

Sec. 102-351. - Definitions.

Addenda/Addendum is a written amendment to an invitation to bid or request to proposal that changes the project specifications and is issued prior to bid opening which becomes a part of the specifications for the project.

~~*Advertisement* means public notice inviting bids or proposals on a specified project. The advertisement must include such details/specifications so as to enable the public to know the extent and scope of the work to be done. Plans and specifications must be available on the first day of the advertisement, and they must be open to inspection by the public. All notices must advise potential bidders/offerors of any mandatory prequalification requirements, any pre-bid/proposal conferences, and/or any federal requirements. All projects shall be published in the county's legal organ and on the Fulton County website under "Bid Opportunities."~~

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Aggrieved bidder means any actual bidder, offeror or contractor that has submitted a bid/proposal for a particular procurement who is aggrieved in connection with the solicitation or award of a contract may protest to the purchasing agent.

Alternate bid means the amount stated in the bid or proposal to be added to or deducted from the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.

Amendment means a change, addition, alteration, correction or revision to a bid or proposal or contract document.

Annual aspirational goal means a non-mandatory annual aspirational percentage goal for overall MFBE prime and subcontractor participation in county contracts for construction, professional services, and other services contracts. This goal will be established every five years by a duly-authorized disparity study and based upon the prime and subcontractor availability statistics provided therein and is evaluated every year to ascertain program effectiveness.

Annual contract means any contract entered into for a period of one year or multiple one-year periods (including options to renew for additional one-year periods), with a contractor or a vendor, to provide the county upon request with a specified product or service at a predetermined price or rate.

Award means approval by the board of commissioners, to begin the contracting process with the most responsive and responsible bidder.

Base bid or base proposal means the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.

Best value means a procurement method that emphasizes value over price. The best value may not be the lowest cost, generally achieved through the request for proposal (RFP) method.

Bid means the formal process allowing prospective vendors to compete for goods and services sought by the county.

Bid acceptance means the acceptance of bids delivered to the purchasing agent at the time, place, and under the conditions contained in the invitation for bids and as further stipulated in the specifications document.

Bid bond means a form of bid security executed by the bidder as principal and by a surety to guarantee that the bidder will enter into a contract within a specified time and maintain the bid prices submitted with his/her original bids and furnish any required payment and/or performance bonds.

Bid guaranty means a certified check, bid bond, cashier's check, for a sum of money deposited with the county by a bidder to guarantee that the bidder will enter into a contract within a specified time and maintain the bid prices submitted with his/her bid and furnish any required payment and/or performance bonds.

Bid opening means the public opening of bids received and accepted and the reading aloud of the name of each bidder and the amount of bid in the presence of one or more witnesses at the time and place designated in the invitation to bid. For RFP openings, only the names of the proponents are read aloud.

Brand name or equal specification means a specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet county requirements and which provides for the submission of equivalent products from any manufacturer.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, firm or any other private entity.

Change order means an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion.

Clock calibration means coordination of the bid clock with the time as indicated by the National Bureau of Standards.

Collusion means a secret agreement, whether expressed or implied, to commit a fraudulent, deceitful, unlawful, or wrongful act.

Collusive bidding means a violation of antitrust statutes that consists of a response to a solicitation by two or more persons who have secretly agreed to circumvent laws and rules regarding independent and competitive bidding.

Competitive process is the process by which a local government solicits a public works construction contract through either the bid method or the proposal method.

Competitive sealed bidding means a method of soliciting public works construction contracts whereby the award is based upon the lowest responsive, responsible bid in conformance with the provisions of this article.

Competitive sealed proposal means a method of soliciting public works contracts whereby the award is based upon criteria identified in a request for proposals in conformance with the provisions of subsection (c) of Code section 36-91-21.

Construction means the process of building, altering, repairing, remodeling, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings or real property.

Construction delivery method is a method of building a project.

Construction management at risk is a construction delivery method in which the local government hires a construction manager at risk.

Construction manager agency serves as an advisor and agent of the local government, as well as coordinates the design and construction teams on project.

Construction manager at risk serves as an advisor and agent of the local government, coordinates the design and construction team, as well as is responsible for the construction of a project.

Contract means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement or disposal of supplies, services, construction, professional or consultant services, and for the transfers of interest in real property.

Contract documents means the various parts of the contract including, but not limited to the contract agreement, the bid form, the payment and performance bond, any required insurance certificates, general and specific conditions and the specifications of the project.

Contract file means the grouping of all written determinations and other records pertaining to the solicitation, award or performance of a contract or purchase order in a designated file maintained by the county purchasing agent.

Contract modification means any written alteration in the terms of the contract including, but not limited to, the scope, manner of performance, specifications, delivery point, time and rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract.

Contract sum means the amount bid as adjusted by all contract modifications.

Contractor means any person or entity having a contract with the county.

Cost data factual information concerning the cost of labor, material, overhead and other cost elements that are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

County shall mean Fulton County, Georgia, a political subdivision of the State of Georgia, and shall include all agencies, establishments or officials of the government.

Countywide contract means a contract for a specified service(s) executed for use by any agency within the county.

Data means recorded information, regardless of form or characteristics.

Days shall mean calendar days.

Debarment means the exclusion of a person or company from participating in a procurement activity for an extended period of time, as specified by law, because of previous illegal or irresponsible action.

Designee means an authorized representative of a person holding superior position of responsibility.

Discussions means an exchange of information or other manner of negotiation during which the offeror and the county may alter or otherwise change the conditions, terms and price of the proposed contract. Discussions may be conducted in connection with competitive sealed proposals, sole source and emergency procurement. Discussions are not permissible in competitive sealed bidding, except to the extent permissible in the first phase of multistep sealed bidding, when all competitive bids exceed available funds but the responsive bid does not exceed such funds by more than five percent or as otherwise permitted by applicable law.

Emergency means any situation resulting in imminent danger to the public health, welfare or safety or the loss of an essential government service.

Encumbrance means an obligation, chargeable to a budget appropriation, by a user department to pay for a specific procurement.

Evaluation criteria means factors relating to management capability, technical capability, method of meeting performance requirements, price, and other material considerations specified in the request for proposal that will be considered in determining to whom a contract will be awarded.

Fast track is a construction delivery method where construction of a project begins as soon as the first phase of design documents is complete.

Fidelity bond means a form of insurance that secures an employer up to the amount stated in the bond for losses caused by dishonest acts of its employees.

Final completion means the completion of all work as required in accordance with the terms and conditions of the contract documents.

Firm means any individual, partnership, corporation, association, joint venture or other legal entity permitted by law to practice or offer professional or consultant services.

Governing authority means the official or group of officials responsible for governance of a governmental entity. The Fulton County board of commissioners is the governing authority for the county.

Governing entity means Fulton County Government ("county").

Invitation to bid (ITB) means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Invoice means the document provided by vendors to the county as a demand for payment of goods or services provided under the provisions of a contract awarded by the county.

Inspection means an authorized representative of the county, or of the county's architect/engineer, assigned to make all necessary inspections, test, and reports of the work performed or being performed.

Materials means any substance(s) specified for use in the performance of the contract work.

May denotes permissive.

Multiterm contracts means a contract executed for a specific period with the option to renew for additional periods of time.

Offer means a proposal by an offeror submitted when procurement is made by a source selection method other than competitive sealed bidding.

Offeror is a person, firm or entity that submits a proposal under the proposal method.

Owner means Fulton County Government, Georgia ("county").

Notice to proceed means a written notice to the contractor to begin the actual contract work, stating, if applicable, the date on which the contract time begins.

Payment bond means a bond provided by a surety company authorized to do business in the State of Georgia, payable to the county which guarantees to the county that all costs incurred by the contractor relating to the performance of the contracted services for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.

Performance bond means a bond provided by a surety company authorized to do business in the State of Georgia, for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the county for which the work is to be done and guarantees to the county that the services contracted for will be performed in accordance with the terms and conditions specified in the contract document.

Prebid or preproposal conference means a meeting scheduled prior to the opening of bids/proposals at which attendance by potential bidders/offerors may be optional or mandatory, to clarify the solicitation and respond to prospective bidder/offeror inquiries.

Prequalification means required standards imposed in the best interest of the county as a condition of bidding, which must be met by an interested bidder in order to qualify to respond to an invitation for bids or a request for proposal.

Prequalification process means a requirement that any prospective bidder or offeror meet certain minimum qualifications related to the project or the quality of work before being eligible to submit a bid or proposal.

Procurement means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services or construction. Also includes all functions that pertain to the obtaining of any supply, service or construction, including a description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Professional and consultant services means those services within the scope of the practices of architecture, professional engineering, planning, landscape architecture, land surveying, the medical arts, management analysis, accounting or auditing, law, psychology or any other similar kind or type of

professional practice. In the context of the Local Government Public Works Construction Law, it means those services where the other party is not responsible for construction.

Program manager or *project manager* is a person, firm or county employee that oversees or manages a construction project.

Proposal means solicited submission of information from a prospective contractor which states how that offeror intends to perform certain work, its technical and business qualifications, its proposed delivery, warranty, other terms and conditions as those might differ from or supplement the county's solicitation requirements, and any other information requested by the county's solicitation.

Proposal guaranty is a certified check or other security payable to the local government to ensure that the successful bidder will execute the contract on which he bid similar to a bid bond.

Proposer means one who submits a proposal.

Public works construction means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property.

Purchase description means the words used in a solicitation to describe the supplies, services or construction to be purchased, including specifications attached to or made a part of the solicitation.

Purchase order means a short form of contract which is issued by the purchasing agent at the written request of the using agency for the procurement of supplies, goods or services.

Purchasing agent means the Director of the Fulton County department of purchasing and contract compliance, the principal purchasing official for the county.

Qualification-based selection means a way of selecting professional services or offerors under the proposal method in which the professional or offeror is selected prior to consideration of price.

Quotation means a bid more than \$2,499.99 and less than \$49,999.99.

Request for proposal means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Requisition means a document utilized by a using agency to request that a purchase order or contract be entered into for a specific need.

Responsible bidder or *responsible offeror* means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.

Responsive bidder or *responsive offeror* means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

Retainage is the portion of the total contract amount that a local government retains from the contractor until the project is totally complete.

Road includes highways, roads, streets, avenues, toll roads, detours, structures, sidewalks, facilities, shoulders, bridges, causeways, viaducts, ferries, overpasses, underpasses, railroad grade crossings, tunnels, signs, signals, markings, wayside parks, parking facilities, drainage ditches, canals, culverts, rest areas, truck weighing stations and scenic easements.

Road construction is the planning, location, surveying, designing, supervising, inspecting, building, paving, striping, restriping, modifying, grading, widening, relocating, rebuilding or other major improvement of a substantial portion to an existing road.

Scope of project means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.

Scope of work means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.

Service means the furnishings of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term does not include employment agreements or collective bargaining agreements.

Service contract means a contract awarded for a type of service other than construction, professional or consultant service, such as janitorial, plumbing, security guard services, etc.

Shall denotes imperative.

Sole source means those procurements made pursuant to a written determination by the governing authority that there is only one source for the required supply, service, or construction item.

Solicitation means an invitation for bid, a request for proposal, a request for quotation, or any other document issued by the county for the purpose of soliciting bids or proposals to perform a county contract.

Specifications means any description of the physical or functional characteristics or of the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

Subcontractor means any person undertaking part of the work of a contract under the control of the principal contractor.

Substantial completion means the date when construction is sufficiently complete, in accordance with the contract documents, so the county can occupy or utilize the work or designated portion thereof for the use for which it is intended.

Supplies means all property, including, but not limited to, equipment, materials, etc.

Surety means the corporation, partnership, or individual licensed and authorized to do business in the State of Georgia, other than the contractor, executing payment, performance or bid bonds to be furnished to the county by the contractor.

Using agency means any county entity that utilizes any supplies, services, construction, professional or consultant services procured under this article.

Work means the furnishing of all labor, materials, tools, equipment and incidentals necessary by the contractor for completion and performance of all duties and obligations imposed by the contract documents.

(Res. No. 13-0052, 1-23-13; Ord. No. 19-0854, Exh. A, 11-20-19)