

INSTRUCTIONS

- a. Attach the *ASA Subcontractor Bid Proposal* to the front of subcontract bids, or use another form. Current ASA-members are welcome to borrow ideas and language from this form. Complete both pages of the form as indicated. When a blank has insufficient space for the information the subcontractor would like to include, it may be useful to refer to another document, such as “see Attachment A.” When a blank is intentionally left unused, insert the word “None” or other appropriate language. Subcontractor should also attach its own “schedule of values” to its bid proposal to complete ¶ 5 of this form and to ensure payments are not backloaded. The space for “Additional Information and Clarifications” may be useful to disclaim responsibility for sales taxes on projects where sales taxes are not required, or to offer extended warranty terms that exceed the time limits provided in ¶ 7 of this form if Customer is willing to purchase a maintenance and inspection plan from Subcontractor.
- b. If Subcontractor is directed to commence and does commence its work before the ConsensusDOCS 750 (2012) subcontract document, specified in ¶ 2 of the bid proposal form, is executed, Subcontractor has a strong argument that Customer has “accepted” its bid proposal by conduct, forming a binding contract. In such a situation, if Customer attempts to propose different subcontract terms, other than an unmodified ConsensusDOCS 750 (2012) subcontract document incorporating Subcontractor’s bid proposal by reference, Subcontractor may be well advised to assert that it already has a binding contract with Customer, and that Customer already has a binding contractual obligation to execute a ConsensusDOCS 750 (2012) document incorporating Subcontractor’s bid proposal. Responding to Customer’s proposed terms by, for example, attaching the *ASA Subcontract Addendum* (2011) to Customer’s proposed contract and returning it may be detrimental to Subcontractor in this situation, because Subcontractor’s action may appear to be a counter-proposal, undermining Subcontractor’s position that it already has a binding contract. Subcontractor will often be better advised to respond to Customer’s proposed terms by completing and delivering a ConsensusDOCS 750 (2012) as specified in its bid proposal. Contractors should make themselves familiar with the law governing formation of contracts by consulting an attorney and other resources. The ConsensusDOCS 750 (2012) subcontract document may be obtained from <http://www.consensusdocs.org>.
- c. Subcontractor **must** add language to the final ConsensusDOCS 750 (2012) subcontract document which incorporates by reference “**all of the terms and conditions of Subcontractor’s Bid Proposal dated _____.**” Subcontract forms routinely provide that they are exclusive, that they embody the final and fully-integrated agreement of the parties, or that there are no other documents or side-agreements. The terms of a bid proposal cannot survive execution of a subcontract unless they are specifically incorporated into the subcontract form by reference. Subcontractor is encouraged to attach the *ASA Subcontractor Bid Proposal* to the signed Subcontract or to ensure that the scope of work in the Subcontract mirrors that in the Bid Proposal.
- d. Customer’s willingness to allow Subcontractor to have copies of payment bonds, lien information, Builder’s Risk coverage details, and all documents incorporated by reference into the subcontract (e.g., the prime contract, general and supplementary conditions, etc.), should impact Subcontractor’s decision whether to approve Customer’s credit as required on page 1 of this form, along with other reasonable criteria determined by Subcontractor.
- e. The scheduling obligations of Customer in ¶ 6 of this form may be inadvertently waived by Subcontractor unless Subcontractor actively provides scheduling input to its customer to assist creation and updating of a proper schedule, regardless of Customer’s actual use of the information provided by Subcontractor. Subcontractor should periodically update Customer with information on its own performance, on the work of others that adversely impacts Subcontractor’s own completion schedule, and on any other events impacting the schedule, in writing, and should make prompt requests for extensions of time in the form required by the other contract documents. Note that ConsensusDOCS 750 (2012), ¶¶ 5.3.1 and 5.3.2, relies on the general conditions to define the subcontractor’s rights to adjustments for claims.
- f. Subcontractor’s cost of insurance is **not** reflective of Subcontractor’s cost to participate in a wrap-up (OCIP or CCIP). Additional wrap-up costs and risks include, but are not limited to, loss of agent services and fiduciary protection, loss of volume discounts on Subcontractor’s own insurance program, compliance with new and additional payroll and claim reporting procedures, review of non-standard coverage terms, purchase of gap-filling policy endorsements, and risk of insurance program default. This bid proposal opts out of all wrap-up insurance programs. If your bid proposal is based on participation in a wrap-up insurance program you should modify ¶ 11 to incorporate the ASA Addendum to Subcontract Agreement Pertaining to Project-Specific Insurance (2008).
- g. Applicable laws may require changes to this bid proposal form. Consult an attorney about the laws in the state in which your project is located.



CUSTOMER: _____ PROJECT: _____

_____ LOCATION: _____

DATE: _____ DESIGNER: _____

BID PLANS AND SPECIFICATIONS: _____

ADDENDA (LIST): _____

Subject to prompt acceptance within ____ calendar days (30 if none stated), all conditions of bid proposal stated on pages 1 and 2 of this form, and approval of Customer's credit by Subcontractor which shall not be unreasonably withheld, we propose to furnish materials and labor as specified below at the prices stated below, and any requested extra work at the prices stated below. Acceptance of this bid proposal is expressly limited to the terms herein.

[Insert your scope proposal and pricing information below. Many subcontractors may wish to substitute a different format.]

WORK CATEGORY(IES) AND SPECIFICATIONS TO WHICH THIS BID PROPOSAL APPLIES: _____

_____ EXCLUDING,

HOWEVER: _____

BASE BID: _____

ALTERNATES

	Add	Deduct
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$

UNIT PRICES

	Add	Deduct
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$

EXTRA-WORK rates and/or mark-ups:

Subcontractor may also claim damages for cumulative impact of multiple changes on Subcontractor's efficiency.

Additional Information and Clarifications:

SUBCONTRACTOR: _____
(enter your company's name)

BY: _____ AS ITS _____
(your signature) (your title)

[Complete page 2 of this form.]

CONDITIONS OF BID PROPOSAL

1. Subcontractor has devoted time, money, and resources toward preparing this bid in exchange for Customer's express agreement that the parties shall have a binding contract consistent with the terms of this bid proposal and Customer unconditionally and irrevocably accepts this bid proposal if it (A) in any way uses or relies on the bid proposal or information therein to prepare "Customer's bid" for the project at issue and Customer is awarded a contract for the work; or (B) divulges the bid or any information therein to others competing with Subcontractor for the work.
2. Asking or allowing the Subcontractor to commence work or make preparations for work will constitute acceptance by Customer of this bid proposal. Subcontractor and Customer will execute a ConsensusDOCS 750 (2012) subcontract form to memorialize their agreement, supplemented and modified as provided by this bid proposal which shall be incorporated by reference into the final subcontract. In the event of any conflict between the terms of this bid proposal and any other documents stating terms of the final subcontract, this bid proposal shall govern.
3. A change in the price of an item of material of more than 5% between the date of this bid proposal and the date of installation shall warrant an equitable adjustment in the subcontract price.
4. Subcontractor will not be required to name additional insureds to its general liability insurance policy, nor to waive subrogation for claims covered by workers' compensation or commercial general liability insurance. Subcontractor shall maintain insurance with coverage and limits only as provided by Subcontractor's existing insurance program evidenced by its certificate of insurance available on request.
5. Subcontractor's schedule of values shall be used to determine progress payments. All sums not paid when due shall bear interest at the rate of 1½ % per month from due date until paid or the maximum rate permitted by law whichever is less; and all costs of collection, including a reasonable attorney's fee, shall be paid by Customer. The proper venue to resolve any disputes arising under the subcontract shall be the place where the project is located, and the laws of said place shall govern all such disputes.
6. Subcontractor shall be entitled to equitable adjustments of the contract price, including but not limited to any increased costs of labor, supervision, equipment or materials, and reasonable overhead and profit, for any modification of the project schedule differing from the bid schedule, and for any other delays, acceleration, out-of-sequence work and schedule changes beyond its reasonable control, including but not limited to those caused by labor unrest, fires, floods, acts of nature or government, wars, embargos, vendor priorities and allocations, transportation delays, suspension of work for non-payment or as ordered by Customer, or other delays caused by Customer or others. Should work be delayed by any of the aforementioned causes for a period exceeding ninety (90) days, Subcontractor shall be entitled to terminate the subcontract. Subcontractor change proposals must be processed in not more than (thirty) 30 days or as otherwise indicated on the change proposal.
7. THE EXPRESS WARRANTIES SET FORTH IN THE SUBCONTRACT DOCUMENTS ARE PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SUBCONTRACTOR. Subcontractor is not responsible for special, incidental, or consequential damages, and Subcontractor's liability for delay damages shall not exceed 5% of the original subcontract amount. Subcontractor is not responsible for damage to its work by other parties, and any repair work necessitated by such damage is extra work. All materials shall be furnished in accordance with the respective industry tolerance of color variation, thickness, size, finish, texture and performance standards. All warranty claims must be received by Subcontractor not more than one (1) year after completion of subcontractor's work, and Subcontractor must be provided a reasonable opportunity to inspect and make corrections, or such warranty claims are barred.
8. Except as specifically required by the work and specifications included in this bid proposal, Customer shall furnish all temporary site facilities, including but not limited to site access, storage space, hoisting facilities, guard rails, covers for floor, roof and wall openings, security, parking, safety orientation, break and lunch facilities, toilet and wash facilities, drinking water and other water facilities, electrical service, telecommunication service, lighting, heat, ventilation, weather protection, fire protection, and trash and recycling services.
9. To the extent that performance and payment bonds are included in this bid proposal, the bond forms must be the ConsensusDOCS 706 (2011) and ConsensusDOCS 707 (2011) published by ConsensusDOCS.
10. Neither party shall assign the subcontract, in whole or in part, without the written consent of the other.
11. Subcontractor shall not participate in a consolidated insurance program ("CIP").
12. Regardless of any language to the contrary contained in a waiver, waivers of lien or bond rights shall exclude retainage, unbilled changes, billed and unpaid changes, and claims which have been asserted in writing or which have not yet become known to Subcontractor, and shall either apply only through the date of work for which Subcontractor has been paid in full, or shall be conditional upon receipt of funds to Subcontractor's account.