

**D. Withdrawal of bid or proposal from consideration due to mistake in cost proposal**

1. Basis for withdrawal - The Commission may allow a bidder to withdraw its cost bid from consideration after the bid or proposal opening without forfeiture of security based upon a claim of mistake, provided the bid was submitted in good faith and the bidder or proposer submits credible evidence that the mistake was clerical in nature as opposed to a judgment mistake and this clerical error must be actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the cost bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents or materials used in the preparation of the bid sought to be withdrawn.
2. Means of requesting withdrawal - A request to withdraw a cost bid due to a mistake must be made in writing to the Commission via the State Architect, delivered by the bidder or proposer in person or post-marked as certified or registered mail not later than 24 hours after the time fixed for receipt and opening of bids.
  - a) The request to withdraw a cost bid due to a bid mistake shall acknowledge intent by the bidder or proposer to submit its original work papers, documents and materials used in preparation of the bid.
  - b) The bidder's or proposer's work papers shall be delivered by the bidder in person or by registered/certified mail not later than five (5) days (Saturday, Sunday, legal holidays and the bid day excluded) from the date of receipt and opening of bids.
  - c) Failure of the bidder or proposer to make a withdrawal request as prescribed herein shall constitute a waiver by the bidder or proposer of his right to claim any mistake in its cost bid.
3. Owner to Proceed with Award - In order not to interrupt the bid or proposal process and construction schedule, submission of a request to withdraw will be deemed an acknowledgement by the bidder or proposer that it is unwilling to undertake the project pursuant to his bid or proposal. Consequently, such bid or proposal will be rejected from consideration of award of a contract for the work and withdrawn pursuant to these procedures. The lowest remaining responsive bid or proposal submitted by a responsible bidder or proposer shall be considered as the apparent low bid in a Design/Bid/Build Procurement and the next best evaluated proposal will be considered for contract award in an alternative delivery procurement.
4. Censure of bidder from participation in contract - A bidder or proposer who is permitted to withdraw a bid or proposal shall not supply any material or labor to, or perform any subcontract work for anyone to whom a contract is awarded for the work for which the withdrawn bid (not any re-bid) was submitted.
5. Review Panel
  - a) There is hereby established a Review Panel, composed of three members and consisting of the State Architect, who shall act as chairman, one representative from the State agency for which the work is planned, and one representative of the general building contracting industry, designated by the chairman.

- b) If a bidder or proposer files a request to withdraw its cost bid without forfeiture of its bid security, the Review Panel shall promptly hold a meeting to consider the disposition of the request. The chairman of the Review Panel shall give to the withdrawing bidder or proposer, reasonable notice of the time and place of the meeting. The bidder or proposer may appear at the meeting and present additional information in support of the request to withdraw the cost bid.
- c) The Review Panel shall review the facts, information, and data submitted by the bidder or proposer in support of the request to withdraw the cost bid, and after consultation with the Office of the Attorney General, shall provide the Commission, within five (5) days of the meeting, a written statement of its findings and recommendations to allow or deny the request for withdrawal of the cost bid without forfeiture of his bid security.
- d) Notwithstanding b) and c) above, in situations where the bid errors are clear and meet the criteria established in paragraph D1 above, the State Architect is empowered to rule on the issue without impaneling the Review Panel. The State Architect is required to report such action to the State Building Commission.

6. Disposition

- a) If the Review Panel finds that the price bid was based upon a mistake of the type described in Paragraph D1 above, the bidder's or proposer's withdrawal will be permitted without forfeiture of the bid security.
- b) If the Review Panel finds that the price bid was based upon a mistake not of the type described in Paragraph D1, the Review Panel shall recommend to the State Building Commission the denial of the request to withdraw without forfeiture of bid security. The bidder or proposer shall have the right to appear before the Commission and to submit arguments in support of the request for withdrawal. If the Commission then affirms the Panel's recommendation, the bidder's bid security shall be forfeited. The findings and rulings of the Commission shall be final.