

Memorandum



City of Dallas

DATE April 4, 2008

TO Members of the Economic Development Committee:
Chair Ron Natinsky, Vice Chair Tennell Atkins, Dwaine Caraway, Jerry R. Allen, Sheffie Kadane, Mitchell Rasansky, Linda Koop and Steve Salazar

SUBJECT Bonding and Insurance Requirements

The attached Bonding and Insurance Requirements is scheduled to be briefed at your April 7, 2008 Committee meeting.

Should you require additional information, please let me know.

A handwritten signature in cursive script that reads "D. A. Cook".

David Cook
Chief Financial Officer

Attachment

Cc: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Tom Perkins, Jr., City Attorney
Deborah Watkins, City Secretary
Craig Kinton, City Auditor
Judge Jay Robinson
Ryan S. Evans, First Assistant City Manager
David O. Brown, Interim Assistant City Manager
Ramon Miquez, P.E., Assistant City Manager
Jill A Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Jean Chipperfield, Interim Director, Office of Financial Services
Edward Scott, Interim Director, Office of Financial Services
Chandra Marshall-Henson, Assistant to the City Manager
Ade Williams, Director of Business Development and Procurement Services
Michael Frosch, Assistant Director, Business Development and Procurement Services

Bonding and Insurance Requirements

Economic Development Committee

04/7/08



Purpose

- To provide information related to the purpose and use of bid security, performance bond, and payment bond on City solicitations

Bid Security - Definition

- Bid Security - a bond, cashier's check, certified check or irrevocable letter of credit obtained from bidders to ensure the integrity of bids received and recovery of City-incurred costs in the event a vendor awarded a contract fails to execute the contract or provide required performance or payment bonds, if any.

Bid Security- Background

- Bid security is required on every solicitation request (RFB) \$25k or greater
 - Dallas City Charter Chapter XXII, Sec. 9
- The bid security amount shall be one of the following:
 - On procurement of goods or services less than or equal to \$100,000, \$100.00; if the procurement is greater than \$100,000, an amount to be determined by Procurement Services Division of Business Development and Procurement Services (BDPS)
 - On construction services and facility construction contracts of \$100,000 or greater, 5% of the greatest amount bid
- Vendors are notified of the bid security requirements through bid documents and verbally at the pre-bid meeting(s)
- Bid security is required to be submitted before the bid due date and time

Bid Security - Background

- In 2001, BDPS conducted a vendor survey requesting feedback regarding the City's business practices
- A major portion of the vending community identified the bid security (a minimum of \$250 at the time) as a negative factor against participating in multiple solicitations for goods and general services
- In response to vendor feedback and to increase M/WBE participation and competition, the bid security was reduced to \$100 on all bids for goods and service

Bid Security – General

- Bid security is used to ensure the integrity of each bid response
- Once Council award is made, bid security is returned to all vendors the following week
- Bid security is only exercised when a vendor is unable or unwilling to honor their bid submittal
- City has had limited instances where bidders failed to honor pricing on bids
 - Bid security has been retained by BDPS on 4 occasions in the last 6 years

Bid Security - History

- Having the minimum bid security of \$100.00 promotes competition by reducing the amount of capital needed for small, emerging and M/WBE businesses
 - Many have multiple bids submitted at the same time
 - City average time to hold bid security is 120 days (during evaluation and award of bids)

Bonding - Definitions

1. Performance Bond - a bond obtained from the successful bidder to guarantee completion of a contract in accordance with the contract documents in the event of a default by the contractor
2. Payment Bond - a bond obtained from the successful bidder to ensure the financial protection of subcontractors and suppliers of the prime contractor, which protects the City against claims for non-payment by subcontractors supplying labor or materials in the performance of the contract

Bonding - Background

- Payment & Performance Bonds are required on procurements where the City is financially vulnerable
- Primarily used for construction services and facility construction contracts where the City's vulnerability is significant
- Payment & Performance Bonds are also used strategically on critical City services
 - Majority are labor related contracts
 - Janitorial (City Hall, Convention Center)
 - Security Guard Services
 - Median Mowing
- Due to the cost associated with Bonding, it is NOT requested or obtained by the vendor until Council authorized a contract
- Typically, a vendor needs the contract authorized before they can obtain bonding

1. Performance Bond

- Performance bond shall be secured under the following circumstances:
 - (i) On all construction services and facility construction contracts with a total contract price in excess of \$100,000 (Source: **required** by Chapter 2253, Texas Government Code)
 - (ii) Procurements involving the performance of a service contract, if a bond is deemed appropriate by Purchasing
 - (iii) Procurements involving customized goods
 - (iv) Procurements involving goods where a failure to deliver the goods in question would create an emergency for City operations

1. Performance Bond (cont'd)

- The required performance bond amount will be as follows:
 - on all construction services and facility construction in excess of \$100,000, the City will require 100% of the total contract price
 - on service procurements, the amount is set to protect the City to cover the potential cost differential to continue the service

2. Payment Bond

- The required payment bond amount is typically the same amount as the performance bond

Conclusion

- In an effort to continue promoting competition on all City procurements, and encouraging M/WBE participation, we recommend the following:
 - continue with the \$100.00 bid security on good and services to maintain or increase competition on City procurements and continue with the current policies on construction services and facility construction
 - maintain current payment and performance bond practices