Project Delivery Directive

	Number:	*PD-07*
TO: Project Delivery Employees	*References:*	*Public Contract Code 10120*
	Effective Date:	*03/1/12*
	Supersedes:	*NEW*
	Review by:	*03/1/15*

TITLE: Response to Bidder Inquiries

DIRECTIVE

The Department provides timely, complete, and accurate responses to bidder inquiries submitted for consideration on advertised construction contracts.

DEFINITION/BACKGROUND

Bidder Inquiry: Written request by a potential bidder for information on an advertised construction contract's plans, specifications, notice to bidders, or bid book.

Bidder Response: Written reply by an authorized Department representative to an inquiry with direction to the information in the construction contract or informing the bidder to use their judgment in determining the construction methods or materials to meet the contract requirements.

Addendum: Document issued to bidders describing a material change by addition, change, or correction to a construction contract. Addenda become part of the contract.

Public Contract Code Section 10120 requires: "Before entering into any contract for a project, the department shall prepare full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out." Bid inquiries are a tool to ensure Caltrans will award a full, complete, and accurate plans, specifications, and estimates. Addenda are issued when determined that an addition, change, or correction, to the contract is in the best public interest.

The bidder is required to examine the job site and bid documents with the submission of a bid as the bidder's acknowledgement of satisfaction with the site conditions, work to be performed, material to be furnished, and contract requirements.

Bidder responses are supplemental information and do not modify the contract (only addenda amend the contract). However, every contract includes an implied covenant of good faith and fair dealing. Consequently, incomplete, partial, or inaccurate bidder responses may obligate the Department to provide compensation.

District management may determine that a contract ambiguity identified by bid inquiry does not warrant an addendum and can be resolved by contract administration, including a change order. However if no addendum is issued, a significant discrepancy in the contract may result in the contractor unbalancing their bid, knowing a change order will resolve any cost issues. If the bid is materially unbalanced due to a contract defect, all bids will have to be rejected and the contract corrected and readvertised.

RESPONSIBILITIES

Deputy Director, Project Delivery:

- Issues policies and guidance on bidder responses that comply with the Public Contract Code and maintain the integrity of the bidding process.

Division Chief, Construction:

- Develops and maintains policies and guidance on bidder inquiries and responses.

Division Chief, Design:

- Ensures design guidance conforms with policies on bidder inquiries and responses.

Division Chief, Engineering Services:

- Ensures development and maintenance of a statewide bidder inquiry and response system.
- Ensures independent quality assurance of bidder responses.

District Directors:

- Ensure bidder inquiry responses comply with the Public Contract Code and Department policy.
- Designate a single focal point to represent the Department in responding to bidder inquiries.
- Ensure addenda are issued when additions, changes, or corrections to the contract are in the best interest of the public.

Deputy District Directors/District Division Chiefs of Project Delivery:

- Ensure project delivery staff give priority to providing the Bidder Inquiry Single Focal Point with full, complete, and accurate information needed for a bidder response.

Deputy Division Chief, Engineering Services – Office Engineer:

- Provides a statewide Bidders' Inquiry and Response Website.
- Elevates bidders' concerns regarding the timeliness and content of bidder responses to ensure appropriate Department management level of risk assessment.
- Provides bidder inquiry training based on independent quality assurance of bidder inquiries and responses.

District Bidder Inquiry Single Focal Point:

- Monitors bidder inquiries and determines if the inquiry is related to a potential ambiguity in the project information or standard construction methods and materials.
- Ensures responses are provided within two business days of receipt of the bid inquiry.
- Ensures complete and accurate responses to bidder inquiries are provided the project delivery team and subject matter experts.
- Protects the integrity of the bidding process and ensures bid response does not provide one bidder a real or perceived advantage over any another bidder.

Employees:

- Protect the integrity of the bidding process by referring bidder inquires to the Bidder Inquiry Single Focal Point.

APPLICABILITY

This directive applies to all departmental employees involved in the planning, design, and construction of the transportation system.

ROBERT PIEPLOW
Acting Chief Engineer
Deputy Director, Project Delivery

Feb. 21, 2012
Date Signed