prices submitted by the Bidder shall include all costs necessary or incidental to supplying the goods or services, including but not limited to, packaging, crating, delivery costs, applicable taxes, import fees or brokerage fees, regardless of the source of these fees including Manitoba's Broker. Manitoba will make no additional payments to the Vendor for any changes in the Vendor's assumed cost structure at the time of bid submission including any changes to taxes.

- 5.7 The Bidder warrants that there are no patents, trademarks or other rights restricting use, repair or replacement of the material furnished or any part thereof and hereby agrees to indemnify and save harmless Manitoba, its employees and agents from and against all claims, demands, losses, costs, damages actions, suits or other proceedings by whomsoever made, filed or prosecuted in any manner by reason of such use, repair or replacement of the materials being a violation of any patent, trademark or other right.
- 5.8 Bidders shall save harmless Manitoba, its employees and agents from any and all third party claims, demands, or actions for which Bidders are legally responsible, including those arising out of negligence, willful harm or crimes by Bidders or the Bidders' employees or agents.
- 5.9 Bidders shall be responsible for loss or damage to the real and personal property of Manitoba where Bidders are legally responsible, including negligence, willful harm or crimes of the Bidder, its employees or agents.
- 5.10 Unless otherwise stated in the RFQ, Bidders must provide a price for each item and will be expected to supply that item for the price that is bid. For clarity, failing to enter a price for an item or selecting the "No Bid" option will result in rejection of the Bid.

6.0 ONLINE BID SUBMISSION

- 6.1 Where the Bidder is required to submit a Bid through Manitoba's online procurement service provider, the Bidder will be required to register a user profile with the online procurement service provider. The submission procedures set out in the online procurement service provider website shall apply, including those with respect to Amendment Acknowledgements. It is solely the Bidder's responsibility to ensure that its Bid is received by the online procurement service provider before the Submission Deadline. Bids received after the Submission Deadline will not be accepted.
- 6.2 The Manitoba online procurement service provider is www.MERX.com.
- 6.3 Where an online bid submission is required, all Bids shall be quoted in Canadian Dollars. If the pricing offered is quoted in a currency other than Canadian Dollars, then the currency must be clearly identified on the Bid. For the purposes of comparing Bids to identify the successful Vendor, Manitoba will convert the bid currency to Canadian Dollars using the Bank of Canada rates in effect at the Bid submission deadline as applicable.

7.0 HARD COPY BID SUBMISSIONS (WHEN PERMITTED)

- 7.1 Submitted documents shall be legible. Illegible Bids may result in rejection of a bid submission.
- 7.2 Manufacturer's name and catalogue numbers must be provided, if requested.
- 7.3 The prices quoted shall be extended and totaled. In the case of mathematical errors, the unit prices shall take precedence over the extended item prices which shall take precedence over the grand total price.
- 7.4 The Bid must be signed by a representative of the Bidder with the authority to bind the Bidder.
- 7.5 The name and title of the representative signing the Bid shall also be printed below their signature.
- 7.6 Bids must be received at the Submission Address no later than the closing date and time.
- 7.7 Bids shall be quoted Canadian Dollars. If the pricing offered is quoted in a currency other than Canadian Dollars, then the currency must be clearly identified on the Bid. For the purposes of

comparing Bids to identify the successful Vendor, Manitoba will convert the bid currency to Canadian Dollars using the Bank of Canada rates in effect at the Bid submission deadline as applicable.

- 7.8 Bids shall be submitted in a sealed envelope and sent by mail or delivered personally, or by courier to the Submission Address. The envelope shall be clearly marked with the solicitation number, the closing date and time and the Bidder's name and return address.
- 7.9 Bids submitted by email shall include the solicitation number and the Bidder's name in the subject line and shall be sent in PDF format. Emails approaching 40 Megabytes in size may be rejected by Manitoba's email system. Upon submitting a Bid by email, Bidders will receive a reply email confirming that Manitoba has received the Bid. Bidders not receiving a reply email shall contact the Contract Administrator to confirm receipt of bid by Manitoba.
- 7.10 While Manitoba may allow for email bid submissions, the Bidder acknowledges that electronic bid submissions are inherently unreliable. The Bidder bears all risk associated with submitting its Bid by electronic submission, including but not limited to, delays in transmission between the Bidder's computer and Manitoba's email system.
- 7.11 It is the Bidder's sole responsibility to ensure that their Bid and all attachments are received at the Submission Address before the closing date and time. Bids received after the closing date and time will be rejected. Late bids will only be returned at the written request and expense of the Bidder.

8.0 AMENDING OF BIDS AND IRREVOCABILITY

- 8.1 Bidders may amend or withdraw their Bids prior to the closing date and time by way of written notice to Manitoba to the Submission Address.
- 8.2 After the closing date and time, Bids received will be irrevocable for a period of 90 days.

9.0 ACCEPTANCE OF BID CONDITIONS

- 9.1 A Bidder shall clearly understand that by submitting a Bid, the Bidder agrees that its Bid or any part of its Bid is subject to the conditions contained herein, in addition to any other terms and conditions set out in the RFQ.
- 9.2 No Bid will be considered from a Bidder where Manitoba, in its sole discretion, determines that a potential conflict of interest exists.
- 9.3 No Bid will be considered that is in any way conditional or that proposes to impose conditions on Manitoba that are inconsistent with the requirements of the RFQ and the terms and conditions stipulated therein.
- 9.4 The submission of a Bid, the receipt of a Bid by Manitoba or the consideration of a Bid, or any one of those, does not constitute acceptance of a Bid, in any way whatsoever.

10.0 RIGHT TO REISSUE RFQ

- 10.1 Manitoba reserves the right to cancel and/or reissue the RFQ where, in Manitoba's sole opinion, the Bids submitted in response to the RFQ do not warrant acceptance or where it would not be in the best interests of Manitoba to do so.

11.0 ERRORS AND OMISSIONS

- 11.1 Bidders must advise Manitoba of any errors or omissions found in the RFQ documents prior to Bid closing date and time so that the RFQ can be revised and communicated to all Bidders.

12.0 ALTERATIONS/QUALIFICATIONS OF BIDS

- 12.1 No Bid shall be altered, amended or withdrawn after the specified closing date and time. Manitoba is the sole agency empowered to negotiate or alter any term, condition or stipulation of the Bid and/or any subsequent award or event arising therefrom.
- 12.2 Any terms, conditions or stipulated qualifications on bid submissions that are inconsistent with the RFQ documents will, at Manitoba's discretion, be disregarded and may be a cause for rejection of the bid.
- 12.3 Bids stipulating that pricing is subject to changes "without notice" will be rejected.

13.0 AUTHORIZED VENDOR

- 13.1 Manitoba reserves the right, prior to any Purchase Order award, to secure evidence to Manitoba's satisfaction, that any Bidder is the manufacturer or authorized distributor, dealer or retailer of the goods offered and is authorized to sell these goods in Manitoba, Canada. Upon request, the Bidder will provide Manitoba with written evidence thereof, free of any expense to Manitoba, to guarantee faithful performance of the Purchase Order.

14.0 SPECIFICATIONS/QUALITY

- 14.1 It is understood that reference to available specifications shall be sufficient to make the terms of such specifications binding on the Bidder. The use of the name of the manufacturer, of any special brand or make, in describing an item does not restrict the Bidder to that manufacturer or specific article, unless specifically so stated. The name of a make, model, manufacturer or brand is used simply to indicate the character or quality of the article desired; and is to establish a design, type of construction, quality, functional capability and/or performance level desired. The articles on which Bids are submitted shall be equal to that specified and must be supported by brochures or any identifying factors enabling comparative evaluation. Manitoba shall be the sole judge of equivalency.
- 14.2 Unless specifically requested all goods must be new (unused), of the most current production and proven technology and of merchantable quality.
- 14.3 Goods subject to shelf life and obsolescence contingencies must be marked with expiry dates and supplied sufficiently in advance of the expiry date to permit reasonable use or consumption by Manitoba.
- 14.4 All goods supplied must conform to relevant federal and provincial legislation.
- 14.5 All components of the goods must be compatible and meet or exceed the Specifications and / or the manufacturer's published specifications.
- 14.6 Where the RFQ does not specify manufacturers' names, brands, models and/or part numbers, the Bid must contain sufficient information for Manitoba to identify the goods quoted, or the Bid may be rejected.
- 14.7 Deviations from the Specifications may result in rejection of the bid. The Bidder shall state each deviation, and Manitoba will determine the acceptability of any minor deviations. Products not previously purchased may be subject to testing and approval.

15.0 EVALUATION OF GOODS

- 15.1 Prior to the award of a PO, the Vendor must supply the goods for evaluation upon request within the requested time frame.

- 15.2 The Bidder must pay all costs to supply the goods for evaluation at the location indicated and be responsible for the goods, in the event of loss or damage while at Manitoba for evaluation. All costs referred to in this clause must include, but are not limited to, packaging, handling, shipping, unloading, duty, customs, brokerage fees and insurance charges.
- 15.3 If the goods supplied for evaluation are not fit for purpose or in an operable state, the Bidder must, at the Bidder's expense, make the necessary adjustments, repairs or replacement within a reasonable period of time. Failure to provide the goods for evaluation, or failure of the goods to be in an operable state during evaluation, will result in rejection of the Bid.
- 15.4 Unless, during the evaluation, the goods are; either consumed or tested to destruction, the Bidder must remove the goods, at its own expense and risk, within 10 Business days after receiving notification from Manitoba.
- 15.5 Results obtained during evaluation are the property of Manitoba.

16.0 PRODUCT CERTIFICATION

- 16.1 All products supplied to Manitoba, which require testing, and approval by organizations such as Canadian Standards Association (CSA), Manitoba Department of Labour, or other testing agencies acceptable to Manitoba must be tested and certified prior to delivery. This certification must be provided to Manitoba upon request.

17.0 MATERIAL SAFETY DATA SHEETS (MSDS)

- 17.1 The successful vendor shall provide Manitoba with one (1) copy of Material Safety Data Sheets (MSDS's) for each product being supplied and throughout the term of the Purchase Order provide any revisions or updates as soon as may be reasonably possible.

18.0 PURCHASER PROPERTY

- 18.1 Any and all property of Manitoba including but not restricted to, any document, drawing, or thing issued by Manitoba, coincident with and/or after the RFQ shall remain the express property of Manitoba, and may not be destroyed, disposed of, reproduced or modified without the permission of Manitoba.

19.0 ACCEPTANCE OF BID/QUOTATION

- 19.1 The Bidder agrees that their Bid and any part of their Bid is subject to the following conditions, in addition to any other terms and conditions set out in the RFQ.
- 19.2 The receipt of Bids by Manitoba and the opening of Bids does not in any way constitute acceptance of the Bid.
- 19.3 Bids shall not be deemed in any way to be a unilateral contract; they are offers made by the Bidder to Manitoba to carry out the provisions of the RFQ which may be accepted or rejected by Manitoba at Manitoba's sole discretion.
- 19.4 A Bid, or any part of a Bid, is not accepted unless Manitoba accepts it in writing or issues a Purchase Order(s) to the selected Vendor(s).
- 19.5 Manitoba at its sole discretion may reject or accept all or any part of the Bid or any of the Bids submitted under the RFQ; Manitoba is under no obligation whatsoever to accept the lowest or any Bid.

19.6 Bids are subject to such discussion and negotiations in respect to all or any part of the Bid and any or all of the Bids received by Manitoba as may be deemed advisable at Manitoba's entire discretion.

20.0 AWARD OF PURCHASE ORDER

20.1 A Purchase Order will be awarded to the Bidder that submits a compliant Bid with the lowest overall price of all Bidders.

20.2 A Purchase Order will not be awarded on an individual item basis unless otherwise permitted in the RFQ.

21.0 CONFLICT OF INTEREST

21.1 The Bidder must take appropriate steps to ensure that neither the Bidder, nor the Bidder's employees are placed in a position where there is a conflict of interest, or a perceived conflict of interest between the Bidder, its employees and any agent or representative of Manitoba including the offering or giving of gifts.

21.2 If the Bidder has reason to believe any agent, employee or representative of Manitoba has violated any provision of this Conflict of Interest section, the Bidder shall immediately notify Manitoba, Contract Services Branch, of the suspected violation by sending notice to the Director, explaining the concerns in full. The Bidder's failure to so notify the Director shall be a material breach of this agreement and the Director, at his/her option, may terminate the Purchase Order.

22.0 DISCLOSURE OF INFORMATION

22.1 Relative to the Freedom of Information and Protection of Privacy Act, the Government of Manitoba reserves the right to publicly disclose details of Bid including prices at its discretion, or as required by law.

22.2 Neither the Bidder nor its suppliers/vendors, employees nor consultants shall make any public statement that makes reference to or relating to the existence or performance of the PO in any advertising, testimonials or promotional material without the prior written consent of Manitoba, which shall not be unreasonably withheld.

23.0 GOVERNING LAW

23.1 Unless the RFQ specifically states otherwise, the request for quotation, all Bids, and any subsequent PO(s) will be interpreted in accordance with the Laws of Manitoba and Canada. Where the Vendor sources goods from outside of Canada, those businesses, in manufacturing the goods, shall comply with laws in the country of manufacture.

23.2 The Vendor shall be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba.

23.3 In bidding for the work and in entering into a Purchase Order the Vendor and the Vendor's subcontractors declare that they conduct their respective business in accordance with established International Codes as they relate to Child and Forced Labour embodied in United Nations (UN) and International Labour Organization (ILO) conventions as ratified by Canada.

24.0 INDIGENOUS BUSINESS STANDARD FOR GOODS WITH RELATED SERVICES

24.1 INDIGENOUS PROCUREMENT INITIATIVE

24.1.1 Manitoba is committed to community economic development as a key component of its economic strategy. It intends to develop a provincial economy that is more inclusive, equitable and sustainable.

24.1.2 Procurement practices are one means that can be used to contribute to the growth of Indigenous businesses. In that regard, Manitoba developed the Indigenous Procurement Initiative (IPI). The objective of IPI is to increase the participation of Indigenous businesses in providing goods and services to Manitoba.

24.2 INDIGENOUS BUSINESS STANDARD

24.2.1 Indigenous participation is desired but bids will not be disqualified if there is no Indigenous business participation.

24.3 INDIGENOUS BUSINESS DIRECTORY

24.3.1 Manitoba has established a directory of Indigenous businesses called the "Indigenous Business Directory". This directory is a list of Indigenous businesses (including non profit organizations and economic development corporations) that have self declared as an Indigenous Business meeting that definition under the IPI. It is neither comprehensive nor exhaustive but may be a useful resource to identifying Indigenous businesses for potential partnering or sub-contracting purposes.

24.3.2 Indigenous businesses not listed in the Directory may also be used.

24.3.3 Registration in the Indigenous Business Directory does not guarantee certification as an Indigenous business, as business status may change; therefore formal certification is required in the formal tender process.

24.3.4 Indigenous businesses are encouraged to register by contacting Procurement Services Branch.

24.3.5 For further information on the Indigenous Business Directory, registration forms and access to a copy of the Indigenous Business Directory please see the following website:

http://www.gov.mb.ca/finance/psb/api/api_bd.html