

OSE Tip of the Day

A701 – Part 4, After the Bidding is Over

June 30, 2020

Articles 5, 6 and 7 of the A701 are the culmination of the bidding process. Let's build on the calendar from a previous TOD by adding in the contract award phase.

Editor's Note: The assignment of bidding milestones in the calendar below is for illustrative purposes and is not meant to suggest all projects should schedule a particular milestone on a particular day of the week.

June 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5 Advertisement in SCBO (5 calendar days prior to Pre- Bid)	6
7	8	9	10	11 Pre-Bid Conference (14 calendar days to Bid Opening)	12	13
14	15 RFC and RFS (10 calendar days prior to Bid Opening)	16	17	18 Last Addendum sent to bidders (5 business days prior to Bid Opening)	19	20
21	22	23	24	25	26 Bid Opening (Open Bids and announce the date and location of the NOI posting)	27
28	29 NOI posted and Bid	30				

	Tabulation provided (assumed)					
July 2020						
			1	2	3 HOLIDAY	4
5	6	7	8	9 Last day for aggrieved bidder to submit intent to protest (within 7 business days from posting of the NOI)	10 If no intent to protest received, the contract can be awarded	11
12	13 Bid Tabulation sent to all bidders (within 10 business days from Bid Opening) if NOI has not been posted	14 Last day for aggrieved bidder to submit actual protest (within 15 calendar days from posting of the NOI)	15	16	17	18

Article 5 notes the bids will be opened publicly, a bid tabulation will be sent out to all Bidders, and reminds the Agency to announce the date and location of the posting of the Notice of Intent to Award (NOI). The date for the receipt of the bid tabulation is a milestone that is connected to the actual Bid Opening, ie. within 10 business days following the Bid Opening (10 white boxes, skip the Holiday). All other milestones after the bid opening are tied to the posting of the Notice of Intent to Award.

Two other items contained in Article 5 are reasons an Agency may reject bids and the Agency's right to accept Alternates in any order. Both of these items have been challenged by protests at various times. Your OSE project manager can assist you.

Article 6 sets the location of the posting of the NOI and provides the process for an aggrieved Bidder to initiate and formalize a protest. For this example we will assume the posting of the NOI occurred on June 29, three calendar days after the Bid Opening. An aggrieved Bidder that wishes to protest the NOI must either submit its protest, or submit its intent to protest within 7 business days from the posting of the NOI (7 white boxes, skip the Holiday). If he/she only submits the intent, the formalized actual

protest must be submitted with 15 calendar days from the posting of the NOI (15 boxes, Holiday is included). Remember, a “day” is from midnight to midnight, so the intent to protest and/or the actual protest can be submitted late at night.

A very important part of a protest, or the intent to protest, is it must be in writing and received by the State Engineer within the time provided in the A701. Another is the grounds of the protest and the relief requested must be set forth with sufficient clarity to give notice of the issues to be decided.

Finally, Article 7 addresses the submittal of performance and payment bonds, and the execution of the contract. At the conclusion of the protest period, the Agency forwards the contract to the Bidder for signature. The Bidder has 7 calendar days to sign and return the contract (7 boxes). The Bidder has an additional 3 calendar days to deliver the required bonds and certificates of insurance to the agency (3 boxes). Failure to deliver any of these documents within the time frame given entitles the Agency to consider the Bidder’s failure as a refusal to enter into a contract. The Agency may make claim on the Bidder’s bid bond for re-procurement cost.