

The Bid Depository
Of Prince Edward Island
Regulations and Rules of Procedure



General Conditions

1. Definition And Purposes

- (a) The Bid Depository of P.E.I., referred to as “Bid Depository”, has been established as a system designed to improve tendering practices in the Construction Industry. It provides for the reception of sealed tenders from Trade Contractors, whereby, the sanctity of bidding is protected, and those receiving their tenders obtain firm quotations in writing and in adequate time to compile their bids, completely and accurately. These procedures are in the best interests of Owners, Architects, Engineers and Contractors.
- (b) The use of the Bid Depository System for any project does not create any right of action against the Construction Association of PEI, the Joint Advisory Board, or any Officers, Directors or Members thereof.
- (c) The use of this Bid Depository System in accordance with the Rules and Regulations, herein set forth, and any supplementary instructions that may be issued is intended to create a code of tendering practice, which each user voluntarily assumes for their own benefit, and at their own risk.

2. Management

- (a) The PEI Bid Depository System is operated by a Joint Advisory Board, herein and after called, the “Board”, which is a sub committee of the Construction Association of Prince Edward Island and which is responsible to the Construction Association of PEI, to insure the System is managed in accordance with the Bid Depository of PEI Regulations and Rules of Procedure.
- (b) The Board consists of one appointed Architect from the Architects Association of PEI, one appointed Engineer from the Association of Professional Engineers of the Province of PEI, three General Contractors, three Sub-Contractors and one representative appointed by the Construction Association of PEI. Five members comprise a quorum.
- (c) The Chairman, Vice-Chairman and Secretary shall be chosen each year at the first meeting of the Board after the above annual appointments have been made. The Chairman shall vote only when votes are evenly divided, when the Chairman shall cast the deciding vote.
- (d) The existing Board will serve until the new annual appointments are made.

3. Scope

The Bid Depository will receive and transmit tenders for all construction trades as called for in the specifications and as requested by the Tender Calling Authority to close via the Bid Depository.

4. Eligibility

Any Owner, Person or Company may use the facilities of Bid Depository of PEI, providing they adhere to all the Regulations and Rules of Procedure established by the Bid Depository. Any Owner, Person or Company who uses the Bid Depository of PEI shall do so and does so at their own risk for their own benefit; and, by use of the Bid Depository of PEI, each user does hereby acknowledge that they have read and agree with the terms and conditions of the Bid Depository of PEI and, further, agree that in no event whatsoever shall they assert, exercise or otherwise have or pursue any right or cause of action or make any claims or demands as against the Construction Association of PEI, the Joint Advisory Board, or any officers, directors or members thereof, save and except for the right to lodge a complaint as contemplated by Regulation 11.

5. Printed Regulations and Rules

These Regulations and Rules in printed form, covering all phases of the operation of the Bid Depository, shall be available for the information of all interested parties. They should be read in conjunction with requirements included on the official Bid Depository Tender Form BD2.

6. Envelopes, Tender Forms And Fees

In all cases when the Bid Depository is used, the following procedures shall apply:

All tenders called through the Bid Depository shall be completed as per sample tender form BD2, and placed in official envelopes purchased from the Bid Depository. Sample Tender Forms BD2 are attached to the PEI Bid Depository Rules and Regulations for review and are available at the CAPEI office. If the BD2 forms are not completed correctly as per attached sample forms, this will constitute a rejection of the Bid Depository bid in accordance with Regulation 15 of the Bid Depository Rules and Regulations.

- (a) The Bid Depository Tender Form BD2 consists of three copies.
 - i. Please follow the distribution of documents as stated on the bottom of the BD2 form.
 - ii. Ensure that all 3 copies are legible.
- (b) All the above envelopes shall be placed in the official Bid Depository large white envelope sealed and delivered to the Depository. All blank spaces appearing on the envelopes must be completed. (See Regulation 12)
- (c) It is the sole responsibility of the bidders to review the PEI Bid Depository Sample Forms and to complete the forms accordingly. Incomplete forms are grounds for dismissal as per Regulation 15. Please follow Sample A or B of BD2.
- (d) Charges for Envelopes and Tender Forms are applicable. Contact Bid Depository for complete pricing details.

7. Closing Time

The closing time for a Bid Depository shall be at a time designated by the owner and if not designated by the owner the closing time shall be 14:00:00 hours, two working days before the closing of the Main Tender.

Bids will be received before {hour:minute:second a.m./p.m. – e.g. 2:00:00 p.m.} local time as designated by the CAPEI timepiece on the {date} day of {month}, {year} so designated.

Trade contractors shall deliver their sealed tenders to the Bid Depository in the official large white envelopes. The envelope will be time stamped immediately upon receipt by the Bid Depository and the receipt issued, showing the name of the project and the time received. The sealed tenders shall then be deposited in the locked tender box and under no circumstances can the tender be removed prior the official Bid Depository closing time.

Tenders received late shall be time stamped and retained but will not be transmitted.

8. Procedure For Trade Contractors

- (a)
 - i. Separate prices must be provided for each completed division and/or trade section as officially requested in the tendering documents. Division and or Trade sections can not be segregated unless requested by the Tender Calling Authorities.
 - ii. A lump sum of combined prices may be quoted which need not be the aggregate of the separate prices for the two or more complete trade sections quoted, but **only** if separate trade section prices have been quoted as specified. The amount of each of these separate prices shall determine if a Bid Bond is required as provided for in Regulation 12 (Tender Security). When a combined price is quoted the requirement of tender security shall be determined on the basis of the combined price. There must be a dollar value placed in the Total Tendered Price box on the BD2 form.
 - iii. Bidders shall indicate on their bid forms and envelopes all Section numbers being bid. These must agree with the listing specified for each Division. The tender price must include all specified sections. Division 15 may omit listing the Section numbers, and state only the trade involved, e.g., Division 15 Plumbing.

For Mechanical Tenders with Sprinkler being bid as a separate tender through the Bid Depository indicate “Division 15 less Sprinkler” in the space provided. Division 16 may omit listing the Section numbers if the tender includes all Division 16 Section numbers as listed in the specifications. Division 15 & 16 Bidders acknowledge that, should they use the above method, all Section numbers as listed in the specifications are included in their tendered price.

- (b) Where alternatives are specifically called for in the tender document, the resultant price differential shall be clearly shown as deduction from, or addition to, the separate prices quoted in 8(a) above, in the space provided for on the official tender form in accordance to Regulation 15(f).

- (c) Trade Contractors are responsible for submitting their Bids all in accordance with the tender documents.
- (d) Written advice (including fax and telegrams but excluding electronic) concerning amendments to Trade Contractors' tenders may be submitted to the Bid Depository, provided that each amendment, and the official large white envelope, are received prior to the Bid Depository closing time. An original copy of each amendment shall be addressed to each Prime Contractor concerned, in care of the Bid Depository. Amendments shall clearly state the increase or decrease in the dollar amount only. Amendments received late shall be time-stamped and retained, but not transmitted.
- (e) Tenders shall not be altered, or amended in any way, after the Bid Depository closing time. The Bid Depository shall take no action in notifying the Prime Contractors of a withdrawal of a bid, except to make available to Prime Contractors, letters or telegrams/fax/electronic format of withdrawal addressed to each of them, that may be deposited with the Bid Depository before the Bid Depository closing time.
- (f) Tenders may be withdrawn up to twenty-four (24) hours prior to the Main Tender closing time. This must be confirmed by the Trade Contractor in writing or delivered by telegram/fax/electronic format, to ALL Prime Contractors originally bid, up to twenty-four (24) hours prior to the Main Tender closing time. The responsibility of proof of time of effective withdrawal rests with the bidder. It is the Trade Contractor's responsibility to notify by telegram/fax/electronic format or otherwise in writing ALL Prime Contractors of their decision to withdraw. A copy of the written notice of withdrawal must be filed with the Bid Depository.

In an instance when a trade contractor bids separate prices on a category or categories of work specified, and they quote a combined price for all the work bid, the validity of combined price is dependent upon all separate prices remaining in the bid. If the trade contractor bidding exercises their right of withdrawal of any one or more of the separate prices bid, their combined price is automatically negated. The Trade Contractor is precluded from withdrawing their combined price only.

“IF YOU MISSED SOMEONE”

- (a) When a Trade Contractor has inadvertently missed bidding to a Prime Contractor:
 - i. they may, not later than four hours prior to the Main Tender closing time, send a fax/telegram to the Bid Depository where tenders are being received, reading as follows: “We missed bidding to (Black Construction) on (ABC Project). Please consider our bid addressed to (White Construction) as if it were also submitted to (Black Construction). (Signed) Trade Contractor”

and

 - ii. they shall, after sending the fax/telegram to the Bid Depository, advise (Black Construction).

9. Procedure For Prime Contractors: “DID YOU ADVISE THE BID DEPOSITORY?”

The procedure to be followed by the Prime Contractors receiving bids from the Bid Depository is as follows:

- (a) The Prime Contractor should advise the Bid Depository of their intention to bid a particular job when they pick up plans. They should also advise Trade Contractors of their intention to bid.
- (b) The onus lies with the Prime Contractor to pick up their envelopes.
- (c)
 - i. A Prime Contractor need not accept an unsolicited sub-trade tender and in such case shall return it unopened to the Bid Depository.
 - ii. Where a Prime Contractor lists their own forces for the work to be performed, it is **mandatory that they do that work with their own employees**, or in the event they are unable to do so they must use one of the bidders who tendered through the Bid Depository, at the **bidder’s tender price**, and must not call bids from other sources.
 - iii. The ‘OWN FORCES’ rule means that a Prime Contractor to bid themselves a trade through the Bid Depository must be equipped to carry out, and in fact normally carries out, the trade work concerned in their own direct employment, or in the employ of a wholly owned subsidiary company prior to the time of their bid through the Bid Depository. A Prime Contractor who intends to use own forces may be requested to provide evidence of ability and history of the past use of “*Own Forces*”.
- (d) After the closing time for the Bid Depository, the Prime Contractor shall pick up their bids from the Bid Depository and pay the stipulated fee. Any Prime Contractor who decides not to bid, after advising the Bid Depository of their intention to bid, must signify their intention of withdrawing at least twenty-four (24) hours prior to closing of the Bid Depository. Failure to do so will make the Prime Contractor liable for the payment of the fees, whether or not they pick up their bid envelopes.

“NO TENDERS RECEIVED”

- (e) When a Prime Contractor has not received any tenders in a certain trade, they must contact the Bid Depository and obtain the names of bidders in that trade and solicit tenders from them as outlined in Regulation 8 (g).
- (f) In the event that no valid tenders are received by a Prime Contractor through the Bid Depository in any one trade, or trades, then the Prime Contractor becomes a free agent, to obtain tenders for that particular trade, or trades only, and subject to meeting all requirements of Regulations 12 and 13.
- (g) Rules 9(e), (f) are not applicable to a Prime Contractor who is under a Joint Advisory Board imposed suspension.

“ONE BID RECEIVED BY A PRIME CONTRACTOR”

(h) When only one bid is received by a Prime Contractor then it must be used by that Prime contractor subject to Regulations 8 (g) and 9 (c).

“ONE BID RECEIVED BY THE BID DEPOSITORY”

(i) When only one bid is received by the Bid Depository, then the Owner or Tender Calling Agent is to be contacted prior to the opening of the one bid. The Owner, or Tender Calling Agent should issue one of the following instructions to the Bid Depository:

i. Accept the bid and make it available to the Prime Contractors.

Or

ii. Reject the bid and return it unopened to the Sub-Contractor and Rule 9 (f) would apply.

In the event the Owner or the Tender Calling Agent cannot be contacted on the Bid Depository Closing day, then the bid shall be returned unopened to the Sub- Contractor and Rule 9 (f) would apply.

10. Disposition of Envelopes And Price Information

Not later than two hours after the closing of the Bid Depository, the Tender Box shall be opened by an official of the Depository and the white envelopes shall be opened. All pink envelopes shall be placed in a separate envelope for each Prime Contractor; the yellow envelope shall be opened by the Joint Advisory Board and reviewed. Tenders shall be posted on the CINet website at www.cinet.ca for not more than 60 days and in the weekly CAPEI Project Newsletter.

11. Irregularities And Complaints

- (a) Failure by a Prime Contractor or a Trade Contractor to comply with the Regulations and Rules of Procedures of the Bid Depository may result in a reprimand or suspension from use of the Bid Depository, or could result in a Prime Contractor's or Sub-Contractor's bid being declared invalid in accordance with Regulation 15.
- (b) Any user of the Bid Depository, who wishes to lodge a complaint, must do so in writing, to the Chairman of the Joint Advisory Board, c/o Construction Association of P.E.I., 40 Enman Cres, Charlottetown, PE C1E 1E6.
- (c) Immediately upon receipt of a complaint, the Joint Advisory Board shall advise the Tender Calling Authority of the receipt of a complaint, and shall investigate both sides of the alleged complaint.

- (d) If, after investigation by the Joint Advisory board, a failure to comply with the Bid Depository Regulations and Rules of Procedure is established, the Joint Advisory Board shall advise the Tender Calling Authority of the rule infraction, and may recommend to the Directors of the Construction Association of PEI, that the party in breach be reprimanded or suspended for a certain period from the use of the Bid Depository. **The Tender Calling Authority may disqualify the Prime Contractor or Sub-Contractor's bid or both.**
- (e) The party or parties in breach of the Regulations shall be notified by the Joint Advisory Board of its recommendations, and shall have the right to appear before the Directors of the Construction Association of PEI, to make representations regarding the matter at such time as directed by the Directors, but, in any event, prior to the imposition of any disciplinary action. Failure of the party in breach to attend at the time and place established by the Directors shall constitute a waiver by that party to its right to appear and make representations.
- (f) The decision of the CAPEI/Joint Advisory Board shall be final.

12. Bonding—This Section Applies Only Where The Prime Contractor Is Required To Provide Bonding.

The Bid Depository recommends the procedure and use of Bid Bonds as defined in the publication, “A Guide to Construction Surety Bonds” (latest edition), as published by the Canadian Construction Documents Committee and which has been endorsed by R.A.I.C., A.C.E.C., C.C.A., and C.S.C.

The following clauses in respect to tender security will apply, unless otherwise stipulated by the Owner or Tender Calling Authority.

The purchase and payment for all bonding requirements shall be the responsibility of the Trade Contractor.

- (a) The Trade Contractor shall separately enclose in the large white envelope containing their bid the required Bid Security and/or Letter of Consent. The limit for Bonding in respect of Mechanical Trades will apply to any Section of Division 15, or comparable section in any specification, as may be indicated by the Tender Calling Authority, i.e. Plumbing, Heating, Ventilation and Air Conditioning, Sprinklers, Refrigeration, Controls, etc.
- (b) If the tender exceeds the security deposit threshold as set by the Tender Calling Authority, as the case may be, a Bid Bond and a Letter of Consent of Agreement to Bond is required, and the Bid Bond shall cover 10% of the tender price submitted by the Trade Contractor.
- (c) The Bid Bond and the Letter of Consent of Agreement to Bond shall be in the standard Bid Bond form of a Surety (or as otherwise required by the tender documents) approved by the Bid Depository of P.E.I., and shall provide that the Surety will issue a good and sufficient Performance Bond and Labour and Materials Bond, each for not less than 50% of the accepted tender price.

- (d) The Bid Bond shall cover as obligee: “The Successful Prime Contractor”
- i Bid bonds addressed to obligees other than “The Successful Prime Contractor” shall be a cause for rejection of bid.
 - ii Where permitted, other forms of bid security, which includes letters of credit or certified cheque, shall be made payable to “The Successful Prime Contractor one of which is (here list the corporate name of each Prime Contractor you are bidding to individually).”
- e.g. “The Successful Prime Contractor one of which is John Doe Construction Limited or Peter John Services Limited or Don Well Construction Inc.”
- (e) A Bid Bond or Letter is not necessary in a case where a Prime Contractor is submitting a trade tender to themselves.
- (f) In the event that no Bid Bond, Letter of Consent of Agreement to Bond, or other specified surety or letter is deposited, the tender of that Trade Contractor shall not be released or posted, but shall be retained by the Bid Depository for return to the Trade Contractor.
- (g) Letters of intent or certified cheques in lieu of Bid Bonds will not be accepted unless otherwise specified in the Tender Documents.
- (h) Disposal of Bid Bonds will take place in the following manner: All Bid Bonds directed to the successful Prime Contractor shall be forwarded to them following official award.

13. Contract Conditions And Payment Terms

- (a) It is a condition of all bids submitted through the Bid Depository that a subsequent contract will be made in accordance with the general conditions of the contract.
- (b) A Prime Contractor is bound to place a sub-contract with one of the valid bids through the Bid Depository. A Prime Contractor intending to use his own forces or a subsidiary company for one or more of the specified trade sections shall deposit his bid in accordance with the Regulations and Rules of Procedure of the Bid Depository even if he bids only to himself.
- (c) It is a condition of this tender that when accepted, the subsequent contract will be in the form of the latest CCA Standard Forms of Construction Contract between the Prime Contractor and the Sub-contractor or another form of the contract to be agreed upon and that the terms will incorporate the relevant provisions of the contract between the Prime Contractor and the Owner.

14. Supplementary Instructions

Instructions may be issued from time to time from the Bid Depository, which will be available to all interested parties, and such instructions will form part of the Regulations and Rules of Procedure.

15. Instructions for Bid Depository Committee at Tender Opening

Any member of the Joint Advisory Board present at a Bid Depository Tender Opening who is also submitting a tender through the current Bid Depository shall excuse themselves from the tender opening for the Trade that they are tendering. They may be present for the tender opening of other Trades for which they have not submitted a tender.

The Committee will check the Prime Bidder's tender form for any requirement for separate or alternate prices required from the trades submitting prices via the Bid Depository. Should alternate prices be required, the committee **shall determine from the Prime Contractor Tender Form prior to opening any tenders, which trade sections are clearly involved. Only the lack of a separate price required for the Prime Bidders to complete their tender form shall be basis for rejection.**

Requirements in the specification for separate or alternate prices which do not appear on the Prime Bidder's tender form shall not be cause to reject a Trade tender if the separate or alternate price is not included with the tender. If such alternate or separate prices are included with the tender, they shall not be used by the Bid Depository to determine the final trade tender price.

At tender openings, the Bid Depository Committee is to reject bids for any one or more of the following reasons:

- (a) Late receipt of tender documents (Reference Regulation 7);
- (b) Where no Bid Bond, Letter of Consent of Agreement to Bond, other specified security, or letter for each Trade section quoted in the tender has been submitted (Reference Regulation 12).
- (c) Where a Bid Bond, Letter of Consent or other specified security for each trade section quoted in the tender call has been submitted but has not been completed in accordance with the Rules and Regulations of the Bid Depository. (Reference Regulation 12).
- (d) When instructed by Tender Calling Agent (Reference Regulation 9 (h)).
- (e) Incomplete Tender Forms
- (f) Where the Tender Calling Authority requests alternate or separate prices on the Prime Contract Form, which are in addition or deduction from the base tender price, this information must be included on the BD2 form.
- (g) A tender has been qualified or is other than the Tender package called by the Tender Calling Authority (e.g. Section numbers so not correspond).
- (h) A Tender does not comply with the Bid Depository Rules.

READ THE "REGULATIONS AND RULES OF PROCEDURE" BEFORE COMPLETING THIS TENDER FORM.

THE BID DEPOSITORY OF PRINCE EDWARD ISLAND
OFFICIAL TENDER FORM BD2

SAMPLE FORM "B" MULTIPLE SECTION/DIVISION

Date:DD/MM/YY

TENDER TO
ABC Contracting

PROJECT
XYZ Project

Doodleville, NB

TOTAL TENDERED PRICE

126,000.00 + GST ←

MUST CONTAIN AN AGGREGATE PRICE

THE FOLLOWING SEPARATE PRICES ARE NOT QUOTED CONTINGENT UPON ACCEPTANCE OF A COMBINED BID

TRADE	DIVISION OR SECTION No.	P.S.T Included G.S.T Excluded	Amount
1. Integrated Auto	Div 25	Eighteen Thousand Six Hundred & Ninety Two + GST	(\$ 18,692.00 + GST)
2. Electrical	Div 26	Eighty Thousand Five Hundred & Ten + GST	(\$ 80,510.00 + GST)
3. Communications	Div 27	Twelve Thousand Eight Hundred & Twelve + GST	(\$ 12,812.00 + GST)
4. Electronic Safe	Div 28	Fourteen Thousand Two Hundred & Forty Three + GST	(\$ 14,243.00 + GST)

This quotation is based on strict compliance with drawings & Specification & all addenda thereto as issued and the rules and regulations of the Bid Depository. It is further understood that a subsequent contract will be made in accordance with the General Conditions of the Contract (Rule 13). Failure to tender according to Bid Depository rules in force at the time of tendering may result in disqualification of tender.

UNIT PRICES AND/OR APPLICABLE TAXES INCLUDED **WHEN REQUESTED BY PRIME CONTRACTOR TENDER FORM** ARE TO BE LISTED ON SEPARATE ATTACHED SHEET.

Alternative and/or separate prices only **IF REQUESTED BY PRIME CONTRACTOR TENDER FORM** should be referred to by the proper designation in the specifications, and it must be clearly indicated whether each is an addition to or a deduction from the total tendered price.

ALTERNATE AND/OR SEPARATE PRICES

ADDITION TO

DEDUCTION FROM

REFERENCE REGULATION 15 (F) OF "REGULATIONS AND RULES OF PROCEDURE"

READ RULE 12 – BONDING REQUIREMENTS

This tender is subject to acceptance in accordance with General Conditions, Instructions to Bidders, or other Tendering Documents, plus 30 Day (Calendar) of the specified date, of the Tender Calling Agent.

We acknowledge receipt of addenda _____ of _____ prior to the Bid Depository closing time. (e.g. 2 of 2)

FROM:

Name:FIRM NAME.....

Address of FirmFIRM ADDRESS..... JOHN DOE
Authorized Signature

This form is printed on NCR (No Carbon Required) paper. Distribution: **Document Distribution as per instruction located on the bottom of the BD2 form.**

. The changes to the Official Tender Form BD2 do not come into effect until the new form is received from the printer.