

**RULES AND REGULATIONS GOVERNING THE OPERATION  
OF THE BID SERVICE REGISTRY  
FOR THE FIRE SPRINKLER INDUSTRY**  
Revised 11-01-02

**ARTICLE I  
PURPOSE, INTENT AND OBJECTIVE**

Section 1

The purpose, intent and objective of Bid Service Registry shall be:

To establish fair and equitable rules for the submission of bids and to promote fair and open competition among contractors in those crafts and trades utilizing Bid Service Registry; to insure that all applicable work will be awarded in a fair and equitable manner, and that all bidders will be treated equally and enjoy the benefits of open competition and to lessen the confusion which has existed in the submission of bids when no closing time is indicated.

The nature of competitive bidding often involves substantial risk and on larger projects is usually a costly and time consuming endeavor. We, therefore, affirm the right of a subcontractor bidder to take every precaution to protect the confidentiality of his/her bid (which may contain creative and innovative ideas and methods peculiar only to his/her bid) by withholding its submission until the last possible moment. We likewise recognize the need of general contractors to receive sub-bids as early as possible to curtail potential errors caused by last minute bidding chaos. We also support the general contractor's and owner's right to minimize a projects cost, while maximizing its quality.

In the interest of owners, general contractors, subcontractors, and in conformity with known state and federal laws and regulations governing such sections, the following Rules and Regulations governing Bid Service Registry's operation have been established.

Section 2

**WHEREAS**, the subcontractors recognize that the contracting industry is a highly competitive one, and

**WHEREAS**, it is in the interest of all contractors that this competition be conducted on a high plane, in good faith, and fair in all respects, the following Pledge of Performance is hereby adopted:

- a. Bidders shall neither seek nor accept information regarding a competitor's bid, nor shall he/she disclose his/her bid, prior to BSR's' closing time.
- b. After prime contractor bids have been opened, negotiations should involve only the bidder whose price was used in preparation of the successful prime contractor's bid.

**ARTICLE II  
DEFINITIONS**

Section 1

The following definitions will be applicable to the terms used in these Rules and Regulations, and in the operation of the Bid Service Registry:

- a. BID SERVICE REGISTRY - Herein referred to as Bid Service Registry, BSR or BSR's.
- b. AWARDING AUTHORITY - Shall mean any person, firm, corporation or governmental agency soliciting bids from two or more prime contractors.
- c. FILING - The act of depositing with Bid Service Registry, the bid price for a specific project. The method and manner of recording a bid shall be as prescribed in these Rules and Regulations or as directed by the Administrator of Bid Service Registry.
- d. CLOSING TIME - The time established by the BSR Administrator for receiving subcontractor bids on a specific project.
- e. SUBCONTRACTOR - Shall mean a licensed contractor who submits bids to and accepts subcontracts from a general contractor.
- f. PROJECT - A general construction project for which the awarding authority has solicited bids from two or more general contractors for which plans and specifications have been prepared; or a project where the awarding authority has requested contracts from BSR crafts on a prime basis.
- g. SUBSCRIBER (USER) - Any person, firm or corporation operating as a subcontractor or contractor, who has utilized the facilities of the bid service for distributing its bids to any general contractor in connection with a building project.
- h. LOCATION - A banking institution, telegraph company, accounting firm, law firm, or other organization which might be designated by the Administrator to receive BSR users subcontract bids, and to distribute such bids to the general contractor to whom they are addressed.

**ARTICLE III  
ELIGIBILITY TO PARTICIPATE**

Section 1

Any person, firm or corporation engaged in the business of an applicable classification of subcontracting may use the facilities of BSR for submitting bids to general contractors, upon agreeing to abide by these Rules and Regulations and any subsequent amendments thereto and to pay the fees as set by BSR. BSR makes no representations concerning the qualifications of any user of Bid Service Registry.

Participation in Bid Service Registry shall be voluntary and shall not be a condition to maintaining membership in good standing in any contractors' association, professional society or any other trade group whose members utilize BSR.

Any user, at its sole discretion, may, without being in violation of these Rules and Regulations, elect to use or not to use the facilities of BSR in connection with each respective building project upon which it desires to submit a bid.

**ARTICLE IV  
ADMINISTRATION OF BID SERVICE REGISTRY**

Section 1

The administrative duties connected with the operation of BSR shall be the responsibility of BSR. BSR will appoint an Administrator or any such other person or persons as may from time to time be employed by BSR.

## Section 2

The establishment of general policy and the formulation of all interpretive rules and regulations pertaining to the operation of BSR, not inconsistent with this document, shall be the responsibility of the Advisory Board.

## Section 3 Advisory Board

The initial Advisory Board shall consist of two (2) representatives from each of the trades utilizing BSR's services.

In the event that from time to time BSR determines that it would be beneficial to extend the facilities to other recognized trades or crafts, and such trade or craft agrees to abide by these Rules and Regulations and the other regulatory documents of BSR, the Advisory Board shall thereupon be enlarged by two (2) members who shall be elected or appointed by the trade or craft he/she represents.

## Section 4 Resignations

Any member of the Advisory Board may resign at any time upon ten (10) days written notice the the Advisory Board. In the event of a vacancy on the Advisory Board for any reason whatsoever, that trade or craft shall appoint or elect another member to fill the vacancy.

## Section 5 Organization of the Advisory Board

Following the election or appointment as hereinabove set forth, the Advisory Board shall appoint one of its members to act as Chairman of the Advisory Board and another to act as Secretary.

It shall be the duty of the Chairman to preside at all meetings of the Advisory Board, to direct its activities, and to have general charge of the supervision and modification of these Rules and Regulations. The Chairman may delegate any such duties to another member of the Advisory Board as are not inconsistent with these Rules and Regulations.

It shall be the duty of the Secretary to assume the Chairman's responsibilities in his/her absence.

## Section 6 Meetings

The Advisory Boards shall hold their meetings at a time and place designated by BSR within the state of New Mexico.

BSR may call a special meeting when considered necessary, and BSR shall call a special meeting when a majority of the Advisory Board considers such meeting necessary. In the event a special meeting is called, written notice of one week will be required unless waived by all members of the Advisory Board.

## **ARTICLE V RULES OF OPERATION**

### Section 1

#### Determination of Projects to be Handled by Bid Service Registry

Information for projects will be obtained from plan room publications, other periodicals, architects, general contractors, awarding authorities, and the like. BSR shall determine which of these projects will be handled by BSR's services. Projects handled by BSR will be advertised in plan room publications.

### Section 2

#### BSR Locations and Closing Time for Each Project

BSR, when issuing the bid forms, will indicate the location of each bid drop and the date and time for BSR's closing.

BSR's closing time will normally be set at least three (3) hours prior to the designated general contractor closing time. Filing must be done by 4:00 PM on the day preceding bid closing if the closing time for general contractors is prior to 11:00 AM.

### Section 3

#### Preparation of Bid Forms

To facilitate bidding on each project and provide a mutual basis of competitive bidding, each bid must be submitted on a bid form and in an envelope prepared by BSR for such projects, or a reasonable facsimile thereof.

All bids will be in strict accordance with the applicable sections of the plans and specifications appropriate to the subtrade, unless additions or deletions from the scope of work are requested by the subcontractors and agreed to by a majority of the bidders. If any additions or deletions are required on the bid form, BSR must be informed no later than 12:00 Noon the day before the project bids unless the change is a direct result of an addenda issued by the Architect's office.

If a bidder should deviate from the bid form, he/she must list each such deviation as an additive or deductive alternate and set forth specific pricing for each deviation.

Bid forms prepared by BSR will be transmitted via facsimile or otherwise furnished to all interested and qualified persons requesting them.

### Section 4

#### Submission of Bids

- a. Any subcontractor eligible under Article III, Section 1, who desires to submit a bid to a general contractor may elect to do so through the facilities of BSR. It shall be considered a violation of these Rules and Regulations to alter or change any deposited bid after the closing time set for depositing bids on that project. Further, users shall have the option of bidding either through BSR or to bid directly to the general contractor. It shall be deemed a violation of these Rules and Regulations to submit bids both through BSR as well as outside the framework of BSR on a given project. Users electing to bid through BSR shall submit to BSR a separate and sealed bid addressed to each general contractor to whom the subcontractor desires to bid, and shall file with BSR an identical copy of such bid filed by him/her. Each bidding contractor shall be responsible for the delivery of its own bids to the designated BSR location prior to the closing time set for each project.

Any participating general contractor who has received or solicited a direct bid from a

subcontractor upon any project, and who desires to use the facilities of BSR upon that project for receiving competitive bids therewith, shall submit to BSR a copy of each bid in a separate sealed envelope addressed to BSR of each bid filed by him/her. Each of the sealed envelopes shall specify the project upon which the bid is made and show an outline of the scope of work covered by the bid, and shall be deposited in the lock box prior to BSR's closing time. Each such direct bid so filed shall be treated in all respects as if it were originally filed with BSR by the subcontractor involved.

b. WITHDRAWAL OF BIDS - No bid may be withdrawn later than one (1) hour before the general contractor's bid closing time. In the event a subcontractor withdraws his/her bid aforesaid, it shall be the responsibility of such contractor to accordingly notify BSR and all persons, firms or corporations to whom he/she has bid of such withdrawal. Once withdrawn, a bid shall not be re-submitted upon the same project.

Written notice of such withdrawal shall be sent by facsimile to BSR's office no later than 5:00 PM the day of the bid.

#### Section 5 Delivery of Bids

The sealed envelopes containing bids addressed to the general contractor shall be made available to the person or persons to whom addressed as soon as practical after the expiration of the time for depositing bids upon the involved project's closing time; provided, however, that the addressee may refuse to accept any envelope containing the bid of any subcontractor with whom he/she does not desire to contract, by immediately rejecting the envelope and leaving it with BSR unopened.

The addressee may reject any bid of any participant by refusing to accept same and marking the unopened bid envelope "rejected". Such rejected bid shall be retained by BSR, unopened, and shall be filed for a period of one (1) year.

#### Section 6 Publication of Bids

Within a reasonable time after the prime contractor bid opening to the awarding authority, BSR shall collect the undistributed bids and copies of the distributed bids addressed to the Bid Depository. The undistributed bids will be destroyed. The distributed bids will be recapped and a copy of this recap mailed or otherwise furnished to all subcontractors submitting bids on the project.

The bid recap will list the following information:

- The name, location and nature of the project;
- The names of all participants who filed bids; and
- The prices submitted by those contractors

All such copies submitted to BSR shall be accurately recorded and filed in the office of BSR where they shall be available for inspection by any participant or user of BSR. Bids submitted to BSR shall be retained for a period of one (1) year after the opening thereof.

#### Section 7 Rejection of Bids

In the event the general contractor received a bid from a subcontractor who has indicated on the bid form an ability to furnish a payment and performance bond on the project, the general

contractor may require such bond at the general contractor's expense. Should it be determined that the subcontractor cannot, in fact, furnish such a bond at the usual bond rate, the general contractor may elect to reject such bid and the general contractor is free to get the best price he/she can at his/her own discretion.

Section 8  
Liability

No administrator, officer, member, employee or agent of BSR shall be personally, or professionally, liable or responsible for any action whatsoever in the operation of BSR, and each person or firm who is a user of BSR or who utilizes BSR expressly agrees that he/she or it will not bring or attempt to bring any action against such administrator, officer, member, employee or agent as a result of participation in or operation of BSR. Information provided on bid documents are verified to the best of BSR's ability, however no responsibility is assumed for errors or omissions. Any and all claims against such individuals of any nature whatsoever are hereby waived by such participants.

**ARTICLE VI  
GRIEVANCES**

Section 1  
Grievance Committee

Full investigation and hearing of complaints shall be the responsibility of a Grievance Committee, appointed and composed as set forth hereinafter.

Section 2  
Appointment and Opposition of Committee

BSR shall, upon the receipt of a written complaint filed by any user, appoint a Grievance Committee to hear and make a determination with respect to that particular complaint.

Such Grievance Committee shall consist of: three (3) users who are not interested in the project in question for resolution.

Section 3  
Preliminary Investigation

Should any user feel that another user has violated the intent of these Rules and Regulations, a complaint may be filed with BSR in writing, and said Grievance Committee shall investigate any such complaint filed pursuant to any provision of the Rules and Regulations, whether such complaint be filed by a user or Awarding Authority. In no case, however, will such investigation be made prior to the Closing Time established for the project in question.

No complaint of any alleged violation of these Rules and Regulations shall be considered unless such complaint has been filed with BSR in writing.

Section 4  
Scheduling of Hearing

If, in the opinion of the Grievance Committee, there is good cause to believe that there has been a violation of the intent of these Rules and Regulations, and that the complaint warrants consideration by the Committee, the Committee shall schedule a hearing, and shall request the parties involved appear at such hearing, which shall be held within ten (10) working days after BSR shall have received notice of such alleged violation.

Section 5  
Hearing

At the hearing of such complaint, the Grievance Committee shall review the findings as a result of the investigation, and the parties involved shall have an opportunity to be fully heard with respect to the complaint.

Section 6  
Determination

If a majority of the Grievance Committee determines that a user has violated the Rules and Regulations of Bid Service Registry, such user will be given written reprimand.

**ARTICLE VII  
FEES AND COLLECTION**

Section 1

Any subcontractor using BSR shall pay a fee upon obtaining a contract on a job that he/she has bid through BSR equal to seven-tenths (7/10) of one percent (1%) of the amount of its bid, plus applicable taxes, for such work. The minimum fee upon award of a contract shall be \$175.00, plus applicable taxes; the maximum fee shall be \$1,750.00, plus applicable taxes. Said fees shall be due and payable to BSR by the tenth (10th) of the month following receipt of the project contract.

In the event a general contractor has registered an outside bid on a given project, and this outside bid is awarded a contract by the general contractor on that given project, it shall be the responsibility of the general contractor to pay the fee on the registered outside bid. This fee will be as outlined hereinabove.

Any subscriber wishing to waive Article V, Section 4 (a) and deposit his/her bid with BSR prior to bidding opening on an out-of-town project, will be assessed the following delivery fees: 0-60 miles, \$7.00; 61-100 miles, \$10.00; 101-200 miles, \$13.00; 201+ miles, \$16.00. No administrator, officer, member, employee or agent of BSR will be personally, or professionally, liable or responsible in any manner whatsoever for any loss or damage with respect to the operation of BSR; and by participation herein, any and all such claims against such individuals of any nature whatsoever are hereby waived by such participants.

The bid service fee may be increased from time to time by amendment to these Rules and Regulations as provided in Article VIII.

Section 2  
Collection of Delinquent Fees

Any BSR user or participant who is sixty (60) days past due in the payment of any fees may be denied the use of the facilities and services of BSR until such delinquent payments have been made.

Fees will be due and payable on the tenth (10th) of the month following the date of award of contract. All bills will be considered delinquent if not paid within thirty (30) days from the date of the invoice. After payment is delinquent for over thirty (30) days, it shall begin to accrue interest at the rate of twelve percent (12%) per annum until paid.

In the event suit is filed to collect any fees and interest payable to BSR, or to enforce other

provisions of the Rules and Regulations, the party owing such fees or otherwise liable to BSR, shall pay all costs for suit, attorney's fees and other expenses reasonably incurred.

**ARTICLE VIII  
AMENDMENTS**

Section 1

All amendments and additions to the Rules and Regulations shall be presented to the Advisory Board. Such amendments and additions shall be effective by a majority vote of the Advisory Board.

**ARTICLE IX  
EFFECTIVE DATE**

Section 1

These Rules and Regulations will be binding on any user or general contractor. Submission of a bid or utilization of the services of BSR shall constitute affirmation by such user or participant, that such user or participant is willing to pay the fees described herein and abide by the foregoing Rules and Regulations, and such use or participation shall bind user or participant to the terms of these Rules and Regulations.

**ARTICLE X  
SAVINGS CLAUSE**

Section 1

If any of these Rules and Regulations shall be determined to be unlawful or unenforceable, such determination will not affect the binding nature of enforceability of the remaining provisions of such Rules and Regulations.

**ARTICLE XI  
GOVERNING LAW**

These Rules and Regulations shall be governed by state and federal law.