14.404-2 Rejection of individual bids.

(a) Any bid that fails to conform to the essential requirements of the invitation for bids *shall* be rejected.

(b) Any bid that does not conform to the applicable specifications *shall* be rejected unless the invitation authorized the submission of *alternate* bids and the *supplies* offered as *alternates* meet the requirements specified in the invitation.

(c) Any bid that fails to conform to the delivery schedule or permissible *alternates* stated in the invitation *shall* be rejected.

(d) A bid *shall* be rejected when the bidder imposes conditions that would modify requirements of the invitation or limit the bidder's liability to the Government, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids *shall* be rejected in which the bidder-

(1) Protects against future changes in conditions, such as increased costs, if total possible costs to the Government cannot be determined;

(2) Fails to state a price and indicates that price *shall* be "price in effect at time of delivery;"

(3) States a price but qualifies it as being subject to "price in effect at time of delivery;"

(4) When not authorized by the invitation, conditions or qualifies a bid by stipulating that it is to be considered only if, before date of award, the bidder receives (or does not receive) award under a separate *solicitation*;

(5) Requires that the Government is to determine that the bidder's product meets applicable Government specifications; or

(6) Limits rights of the Government under any *contract clause*.

(e) A low bidder *may* be requested to delete objectionable conditions from a bid provided the conditions do not go to the substance, as distinguished from the form, of the bid, or work an injustice on other bidders. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.

(f) Any bid *may* be rejected if the *contracting officer* determines *in writing* that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid, but the prices for individual *line items* as well.

(g) Any bid *may* be rejected if the prices for any *line items* or *subline items* are materially unbalanced (see 15.404-1(g)).

(h) Bids received from any person or concern that is suspended, debarred, proposed for *debarment* or declared *ineligible* as of the bid opening date *shall* be rejected unless a compelling reason determination is made (see subpart 9.4).

(i) Low bids received from concerns determined to be not responsible pursuant to subpart 9.1 *shall* be rejected (but if a bidder is a small business concern, see19.6 with respect to certificates of

competency).

(j) When a bid guarantee is required and a bidder fails to furnish the guarantee in accordance with the requirements of the invitation for bids, the bid *shall* be rejected, except as otherwise provided in 28.101-4.

(k) The originals of all rejected bids, and any written findings with respect to such rejections, *shall* be preserved with the papers relating to the *acquisition*.

(l) After submitting a bid, if all of a bidder's assets or that part related to the bid are transferred during the period between the bid opening and the award, the transferee *may* not be able to take over the bid. Accordingly, the *contracting officer shall* reject the bid unless the transfer is effected by merger, operation of law, or other means not barred by 41 U.S.C.6305 or 31 U.S.C. 3727.

Parent topic: 14.404 Rejection of bids.