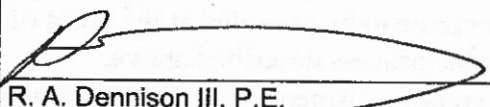


To: Superseded By EI 14-021 Effective 1/8/15		New York State Department of Transportation ENGINEERING INSTRUCTION	EI 10-017
Title: REVISIONS TO STANDARD SPECIFICATIONS SECTION 100 – ELECTRONIC PLANS AND AMENDMENTS			
Distribution: ☒ Manufacturers (18) ☐ Local Govt. (31) ☒ Agencies (32) ☒ Surveyors (33) ☒ Consultants (34) ☒ Contractors (39) ☐ _____ ()		Approved:  R. A. Dennison III, P.E. Chief Engineer Date <u>6/8/10</u>	

ADMINISTRATIVE INFORMATION:

- This Engineering Instruction (EI) is effective beginning with projects submitted for the letting of 9/02/10.
- This EI supersedes EI 09-007.
- This revision will be incorporated into a future update of the Standard Specifications.

PURPOSE: This EI issues revisions to Standard Specifications §102-05 *Proposal Submission*, §102-17 *Sample Form of Itemized Proposal/Jurat* and §103-01 *Contract Award*.

TECHNICAL INFORMATION:

- Beginning with the Letting of September 2, 2010, amendments will no longer be provided in hard copy to Plan Holders, other than as indicated below.
- §102-07 *Modification or Withdrawal of Proposal* is reprinted here from EI 09-007 for clarity.
- The Department will begin sending e-mail notifications of Amendments/Postponements to each person or firm purchasing plans and/or proposals from the Department. A NYSDOT e-mail group will be created for notification within the Department.
- Amendments/Postponements are posted on line at:
<https://www.nysdot.gov/doing-business/opportunities/const-notice>.
- Plans/Proposals and Amendments are available on-line through a subscription with Bid Express (www.bix.com).
- Bid documents are available electronically to all Department Employees through the Main Office Network Application Server at: P:\Office of Budget and Finance\Business Services Bureau\Plan Sales\Master Letting Files. The Administrative Services Division maintains the documents in a folder for each D number, sorted by letting date. After the letting, the files are moved to the Archives folder.
- A new order form has been implemented for the purchase of Plans/Proposals in order to obtain e-mail addresses for each person or firm purchasing plans and/or proposals from the Department.
- Only one e-mail address can be accommodated for each purchasing entity's place of business as noted on the order form. If the Department is provided a different e-mail address at a later date, this new address will replace the *previous* e-mail address and all subsequent mailings will go to the new address. Contractors with different official places of business as noted on the order form are permitted to have different associated e-mail addresses.
- By providing the email address, the Contractor represents and warrants that the e-mail will be checked by the Contractor prior to the submission of a bid and the Contractor acknowledges its responsibility to incorporate all amendments into its bid.
- Minor modifications were made to §102-05 *Proposal Submission* in order to allow the use of

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electronic distribution of amendments.

- Minor modifications were made to §102-17 *Sample Form of Itemized Proposal/Jurat* for the Contractor to acknowledge its responsibility to incorporate all amendments into its bid.
- Minor modifications were made to §103-01 *Contract Award* to clarify when there is a discrepancy between the hard copy (Proposal Book) and electronic format (Expedite file) of an itemized proposal published by the Department.
- Paper copies of Amendments published prior to the time of individual bid document purchase will continue to be provided at the point of sale. Availability of subsequent amendments will follow the process described above.
- Paper copies of Amendments will be available in limited quantities for Department Employees. Reduced distribution of paper copies of amendments within the Department will be addressed at a later date.

IMPLEMENTATION: Main Office Design Quality Assurance Bureau will insert a copy of the Standard Specification shelf note into contract proposals beginning with projects submitted for the letting of September 2, 2010.

TRANSMITTED MATERIALS: A single Standard Specification shelf note *Electronic Amendments* for both Metric and US Customary units is attached.

CONTACT: Refer questions regarding this EI to Jodi Riano of the Contract Management Bureau via email at JRiano@dot.state.ny.us or at (518) 457-9950.

Make the following changes to the Standard Specifications dated May 4, 2006 and May 1, 2008:
Delete §102-05 *Proposal Submission* and **Replace** it with the following:

102-05 PROPOSAL SUBMISSION.

Each proposal shall be submitted on the proposal form or electronic bid file prepared by the Department for that individual contract. The deadline for submitting a proposal is found in the published notice calling for proposals. Any proposal received after the time specified in the published notice, as modified by any Amendment, will not be accepted. All blank spaces in the proposal form shall be filled in as noted, and no change shall be made in the wording of the proposal or in the items mentioned therein. Bidders shall use dark permanent ink in completing hard copies of the proposal form, and ensure the form is clear and legible. Proposals that are illegible or that contain any omission, erasures, non-permanent ink, alterations, additions, or items not called for in the itemized proposal or that contain irregularities of any kind, may be rejected as informal. Any proposal which does not contain prices opposite each of the items for which there is a quantity exhibited in the itemized proposal, or which shall in any manner fail to conform to the conditions of the published notice inviting proposals, may be deemed informal.

The State is responsible for providing notice of Amendments only to those persons or firms listed as having purchased plans and/or proposals from the Department, and those that made a specific request of the Department for Amendments. Persons or firms that obtain contract documents from sources other than the Department bear the sole responsibility for obtaining any Amendments issued by the Department.

For proposals submitted on the proposal form, the Bidder shall sign in the space provided in the proposal form, with its signature. An officer of a corporation or a member of a partnership signing for the bidder shall place his or her signature and title after the word "By" under the name of the Contractor. The same procedure shall apply to the proposal of a joint venture by two or more bidders with each party of the joint venture submitting a separate signature page. If the signature is by an agent or attorney-in-fact for the joint venturers, then the proposal shall be accompanied by an authenticated copy of the evidence of its authority to act on behalf of all of the joint venturers.

For internet proposals submitted through Bid Express, the Bidder shall submit and digitally sign the electronic bid. For joint ventures submitted electronically, an authenticated copy of the evidence of the authority of the agent or attorney-in-fact for the joint venturers to act on behalf of all of the joint venturers must be submitted to the Contract Management Bureau prior to the Letting.

If the proposal is made by an individual, the individual's address shall be given. If the proposal is made by a corporation, the names and addresses of the president, secretary and treasurer shall be given. If the proposal is made by a partnership, the names and addresses of the partners shall be given.

Delete §102-07 *Modification Or Withdrawal Of Proposal* and **Replace** it with the following:

102-07 MODIFICATION OR WITHDRAWAL OF PROPOSAL.

Permission will not be given to modify or explain by e-mail, telephone, letter or otherwise, any proposal or bid after it has been deposited with the Department. No proposal shall be withdrawn or canceled before the time designated for opening such proposals publicly except upon such conditions as the Commissioner may deem to be necessary.

No proposal shall be withdrawn or canceled after the time designated for opening such proposals publicly, except to exercise the option as provided herein. Any bidder or its duly authorized agent who is physically present at the letting and who has submitted proposals on more than one project of any one letting may, at its option and upon written request to an authorized Department representative at the letting, withdraw any or all of its additional proposals after the person who opens and reads the bids has announced that such bidder has submitted the lowest proposal on a project for which bids have last been read. When this option is exercised, the proposals for other projects in the letting will be returned to the bidder unopened or, if the bid was submitted electronically, the Department will delete the bid(s) and the bid will not be made public. No returned proposals will be considered after the bidder has exercised its privilege to withdraw the same. Any bidder exercising the privilege of so withdrawing its bid or bids

waives all claims that may arise should it be found that its opened proposal is informal or for any other reason is unacceptable to the Department. The Department will open and read proposals in the order in which they are drawn and not in the order in which the projects are advertised.

Delete the first item under the heading "**BY EXECUTING THIS PROPOSAL, THE CONTRACTOR AGREES TO:** of §102-17 and **Replace** it with the following:

1. Perform all work listed in accordance with the Contract Documents including all amendments, (found at <https://www.nysdot.gov/doing-business/opportunities/const-notice>), at the unit prices bid; subject to the Changed Conditions provisions if applicable;

Delete the first paragraph of §103-01 and **Replace** it with the following:

103-01 CONTRACT AWARD. The award of contract will be made only to the lowest responsible bidder as will best promote the public interest as provided by Section 38 of the Highway Law. The lowest bid will be determined by the Commissioner on the basis of gross sum for which the entire work will be performed, arrived at by a correct computation of all contract pay items specified in the proposal, at the unit prices stated in the proposal. If there is any discrepancy between the hard copy and electronic format of the itemized proposals published by the Department, in either the contract pay items or quantities, the Department will evaluate the bids based only on that portion that is common to all formats. The Department reserves the right to reject any or all bids in the best interest of the State pursuant to Section 38 (4) of the Highway Law.