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SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 814—SEALED BIDDING

M814.000 Scope of part.

This part establishes procedures, and provides guidance and instructions when contracting for supplies, services, and construction by sealed bidding.

M814.001-70 Definitions.

“Line item,” as defined by [FAR 3.302](#), means an item of supply or service, specified in a solicitation, that the offeror must separately price.

Subpart M814.2—Solicitation of Bids

M814.201 Preparation of invitations for bids.

M814.201-2 Part I—The Schedule.

(a) When using Standard Form 33, Solicitation, Offer and Award, the contracting officer should include the following cautionary notice in the contract Schedule:

“Notice to Bidders—Use Item 13 of the [Standard Form 33](#), Solicitation, Offer and Award, to offer prompt payment discounts. The Prompt Payment clause of this invitation for bid[s] sets forth payment terms. Do not insert any statement in Item 13 that requires payment sooner than the time stipulated in the Prompt Payment clause. EXAMPLE: If you insert “NET 20” not offering a prompt payment discount in Item 13, the contracting officer will reject your bid as nonresponsive because the entry contradicts the 30 day payment terms specified in the Prompt Payment clause.”

(b) When using other authorized forms (e.g., [Standard Form 1447](#), Solicitation/Contract; [Standard Form 1449](#), Solicitation/Contract/Order for Commercial Items), include the notice in paragraph (a) of this section. Change the reference to the form number, form title, and item number accordingly.

M814.202 General rules for soliciting of bids.

M814.202-4 Bid samples.

(a) *Policy.* The FAR limits use of bid samples to cases where the contracting officer cannot describe some characteristics of a product adequately in the specification or purchase description. This usually applies to subjective characteristics, but the

contracting officer may determine that there is a need to examine objective characteristics of bid samples to determine the responsiveness of a bid. The contracting officer should base the determination on past experience or other valid considerations. In the solicitation, separately list “Subjective Characteristics” and “Objective Characteristics.” The contracting officer shall explain the rationale to request bid samples in the file documentation.

M814.202-5 Descriptive literature.

When using brand name or equal purchase descriptions, the provision at [FAR 52.211-6\(b\)\(3\)](#), Brand Name of Equal (AUG 1999), satisfies the requirement for descriptive literature. Additional descriptive literature is unnecessary and should not be requested.

M814.204 Records of invitations for bids and records of bids.

(b) Maintenance of the contract file prescribed by FAR part 4 and VAAR part 804 and retention of canceled IFB files will fulfill the requirements set forth in [FAR 14.204\(b\)](#).

M814.211-70 Release of acquisition information.

(a) *Before award.* The contracting officer and all members of the acquisition team shall limit access to information concerning the Government cost estimate to—

(1) Government personnel whose official duties require knowledge of the estimate and who have signed a non-disclosure statement; and,

(2) Non-Government personnel with a need to know and who have signed a non-disclosure agreement (contracting officers may tailor the non-disclosure agreement for these purposes).

(b) No employee of VA may disclose information as to probable acceptance or rejection of any bid to any bidder or other person outside of VA, except as authorized by the FAR.

M814.270 Alternative bid items—supply and services.

(a) When an IFB for supplies or services contain alternative bid items the IFB shall contain a statement on the order of priority in which the contracting officer will award any alternative bid items, based on the relative importance of the item and the amount of funds available.

(b) A price schedule containing alternative bid items may be used when the both of

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the following apply:

(1) VA intends to make a single aggregate award for all items in the IFB within certain fiscal limitations, and

(2) The IFBs solicits prices on an item and alternate item basis.

(c) The following is an example of a price schedule that includes a base item, a SubCLIN 0001AA and alternate bid items SubCLINs 0002AA and 0002AB:

Basis for award. *Only one contract will be awarded as a result of this solicitation. A single award will be made on CLIN 0001 SubCLIN 0001AA, but in the event the bid exceeds funds made available for award, award will be made on Alternate bid Item CLIN 0002 SubCLIN 0002AA or 0002AB, in that order, if sufficient funds are available for award. Award of an award group will be made on an "All or None" basis.*

0001	<i>Custodial Services IAW PWS: _____ Dated: _____ consisting of 24 pages of ____ (Including cover)</i>	Quantity	Unit of Issue	Unit Price	Extended Price
0001AA:	<i>Award Group A Custodial Services Buildings 1, 2 and 3</i>	12	Mo.	\$ _____	\$ _____
0002	<i>Alternate Bid Items In order of priority.</i>				
0002AA:	<i>Award Group B Custodial Services Buildings 1 and 2</i>	12	Mo.	\$ _____	\$ _____
0002AB:	<i>Award Group C Custodial Services- Building 1</i>	12	Mo.	\$ _____	\$ _____

(End of schedule)

(d) Contracting officers shall not modify the resulting contract to include any alternative bid item that was not made part of the contract at the time of award.

Subpart M814.3—Submission of Bids

M814.301-70 Determination—responsiveness of bids.

Where a contracting officer cannot determine the timeliness of the submission of a bid, modification, or withdrawal, the contracting officer shall submit the matter to the HCA for a decision.

M814.303 Modification or withdrawal of bids.

(b) The receipt required by [FAR 14.303\(b\)](#) for withdrawal of a bid in person should read substantially the same as follows:

“I am a bona fide agent for or representative of (Bidder’s name and address). I am authorized to withdraw the bid on IFB No. scheduled for opening on (insert date), and acknowledge receipt of the unopened bid.

Print Name

Telephone No

Date

Signature”

M814.304 Submission, modification and withdrawal of bids.

(a) All bids received by mail or delivered in person by the bidder (or by other means authorized by the IFB) shall be time and date stamped immediately upon receipt in the office of the addressee designated in the IFB.

Subpart M814.4—Opening of Bids and Award of Contract

M814.402 Opening of bids.

(a) The contracting officer shall serve as, or designate, a bid opening officer, and shall also designate a recorder.

(b) If a bid bond is required, the bid opening officer shall read aloud the bid bond form, the amount of bid security, and the name of the surety. The recorder shall record this information on the Abstract of Offers, [SF1409](#) or [OF1419](#) or supplemental sheet. The bid opening officer and bid recorder shall sign and date the Abstract of Offers and supplemental sheets.

(c) Preferred practices for conducting bid openings.

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- (1) To ensure that bid opening occurs at the exact time specified, the bid opening officer should verify and announce the time before opening the bids.
- (2) For the information of bidders present, the bid opening officer should provide an audible announcement approximately one minute prior to bid opening.
- (3) The bid opening officer should announce audibly the commencement of bid opening. In the announcement, the bid opening officer should identify the invitation(s) for bids scheduled for opening.
- (4) For construction contracts that provide for alternative bids or additive and deductive items, the bid opening officer should announce the amount of funds available for the award before the opening of bids.
- (5) The bid opening officer should open the bids in full view of the parties present.
- (6) When practicable, the bid opening officer should announce the following information for each bid: the bidder's name, item and unit price bid, and any other pertinent information, such as delivery and discount terms.
- (7) For bids submitted in multiple copies, one copy should remain in the bid opening room for public examination until the bid abstract is substituted. The contracting officer should use the original. For bids submitted in original only, see [FAR 14.402-1\(c\)](#). The contracting officer should retain all supplemental financial forms or other information submitted with each bid. The contracting officer shall not provide supplemental information for public examination.
- (8) The bid opening official shall forward any negotiable instrument submitted as a bid guarantee to the contracting officer for handling in accordance with part M828.101-70, Safekeeping and return of bid guarantee.
- (9) The contracting officer shall:
 - (i) Prepare a record of the opening for the contract file including the names of persons attending the bid opening and the firms or organizations they represent;
 - (ii) Verify the entries on all copies of a bid resolving any suspected mistake(s) following the procedures in [FAR 14.407](#).
 - (iii) Retain the envelopes in which bids and bid modifications are received until all awards are made. After award, the contracting officer should retain those with notations concerning abnormal receipt or opening for identification in the IFB file. The contracting officer may destroy the remainder.

M814.403 Recording of bids.

(a) The bid opening official shall prepare and sign a statement that any erasures, strikeovers, or changes in price were noted at the time of bid opening. The statement shall be included on, or attached to, the abstract or record of bids.

(b) In accordance with local procedures, the contracting officer shall make the abstract available for public inspection for at least 30 calendar days. The contracting officer should include late bids determined eligible for consideration on the bid abstract or, if necessary, in an amendment.

M814.404 Rejection of bids.

M814.404-1 Cancellation of invitations after opening.

(c) The authority to make the determinations in [FAR 14.404-1\(c\)](#), (e) and (f) is delegated to the HCA. For each IFB that the contracting officer cancels or for which he/she receives no bids, the contracting officer shall include in the file in eCMS:

(1) A copy of the IFB, pursuant to [FAR 14.404-1](#), together with a list showing to whom the invitation was sent, identified by the IFB number; and

(2) A statement to explain why no award was made.

M814.404-2 Rejection of individual bids.

(a)(1) When the contracting officer finds that a bid being considered for an award is incomplete, e.g., all pages of the IFB have not been returned by the bidder, the contracting officer shall obtain the advice of legal counsel. The contracting officer shall determine whether or not the bid as submitted is in such a form that acceptance would create a valid and binding contract. The resultant contract must require the contractor to perform in accordance with all of the terms and conditions of the invitation.

(2) When VA receives a single bid in response to an IFB with a bidding time of 30 or more calendar days, the contracting officer should not reject the bid simply because it specifies a bid acceptance time that is shorter than that contained in the solicitation, unless a compelling reason exists for rejecting such a bid. Insufficient time to properly evaluate a bid is a compelling reason for rejection; however, the contracting officer shall first request that the bidder extend the acceptance date of the bid to allow for proper evaluation.

(3) In cases where VA receives more than one bid, the contracting officer shall reject as nonresponsive an individual bid that is not in compliance with the Government's bid acceptance time, since consideration of such an offer would unfairly disadvantage other bidders.

M814.407 Mistakes in bids.

M814.407-3 Other mistakes disclosed before award.

(e) The authority to make the determinations required by [FAR 14.407-3](#) under paragraphs (a), (b), (c) and (d) is delegated to the SPE and is further delegated, without power of redelegation, to the HCA.

M814.407-4 Mistakes after award.

(b) The approval authority to act on [FAR 14.407 -4\(b\)](#) is delegated to the HCA or designee. The designee shall be no lower than the Chief/Director of the contracting office.

(d) Each proposed determination shall be coordinated with the Office of General Counsel, through the HCA or designee, for legal coordination. The HCA or designee shall transmit the results of this coordination to the contracting officer, who will make the final determination on the alleged mistake in bid after award.

(f) The HCA or designee shall maintain the agency records of mistakes in bids after award, as required by [FAR 14.407-4](#).

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