

Drinking Water Revolving Loan Fund Program • Guidance for Submitting the **BID & EXECUTED CONTRACT DOCUMENTS**

LOUISIANA DEPARTMENT OF HEALTH • OFFICE OF PUBLIC HEALTH

Because the Drinking Water Revolving Loan Fund (DWRLF) is funded by federal capitalization grants, projects receiving loans with these funds must meet certain **Federal Cross-Cutting Authorities** (laws and executive orders) as well as **Appropriations Acts**. Some of these Authorities and Acts are applicable to construction and/or procurement contracts and require certain actions and certifications by contractors, subcontractors, and/or suppliers. The required statements, forms, certifications, etc. mentioned throughout this guidance document come from these sources.

Federal *procurement* regulations for EPA funded projects (40 CFR Part 31) do not apply to DWRLF projects. Therefore, DWRLF projects must be bid and contracts awarded in accordance with any applicable State laws and regulations, as well as any parish or local ordinances. Plans and Specifications along with Executed Bid/Contract Documents will be reviewed to verify that State requirements (*i.e. State Public Bid/Contract Law*) will or have been followed during the bidding and award process; however, DWRLF's acceptance does not ensure that the project is in compliance with all State and local bid requirements. Some of the State Bid Law requirements DWRLF checks for are summarized below; however, this is not a comprehensive list and State Bid Law requirements often change from year to year. **It is the Water System's Consultant Engineer's and Bond Attorney's responsibility to know and follow all applicable regulations regarding the bidding and award process.**

ADVERTISEMENT FOR BIDS – EOE Statement and Some State Bid Law Requirements

The Advertisement (or Invitation) for Bids must include the following statement:

Equal Opportunity in Employment: All qualified applicants will receive consideration for employment without regard for race, color, religion, sex, or national origin. Bidders on this work will be required to comply with the President's Executive Order No. 11246, as amended. The requirements for bidders and contractors under this order are explained in the specifications.

In accordance with current State Bid Law (from **R.S. 38:2212.A.1.a.**), any construction contract that does not exceed \$150,000 does NOT have to advertise for bids, so in these cases for publicly-owned systems, please provide a brief summary and copies of documentation as to how quotes were solicited from contractors. This applies to Change Orders as well, which can exceed the contract limit (\$150,000) without having to bid if they are within the same 'scope' as the original project (from **R.S. 38:2212.A.4-7**). State Bid Law does not apply to Privately-owned systems, so this same advertisement for bid exclusion requirement would apply to them as well.

In accordance with current State Bid Law (**RS 38:2212.A.3.a**), the Advertisement for Bid shall be published once a week for 3 different weeks in a newspaper in the locality, and the first advertisement shall appear at least 25 days before the bid opening date. In addition to newspaper, the system may publish it online. The first publication shall not occur on a Saturday, Sunday, or legal holiday.

In accordance with current State Bid Law (**R.S. 38:2212.A.1.f**), a statement in the Advertisement for Bids that bids may be submitted electronically via a secure internet site is required. Exceptions to this requirement include:

- Entities without high speed Internet access will be exempt until such time that high speed Internet access becomes available.
- Any parish with a police jury form of government and a population of less than twenty thousand.
- Any municipality with a population of less than ten thousand.
- Any special service district created by a police jury form of government and which is unable to comply without securing and expending additional funding.

In the Advertisement for Bids, please provide such a statement and include the URL of such a site, unless entity is exempt and if exempt, please explain why it is exempt in the Transmittal/Cover Letter of your submittal.

In accordance with current State Bid Law (**RS 38:2212.A.1.f.vii**), the secure website for receiving electronic bids must contain all "bid documents", as defined in R.S. 38:2211.A.1, on the electronic website accepting the electronic bids. This means the bid notice, plans and specifications, bidding form, bidding instructions, addenda, special provisions, and all other written instruments prepared by or on behalf of a public entity for use by prospective bidders on a public contract.

In accordance with current State Bid Law (*R.S. 38:2212.A.1.b.i.aa.*), bids must be submitted on the Louisiana Uniform Public Work Bid Form (from LAC 34, Part III, Chapter 3).

In accordance with current State Bid Law (*R.S. 38:2212.10.C*), the successful bidder must submit a sworn (notarized) affidavit that the bidder participates in a status verification system and will continue to do so during the term of the contract. The affidavit must also state that the bidder will enforce the same on any subcontractors used. Please provide this sworn Employment Status Verification Affidavit (an example form can be found on the DWRLF website).

In accordance with current State Bid Law (*RS 38:2212.J*), a disqualified bidder must be provided written notice of the proposed disqualification and afforded the opportunity to refute the reasons for the disqualification. Please provide DWRLF with a copy of all disqualification letters issued.

BID and EXECUTED CONTRACT DOCUMENT REVIEW

When bids are received for any construction contract that will be funded wholly or partially through DWRLF, the following *Bid Documents and Executed Contract Documents must be submitted to DWRLF for review and approval.* DWRLF will review them to verify that all applicable program requirements have been met. DWRLF must provide *written authorization to award* the contract and authorize the Contractor to receive payment *before any payments can be made from DWRLF funds.*

The following **Bid Documents** must be submitted once all bids have been offered:

1. **A Transmittal Letter** from the loan recipient. The letter must state the date bids were opened and the date that the bid award period ends.
2. A certified copy of **The Advertisement for Bids** as it appears in a newspaper and/or trade journal dated at least 25 days prior to the bid opening date. The advertisement must appear in a newspaper in the project area. The advertisement must contain the Equal Opportunity Statement (*See 'Advertisement for Bids – EOE Statement and Some State Bid Law Requirements' above*). If advertising is not required, please provide a brief summary and copies of documentation as to how quotes were solicited from contractors.
3. **A Tabulation of Bids (or quotes)** showing the unit prices, extensions, and total bid (quote) for **all** bidders.
4. **The Award Recommendation.** A statement signed by the Consultant Engineer recommending award of the contract.

The following **Contract Documents** must be executed (where applicable) and submitted by the successful bidder/proposed contractor:

5. A copy of **The Bid Proposal** showing the itemized cost breakdown.
6. **Acknowledgement of Addenda.** An acknowledgment of the receipt of any addenda issued.
7. **Form RF-211.** An executed certificate regarding the Equal Opportunity Clause (RF-211). *See Notes 1&2 Below*
8. **Form RF-212.** An executed certificate of Non-segregated Facilities (RF-212). *See Notes 1&2 Below*
9. **EPA Form 5700-49.** An executed EPA Form 5700-49 certificate regarding debarment. *See Note 4 Below*
10. A copy of the **Bid, Payment, and Performance Bonds** with the name of the Surety Company acceptable on Federal Bonds that will underwrite the bonds for the contractor.
11. A copy of **The Insurance Certificate.**
12. **DWRLF DBE Forms 1-5.** The DBE Compliance Agreement Forms. *See Notes 1&2 Below*
13. **DWRLF DBE Forms 6 & 7.** The DBE Subcontractor Performance and Participation Forms must be provided to all utilized DBE Subcontractors by the Prime Contractor. *See Notes 1&2 Below*
14. **DWRLF American Iron and Steel (AIS) Requirement Contractor Certification (if applicable).**
15. Proof of **Filing of Contract** with Parish Clerk of Courts Office.
16. **An Executed Contract.**
17. A copy of **The Notice to Proceed** from the consultant engineer.

NOTES:

1. *Program Guidance Documents, Lists, Required Forms, Documents, and Certifications are Available Online at: <http://new.dhh.louisiana.gov/index.cfm/page/1277>*
2. *Please see the "DWRLF Plans and Specifications Guidance Document" as well as the "DWRLF Disadvantaged Business Enterprise (DBE) Guidance Document" for detailed instructions and copies of these forms.*
3. *Some contractors will not commit to using particular subcontractors or suppliers until after they are assured that the contract will be awarded to them. Items 13, 14, 16, 17 and 18 need not be included with the Contract Documents in order to be authorized to award the contract, but must be executed and submitted once the contract is awarded in order for the contractor to be authorized to receive payment.*

4. *The prime contractor must obtain an executed EPA Form 5700-49 from each subcontractor and supplier used.*

Bid Protests: LDH-OPH will not take an active role in the resolution of any bid protests, except insofar as any Federal requirements of the DWRLF program may be involved.

START OF CONSTRUCTION

Beginning Construction Prior to Approval: We cannot authorize recipients to begin construction prior to approval of System Improvement Plans, Plans and Specifications, Addenda, and Bid Documents. While we strongly discourage recipients from taking any action based on documents that have not been approved, we recognize that some recipients may have compliance schedules that do not allow time for the normal review and approval process. Should construction begin before the approval of all necessary documents, the recipient must accept the risk of loss of financial assistance for any elements of the project that are not approvable or eligible. We will attempt to assist these recipients as much as possible but we cannot guarantee that financial assistance will be available until all program requirements have been met, so it is crucial to follow all program elements if attempting to construct before closing the loan.

Reimbursement of Costs Generated Prior to Approval: The DWRLF program does allow loans to include reimbursement for work already performed. It is allowable for the recipient to receive bids and to award construction contracts before the loan agreement is signed as long as all DWRLF requirements have been met during the process. The recipient must also accept the risk of loss of financial assistance for any contracts or contract elements of the project that are not approvable or eligible and assume the risk of closing the loan. Absolutely no payments can be made until the loan agreement is signed; and there may be some limitations on making large payments immediately after the loan agreement is signed.

Refinancing of Work Completed Prior to Loan Agreement: Based on the availability of funds or for other reasons, DWRLF may establish its own policy regarding the refinancing of work already completed. However, no work by any private organization may be refinanced, and no work may be refinanced that began prior to July 1, 1993. The recipient should inquire about the current DWRLF policy before undertaking any work before the loan agreement is signed.