

7. Removal from the Bidders List (Debarment)

Suspensions and debarments are discretionary administrative actions taken to protect contracting agencies by preventing persons and/or companies from receiving additional contracts and / or subcontracts. At the Federal Government level, a notice of suspension or debarment ensures that the Federal Government does not conduct business with a person or a company who has an unsatisfactory record of integrity and business ethics.

Suspension and debarment actions are administered government wide; consequently, a person excluded by one Federal agency is excluded from doing business with any Federal agency. The suspension and debarment policies are in 49 CFR Part 29 and the General Services Administration's Excluded Parties Listing System (<http://epls.arnet.gov/>) is a web based list that is updated daily for individuals and firms that are currently suspended or debarred. Contracting agencies may rely on this list to confirm eligibility prior to awarding any federally assisted contract or subcontract.

It is desirable that each contracting agency has a written policy addressing what action will be taken in instances of contractor irregularities, such as bid rigging. A written policy serves as a deterrent to the contracting industry by advising them, in general terms, what activities the agency considers to be illegal or irresponsible and how it intends to deal with those involved should any wrongdoing be detected. Further, the policy provides a basis for any action(s) that may be taken against the individual or firm involved in the illegal wrongdoing by those responsible for enforcing the policy.

Many States have their own procedures for suspension, debarment or procedures for limiting future business dealings with non-responsible firms.

Review of Engineer's Estimate Preparation:

1. Are any State laws or regulation in effect regarding release or protection of the engineer's estimate?
2. Are any State laws or administrative regulations in effect for determination of whether a contract award is proper, based on estimate overrun, competition, or other factors?
3. Review and attach any copies of any procedures or instructions the agency may have pertaining to preparation, revision, checking, and use of the engineer's estimate?
4. Briefly describe the intended process for preparation of estimates. Verify the actual method used in comparison with intended process and note any differences?
5. Does the agency have an estimating section? Which other portions of the agency become involved in preparing, checking, or approving the estimate?
6. Briefly describe the personnel resources available for preparing, etc., estimates and note any workload changes vs. personnel available.
7. What is the primary basis for establishing estimated unit prices?
8. What methods are used to identify and incorporate anticipated changes in cost of labor, equipment, and material?
9. Are upcoming labor negotiations considered in the process?
10. Are material suppliers contacted for anticipated material costs?
11. Are adjustments made for individual project conditions? In what way?
12. What other factors are used to adjust the primary basis to determine the estimated prices for the project?
13. In typical cases, how far in advance of the letting date is the estimate prepared?

14. How often is the estimate revised during the advertising period? Discounting addenda and quantity changes, what are the usual reasons for revising estimated prices?
15. Is every estimate routinely evaluated by anyone other than preparer? If so, when?
16. If possible, determine how often further study and/or revision is believed desirable but not accomplished due to workload restriction.
17. Is any information released publicly, which may indicate the actual or approximate value of the estimate prior to opening bids? Is the estimate released after opening bids?
 - a. When?
 - b. Is it published and where?
 - c. Who receives copies, if published?
 - d. In detail or only giving total cost?
18. Is any other information regarding the estimate available to contractor on request?
19. Review the agency experience during the past calendar year for Federal-aid contract for randomly selected projects if the contract volume exceeds projects.
 - a. Determine the percentage of projects sampled where the low bid fell within ± 10 percent of the estimate, and plot the distribution of low bids above and below the estimate.
 - b. Determine the percentage of projects with zero, one, two, three, four, etc., bids. Are there any project size trends noted?
 - c. Prepare graphs with percent above or below estimate for each project vs. cumulative percent of number of low bids for three separate groups of projects, single bids, two or three, and four or more bids. (Each group should be arranged in ascending order to facilitate preparing these graphs.) Are any trends noted?
20. Review the Contracting agency's procedure for evaluating bids received prior to recommending award or rejection.
 - a. Is there an established policy on, or apparent pattern of, awards or rejections of bids at a set level above the engineer's estimate?
 - b. In the case of poor competition or excessive difference between the estimate and the low bid, does the Contracting agency contact the bidders and non-bidders who checked out proposal forms?
 - c. Are there any "ground rules" for adjusting estimates after receipt of bids? Is such action taken on its own merits or may it be prompted by pressure to award an apparently excessive bid?

Unbalanced Bid Analysis

1. An unbalanced bid analysis will be performed under two circumstances:
2. If the Agency becomes aware of an error in a quantity of an item shown in the bidding documents
3. If an item is found to be both significant to the contract and significantly unbalanced
4. An individual item will be considered as significant to the contract if an bidder has an item included in the proposal where the difference between the total cost of the item and the estimate, expressed as a percent of the estimated total contract cost, is greater than or less than 0.50% for contracts and greater than or less than 0.25% for contracts.
5. An item will be considered significantly unbalanced if the difference between the low bidder's unit price and the estimate, expressed as a percent of the estimate, is greater than +50% or is less than -75%.
6. The Unbalanced Bid Analysis shall consist of the following steps:

- a. The estimated unit price for all items identified as being significantly unbalanced will be reviewed for correctness. Corrections will be made as needed and the low bidders unit price will be reevaluated to determine if the item remains significantly unbalanced (see item #3).
 - b. Quantities for all items found to be significant to the contract will be checked and verified. Quantities will be determined based upon the bidding documents and the construction methodologies depicted in the plan. These quantities will be used only for the purpose of performing the Unbalanced Bid Analysis.
 - c. Corrected quantities for items known to be in error (see item #3) plus corrected quantities for all items significant to the contract will then be multiplied times the unit price bid for each contractor and a gross sum for the contract for each bidder will be calculated.
 - d. A comparison of the calculated gross sum totals will be made. If the calculated gross sum for the contract low bid is found to be higher than the calculated gross sum of another bidder, the low contract bid proposal shall be determined to be materially unbalanced. If the calculated gross sum of the contract low bid proposal is found to be less than the calculated gross sum of all other bidders, that bid shall be determined to be not materially unbalanced.
 - e. Repeat as necessary using the next low contract bid proposal until a contract bid is found to be not materially unbalanced.
7. If the initial contract low bid proposal is found to be not materially unbalanced, the contract will be considered for award at the bid contract amount in accordance to the Standard Specifications. The contract will be based upon the bid amount and the quantities shown in the bidding documents.
 8. If the initial low bid contract proposal is found to be materially unbalanced it will be considered irregular and will be rejected as nonresponsive as reasonable doubt exists that the bid does not represent the lowest cost to the Department.
 9. If the initial low bid contract proposal is found to be materially unbalanced and rejected, the agency may award to the next low bid contract proposal at the bid contract amount or may elect to reject all bids and relet. Decisions will be made in the public interest and will consider consequences of reletting the project.