

International Bridge, Tunnel & Turnpike Association

Bidding and Contracting "Best Practices" *Presented on April 4, 1998 by David A. Feldheim, Esq.*

I. General Concerns Pertaining to All Procurement Activities

- A. Politicized or Level Playing Field?
- B. Mandatory Competitive Bidding?

II. Competitive Request for Proposals (RFP's)

- A. Counsel Participation in Preparation of RFP
- B. Clarity- Instructions and Description of Bid Process
- C. Description of Scope of Services and Goods
- D. Bid Bond
- E. Criteria for Bid Award
 - 1. Sealed?
 - 2. Objective or Subjective?
- F. Pre-bid Meetings
- G. RFP Addenda
- H. Special Circumstances
 - I. Bid Form
 - J. Diversity Initiatives
- K. Non-Collusive Certificate
- L. Form of Agreement; Exceptions
- M. Experience and References
- N. Financial Strength

III. Important Contract Provisions

A. General

1. Detailed description of services or goods
2. Term; duration; termination
3. Financial terms
4. Sub-contracting; assignability
5. Insurance- certificate of insurance
6. Performance Bond
7. Compliance with laws
8. Boilerplate

B. Fuel and Food Services

1. Franchise or co-op?
2. Minimum capital outlays
3. Maintenance and repair
4. Housekeeping
5. Utilities
6. Pricing of products
7. Staffing; personnel
8. Customer complaints
9. Ownership of equipment; risk of loss
10. Inter-vendor relationships
 - a. Sharing
 - b. Competition
 - c. Dispute Resolution

C. Fuel Marketing

1. Environmental Baseline & Remediation
2. UST Compliance
3. Spill Response
4. Disposal
5. Staffing
6. Supply
7. Allocation
8. Road Service
9. Credit Card
10. Rent