

# Closing the Gap: Supplier Bidding Compliance for Mechanical Contractors

Texas MCA Meeting



# Panel



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# Case Study

## The Scenario

Mechanical contractor wins competitive bid on large hospital expansion. Examples: (1) chiller, air handling unit, major equipment project; or (2) large scale mechanical piping project.

## What Happened

Supplier's bid never referenced spec. They quoted their standard systems. No way to know upfront. Submittals rejected six weeks into rough-in.

## The Result

- **\$500,000** in scope gaps/required revisions
- **Sixplus week** schedule delay
- **Change order denied** — contractor already agreed to comply with plans and specs per subcontract

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***Supplier had no skin in the game. The mechanical contractor had all of it.***

# Setting and Framing the Ground Rules

*"These requirements are imposed upon us by the general contractor and/or owner and allow us to comply with those requirements on your behalf."*

**Why It Matters:** This language clarifies to every supplier that bidding rules aren't internal bureaucracy — they're a direct pass-down of real contract obligations.



# Rule 1: Deviations Must Be in Writing – At the Time of Bid

## The Problem:

Suppliers often submit bids with alternate materials or substituted equipment without noting deviations, leaving contractors to price without clarity. Rushed bidding timelines lead to quick decisions, significantly increasing the risk of errors or poor judgment in evaluation. By the time these issues are discovered, it's too late to reprice.



## The Rule:

*"All deviations from the plans and specifications must be noted in detail by the bidder, in writing, at the time of submittal of formal bid."*

# Rule 2: Silence Means Full Compliance



Supplier Submits Bid

No deviations listed



Assumption Created

Full spec compliance



Reality Surfaces

Non-compliant materials arrive

## The Rule:

*"The absence of a written list of specification deviations at the time of submittal of the bid will hold the bidder strictly accountable for compliance with the plans and specifications as written."*



# Rule 3: Late Disclosures = No Price Change

## The Problem

Supplier eventually discloses materials don't meet spec – after bid is accepted. Mechanical contractor has no leverage to reprice and little to no ability to go back to GC for more money.

## The Rule

*"Any deviation from the plans and specifications as written not previously submitted, as required by the above, will be grounds for rejection of any claims for additional costs."*



# Rule 4: Minor Variances Count Too

## The Problem

Suppliers believe small substitutions aren't worth mentioning.

These "minor" variances regularly trigger submittal rejections, costly reorders, and schedule delays.

## The Rule

*"For purpose of bid evaluation, bidders must indicate any and all variance to requirements, terms, and conditions as stated in this document no matter how minor."*

## Rule 5: The Bid Form Controls

**The Problem:** Suppliers submit prices without using mechanical contractor's bid form, or they submit on their own quote documents with their own terms. When dispute arises, there's no clear record of what was represented and agreed to.

**The Rule:** *"If variations are not stated on the bid form attached herein, it shall be construed that the bid fully complies with the requirements, terms, and conditions."*



# Rule 6: Supplier's Terms and Conditions are Rejected

## The Problem:

Suppliers often include their own terms and conditions (T&Cs) in their bids or incorporate them by reference. If these T&Cs are not explicitly rejected, mechanical contractors can unknowingly become bound by unfavorable or unexpected contractual obligations, leading to disputes, increased costs, and compromised project timelines.

## The Rule:

*"Any terms and conditions submitted by the bidder, whether included in the bid or incorporated by reference, that have not been expressly agreed to in writing by the offeror in a separate agreement outside of the bid documents are deemed rejected and shall have no force or effect."*

# Rule 7: Every Line Item Must Be Addressed



## The Rule:

*"The offeror's proposal shall be in the form prescribed by this invitation and shall contain a response to each of the areas identified."*

# Rule 8: Assumptions Must Be Identified

## The Problem

Suppliers frequently submit bids based on, incomplete, unclear, or TBD design documents. Without knowing what assumptions a supplier made, mechanical contractors can face owner disputes with later changes or completed designs.

## The Rule

*"If the bidder determines that any portion of the design documents is incomplete, unclear, or designated as 'to be determined,' the bidder must identify each such portion in its bid and state: (1) each assumption the bidder made regarding that portion, and (2) the basis for each assumption."*

# Proposed Bidding Rules

(1 of 3)

- \*** These requirements are imposed upon us by the general contractor and/or owner and allow us to comply with those requirements on your behalf.
- 1** All deviations from the plans and specifications must be noted in detail by the bidder, in writing, at the time of submittal of formal bid.
- 2** The absence of a written list of specification deviations at the time of submittal of the bid will hold the bidder strictly accountable for compliance with the plans and specifications as written.

# Proposed Bidding Rules

(2 of 3)

- 3** Any deviation from the plans and specifications as written not previously submitted, as required by the above, will be grounds for rejection of any claims for additional costs.
- 4** For purpose of bid evaluation, bidders must indicate any and all variance to requirements, terms, and conditions as stated in this document no matter how minor.
- 5** If variations are not stated on the bid form attached herein, it shall be construed that the bid fully complies with the requirements, terms, and conditions.

# Proposed Bidding Rules

(3 of 3)

- 6 Any terms and conditions submitted by the bidder, whether included in the bid or incorporated by reference, that have not been expressly agreed to in writing by the offeror in a separate agreement outside of the bid documents are deemed rejected and shall have no force or effect.
- 7 The offeror's proposal shall be in the form prescribed by this invitation and shall contain a response to each of the areas identified.
- 8 If the bidder determines that any portion of the design documents is incomplete, unclear, or designated as 'to be determined,' the bidder must identify each such portion in its bid and state: (1) each assumption the bidder made regarding that portion, and (2) the basis for each assumption.

# Questions – Other Options?

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