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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1500 (2007)

27-1500. INVITATION FOR BIDS

1500.1 The contracting officer shall solicit goods, services, and construction using the competitive sealed bidding process except when other procurement methods are specifically allowed under § 303(a) of the D.C. Procurement Practices Act of 1985, D.C. Code § 1-1183.3 (the "Act").

1500.2 An invitation for bids ("IFB") shall be used to solicit goods, services, and construction under competitive sealed bidding procedures.

1500.3 Each IFB shall be published in accordance with the provisions of chapter 13 of this title.

1500.4 If the Director has determined that an IFB is to be canceled, and that the use of negotiation is appropriate to complete the procurement, the contracting officer shall proceed in accordance with § 1601 of chapter 16 of this title.

1500.5 Each IFB shall include the following:

- (a) Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of the bids and the address where bids are to be delivered;
- (b) The purchase description, delivery, or performance schedule, and any special instructions necessary; and
- (c) A statement indicating whether award will be made on the basis of the lowest bid price or the lowest evaluated bid price, whichever is applicable.

1500.6 If the lowest evaluated bid price is the basis for award, the objective measurable criteria to be used shall be set forth in the IFB. The objective measurable criteria shall be related to price.

1500.7 The IFB shall require written acknowledgement by each bidder of the receipt of all amendments, addenda, and changes issued.

1500.8 The District shall evaluate bids without discussions with bidders.

1500.9 The contracting officer shall use firm-fixed-price contracts when the method of contracting is sealed bidding. However, fixed-price contracts with economic price adjustment clauses may be used if authorized by the Director.

1500.10 Postage or envelopes bearing "Postage and Fees Paid" indicia shall not be distributed with the IFB or otherwise supplied to prospective bidders.

1500.11 The contracting officer shall thoroughly review each IFB before issuance to detect and correct discrepancies or ambiguities that could limit competition or result in the receipt of nonresponsive bids.

1500.12 Information concerning proposed acquisitions shall not be released outside the District before solicitation, except for pre-solicitation notices.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the District of Columbia Procurement Practices Act of 1985, D.C. Law 6-85, as amended, D.C. Code § 1-1181.1 et seq. (1981).

SOURCE: Final Rulemaking published at 35 DCR 1420 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1501 (2007)

27-1501. PREPARATION OF THE INVITATION FOR BIDS

1501.1 The contracting officer shall prepare each IFB using a uniform contract format except for procurement of the following:

- (a) Construction;
- (b) Perishable subsistence items; or
- (c) Supplies or services for which another contract format is authorized by the Director.

1501.2 The uniform contract format shall contain the following in the order specified:

- (a) The solicitation and contract form prescribed by the Director;
- (b) A description of the supplies, services, or other items; quantities; and prices;
- (c) Any description or specifications needed in addition to § 1501.2(b) that are necessary to permit maximum practical competition;
- (d) Packaging, packing, preservation, and marking requirements;
- (e) Inspection, acceptance, quality assurance, and reliability requirements;
- (f) Requirements for time, place, and method of delivery or performance;
- (g) Requirements for accounting and appropriation data and any required contract administration information;
- (h) Special contract requirements;
- (i) Contract clauses or provisions required by law or this title;

- (j) A list of documents, exhibits, and other attachments;
- (k) Representations, certifications, and other statements of bidders;
- (l) Instructions, conditions, and notices to bidders; and
- (m) Evaluation factors for award, such as any price related factors other than the bid price.

SOURCE: Final Rulemaking published at 35 DCR 1421 (February 26, 1988)
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CDCR 27-1502 (2007)

27-1502. BID REQUIREMENTS

1502.1 Each bid shall be based upon specifications contained in the IFB.

1502.2 Each bid shall be typewritten or written legibly in ink.

1502.3 All erasures or alterations shall be initialed by the signer in ink.

1502.4 Each bid, except for a telegraphic bid, shall be signed in ink.

1502.5 Each bid shall be submitted in an envelope that clearly indicates that it contains a bid and identifies the IFB.

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CDCR 27-1503 (2007)

27-1503. TIME FOR SUBMISSION OF BIDS

1503.1 The contracting officer shall provide a reasonable time for prospective bidders to prepare and submit bids in all IFB's, consistent with the needs of the District, but in no event less than thirty (30) days from the first day of publication.

1503.2 When establishing a reasonable bidding time, the contracting officer shall consider the following factors:

- (a) Degree of urgency;
- (b) Complexity of requirements;
- (c) Anticipated extent of subcontracting; and
- (d) Normal mailing time for both invitations and bids.

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CDCR 27-1504 (2007)

27-1504. TELEGRAPHIC BIDS

1504.1 Telegraphic bids shall be authorized only in the following circumstances:

- (a) If the date for opening of bids will not allow bidders sufficient time to submit bids on the prescribed forms; or
- (b) If prices are subject to frequent changes.

1504.2 Telegraphic bids shall not be considered unless permitted by the IFB.

1504.3 Telegraphic bids shall contain the following:

- (a) Specific reference to the IFB;
- (b) The items, quantities, and prices for which the bid is submitted;
- (c) The time and place required for delivery of the bid; and
- (d) A statement that the bidder agrees to all the terms, conditions, and provisions of the IFB.

1504.4 If telegraphic bids are authorized, a telegraphic bid received by the designated office not later than the time set for opening of bids shall be considered.

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CDCR 27-1506 (2007)

27-1506. BID SAMPLES

1506.1 The IFB shall state when the bidder is required to furnish samples.

1506.2 The contracting officer shall not require bidders to furnish bid samples unless there are characteristics of the product that cannot be described adequately in the specifications or purchase description.

1506.3 Bid samples shall be used only to determine the responsiveness of the bid and shall not be used to determine a bidder's ability to produce the required items.

1506.4 The contracting officer shall reject a bid as nonresponsive if the sample fails to conform to each of the characteristics listed in the IFB.

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CDCR 27-1507 (2007)

27-1507. DESCRIPTIVE LITERATURE

1507.1 Each IFB shall state whether the bidder is required to furnish descriptive literature.

1507.2 The contracting officer shall not require bidders to furnish descriptive literature unless the contracting officer needs it to determine before award whether the products offered meet the specifications or to establish exactly what the bidder proposes to furnish.

1507.3 The contracting officer shall document, in writing, the reasons why product acceptability cannot be determined without submission of descriptive literature and shall include the document in the contract file.

1507.4 The IFB shall clearly identify the following:

- (a) The descriptive literature required to be furnished;
- (b) The purpose for which the literature is required;
- (c) The extent to which the literature will be considered in the evaluation of bids; and
- (d) The rules that will apply if a bidder fails to furnish the literature before bid opening or if the literature furnished does not comply with the requirements of the IFB.

1507.5 The contracting officer may waive the requirement for furnishing descriptive literature if either of the following occurs:

- (a) The bidder states in the bid that the product being offered is the same as a product previously or currently being furnished to the District; or

(b) The contracting officer, on advice of technical personnel, determines that the product offered by the bidder complies with the specification requirements of the current IFB.

1507.6 Unsolicited descriptive literature not required by the IFB shall not be considered as qualifying the bid and shall be disregarded.

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CDCR 27-1508 (2007)

27-1508. NOTICES OF INVITATIONS FOR BIDS

1508.1 Invitations for bids or notices of the availability of IFB's shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition.

1508.2 Each IFB shall be publicized in accordance with the provisions specified in chapter 13 of this title.

1508.3 Notice of each IFB for which the bid amount is reasonably expected to be over ten thousand dollars (\$ 10,000) shall be published in the "District of Columbia Procurement Digest."

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CDCR 27-1509 (2007)

27-1509. RECORDS OF INVITATIONS FOR BIDS AND BIDS

1509.1 Each contracting office shall retain a file of each IFB that it issues and each abstract or record of bids.

1509.2 The file for each IFB shall include the following:

- (a) The name and address of each prospective bidder on the solicitation mailing list to which the IFB was sent and additional prospective bidders that were sent copies of the IFB upon request;
- (b) The name of each publication in which notice of the IFB was published and the date of each publication; and
- (c) The date on which the IFB was issued.

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CDCR 27-1510 (2007)

27-1510. SOLICITATION MAILING LISTS

1510.1 Contracting officers shall establish solicitation mailing lists to ensure access to adequate sources of supplies and services, except when the requirements of the District can be obtained within the local trading area through use of the small purchase procedures or are nonrecurring.

1510.2 The Department of Administrative Services may establish a central list for use by all contracting offices.

1510.3 All eligible concerns that have submitted solicitation mailing applications, or that the contracting officer considers capable of filling the requirements of a particular acquisition, shall be placed on the appropriate solicitation mailing list.

1510.4 Prospective bidders shall be notified that they have been added to solicitation mailing lists.

1510.5 An applicant shall be notified if it is not put on the list and of the reasons why the applicant was rejected.

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CDCR 27-1511 (2007)

27-1511. REMOVAL OF NAMES FROM MAILING LISTS

1511.1 A business that fails to respond to solicitations on three (3) consecutive IFB's of similar items may be removed by the contracting officer from the applicable mailing list but only for the items involved in the IFB.

1511.2 In individual cases, prospective bidders that fail to respond may be retained on a list if retention is in the best interests of the District.

1511.3 Prospective bidders that have been debarred or suspended from District contracts or otherwise determined to be ineligible to receive awards shall be removed from solicitation mailing lists to the extent required by the debarment, suspension, or other determination of ineligibility.

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CDCR 27-1512 (2007)

27-1512. REINSTATEMENT ON SOLICITATION MAILING LISTS

1512.1 Prospective bidders that have been removed from solicitation mailing lists may be reinstated by the contracting officer upon request or by filing a new application.

1512.2 No bidder which is debarred or suspended shall be reinstated during the period of a debarment or suspension.

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CDCR 27-1513 (2007)

27-1513. EXCESSIVELY LONG MAILING LISTS

1513.1 Solicitation mailing lists shall be used to promote competition commensurate with the dollar value of the proposed contract.

1513.2 If the number of bidders on a mailing list is excessive in relation to a specific procurement, the list may be reduced by either of the following methods:

- (a) Rotation of lists or using a different portion of a list for separate procurements; or
- (b) Using pre-solicitation notices instead of initially forwarding complete bid sets.

1513.3 The fact that less than an entire mailing list is used shall not preclude furnishing of bid sets to other prospective bidders, upon request, or consideration of bids received from bidders to whom the IFB was not mailed or delivered.

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CDCR 27-1516 (2007)

27-1516. PRE-BID CONFERENCES

1516.1 The contracting officer may use pre-bid conferences to explain the procurement requirements.

1516.2 Pre-bid conferences shall be announced to all prospective bidders in the IFB.

1516.3 The pre-bid conference shall be held as early as possible after the IFB has been issued and before the bids are opened.

1516.4 Nothing stated at the pre-bid conference shall change the IFB unless a change is made by the contracting officer by written amendment.

1516.5 The contracting officer shall prepare a written report of the conference and shall supply it to all prospective bidders who request a copy in writing.

1516.6 The report of the pre-bid conference shall be a public document.

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CDCR 27-1517 (2007)

27-1517. AMENDMENT OF INVITATIONS FOR BIDS

1517.1 Amendments to an IFB shall be identified as such and shall require the bidder to acknowledge receipt of all amendments issued.

1517.2 If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, or other items, or to correct a defective or ambiguous IFB, the change shall be accomplished by amendment of the IFB.

1517.3 Each amendment shall reference the portion of the IFB it amends.

1517.4 The contracting officer shall send each amendment to all prospective bidders to which an IFB has been furnished [furnished].

1517.5 The contracting officer shall distribute each amendment within a reasonable time to allow all prospective bidders to consider the information in submitting or modifying their bids.

1517.6 If the time and date for receipt of bids does not permit preparation of the bid, the contracting officer shall increase the time for submission of the bids to the extent possible in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

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CDCR 27-1518 (2007)

27-1518. CANCELLATION OF INVITATIONS FOR BIDS BEFORE OPENING

1518.1 An IFB shall not be canceled unless the Director determines in writing that cancellation is in the best interests of the District.

1518.2 The contracting officer shall forward the notice of cancellation to the Inspector General within seventy-two (72) hours of the cancellation.

1518.3 If an IFB is canceled, bids that have been received shall be returned unopened to the bidders.

1518.4 The contracting officer shall send a notice of cancellation to all prospective bidders to which IFB's were issued.

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CDCR 27-1521 (2007)

27-1521. SUBMISSION OF BIDS: GENERAL PROVISIONS

1521.1 To be considered for award, a bid shall be required to comply in all material respects with the IFB.

1521.2 Bids shall be filled out, executed, and submitted in accordance with the instructions in the IFB.

1521.3 Bids shall be submitted so that they will be received in the office designated in the IFB not later than the exact time set for opening of bids.

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CDCR 27-1522 (2007)

27-1522. MODIFICATION OR WITHDRAWAL OF BIDS

1522.1 A bid may be modified or withdrawn by written or telegraphic notice received in the office designated in the IFB not later than the exact time set for opening of bids.

1522.2 If a bid is withdrawn in accordance with this section, any bid security shall be returned to the bidder.

1522.3 All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate contract file.

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CDCR 27-1523 (2007)

27-1523. LATE BIDS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

1523.1 Unless the solicitation states another time, the deadline for receipt of bids shall be 2:00 p.m., local time, for the designated District office on the date that bids are due.

1523.2 Any bid received at the place designated in the solicitation after the time and date set for receipt of bids shall be considered a "late" bid unless it was received prior to the contract award and either of the following applies:

(a) It was sent by registered or certified mail not later than five (5) calendar days before the bid receipt date specified; or

(b) It was sent by mail (or telegram if authorized) and the contracting officer determines that the late receipt was due solely to mishandling by the District after receipt at the location specified in the IFB.

1523.3 Any request for withdrawal or request for modification received after the time and date set for opening of bids at the place designated for opening shall be considered late.

1523.4 The only acceptable evidence to establish the date of a late bid, late modification, or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown in the postmark, the bid shall be considered late unless the bidder can furnish evidence from the postal authorities of timely mailing.

1523.5 A late bid, late request for modification, or late request for withdrawal shall not be considered, except as provided in this section.

1523.6 A late modification of a successful bid which makes its terms more favorable to the District shall be considered at any time it is received and may be accepted.

1523.7 A late bid, late modification of bid, or late withdrawal of bid that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful bids.

1523.8 The following information shall, if available, be included in the contracting office files with respect to each late bid, late modification, or late withdrawal of bid:

- (a) A statement of the date and hour of mailing, filing, or delivery;
- (b) A statement of the date and hour of receipt;
- (c) A written determination, with supporting facts, why the late bid, late modification, or late withdrawal was or was not considered;
- (d) A statement of the disposition of the late action; and
- (e) The envelope, or other covering, if the late bid or modification was considered.

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CDCR 27-1524 (2007)

27-1524. NOTICE TO BIDDERS OF LATE ACTIONS

1524.1 If a bid, modification of bid, or withdrawal of bid is received late, and it is clear from available information that it cannot be considered, the contracting officer shall promptly notify the bidder.

1524.2 If a late bid, late modification of bid, or late withdrawal of bid is transmitted by registered or certified mail and is received before award, but it is not clear from available information whether it can be considered, the bidder shall be promptly notified.

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CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1526 (2007)

27-1526. RECEIPT AND SAFEGUARDING OF BIDS

1526.1 All bids and modifications received before the time set for the opening of bids shall be kept secure.

1526.2 Except as provided in §§ 1526.5 and 1526.6, all bids shall remain unopened in a locked box or safe.

1526.3 Necessary precautions shall be taken to ensure the security of the bid box or safe.

1526.4 If an IFB is canceled, bids shall be returned to the bidders.

1526.5 Before bid opening, information concerning the identity and number of bids received shall be made available only to District employees, and then only as required in the execution of their duties.

1526.6 When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

1526.7 Each bid shall be marked with the date and time of receipt.

1526.8 Envelopes marked as bids which do not identify the bidder or the solicitation may be opened solely for the purpose of identification or to determine whether a bidder is eligible to bid, and then only by an official designated for this purpose.

1526.9 A person who opens a sealed bid by mistake, or for the reasons set forth in § 1526.8, shall sign the envelope opened, indicate the person's position, and deliver it to the contracting officer. The contracting officer shall immediately write the following on the envelope and then sign and reseal the envelope:

- (a) An explanation of the opening;

- (b) The date and time opened; and
- (c) The IFB number.

SOURCE: Final Rulemaking published at 35 DCR 1430 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
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CDCR 27-1527 (2007)

27-1527. OPENING OF BIDS

1527.1 Bids and modifications shall be opened publicly, at the time, date, and place designated in the IFB.

1527.2 The name of each bidder, the bid price, and other information that is deemed appropriate shall be read aloud or otherwise made available. This information shall be recorded at the time of bid opening.

1527.3 The bids shall be tabulated or a bid abstract made.

1527.4 Examination of bids by interested persons shall be permitted if it does not interfere unduly with the conduct of District business or violate the provisions of chapter 42 of this title.

1527.5 The original copy of the bid may be examined by the public only under the immediate supervision of a District official and under conditions that preclude the possibility of a substitution, addition, deletion, or alteration of the bid.

SOURCE: Final Rulemaking published at 35 DCR 1431 (February 26, 1988)
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CDCR 27-1528 (2007)

27-1528. POSTPONEMENT OF BID OPENING

1528.1 The contracting officer may postpone a bid opening until after the time scheduled for bid opening under the following circumstances:

(a) If the contracting officer has reason to believe that the bids of an important segment of bidders have been delayed in the mail for causes beyond the control of bidders without their fault or negligence, such as flood, fire, accident, weather conditions, or strikes; or

(b) If emergency or unanticipated events interrupt normal governmental processes so that the conduct of bid openings as scheduled is impractical.

1528.2 At the time of a determination to postpone a bid opening, an announcement of the determination shall be publicly posted. If practical, before issuance of a formal amendment of the IFB, the determination shall be otherwise communicated to prospective bidders who are likely to attend the scheduled bid opening.

1528.3 When a bid opening is postponed, the time of actual bid opening shall be the time established for determining "late bids" or other late actions under § 1523.

1528.4 The contracting officer shall prepare a written memorandum for the file explaining the circumstances of the postponement.

1528.5 The contracting officer may proceed with the bid opening as soon as practical after the original scheduled time without prior amendment to the IFB or notice to bidders, whenever any delay incident to the issuance of the amendment or notice would not be in the best interests of the District.

SOURCE: Final Rulemaking published at 35 DCR 1431 (February 26, 1988)

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CDCR 27-1529 (2007)

27-1529. RECORDING OF BIDS

1529.1 A "bid abstract" form shall be completed and certified as to its accuracy by the bid opening officer at a reasonable time after bid opening, but prior to contract award.

1529.2 The abstract information shall be made available for public inspection.

1529.3 If the IFB is canceled before the time set for bid opening, this fact shall be recorded, together with a statement of the number of bids invited and the number of bids received.

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CDCR 27-1530 (2007)

27-1530. CANCELLATION OF AN INVITATION FOR BIDS AFTER OPENING

1530.1 An IFB may be canceled, or all bids rejected, only if the Director determines in writing that the action taken is in the best interest of the District. If all bids have been rejected, the contracting officer shall cancel the solicitation. The contracting officer shall notify the Inspector General of each cancellation within seventy-two (72) hours.

1530.2 Every effort shall be made to anticipate changes in a requirement before the date of opening and to notify all prospective bidders of any resulting modification or cancellation.

1530.3 After the opening of a bid, an IFB shall not be canceled and resolicited due solely to increased requirements for the items being procured. Award shall be made on the initial IFB and the additional quantity shall be treated as a new procurement.

1530.4 An IFB may be canceled and all bids rejected before award but after opening when the Director determines in writing that cancellation is in the best interests of the District for any reason, including the following:

- (a) Inadequate or ambiguous specifications were cited in the IFB;
- (b) Specifications have been revised;
- (c) The supplies or services being contracted for are no longer required;
- (d) The IFB did not provide for consideration of all factors of cost to the District;
- (e) Bids received indicate that the needs of the District can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices, or only one (1) bid is received and the contracting officer cannot determine the reasonableness of the bid price, or no responsive bid has been received from a responsible bidder; or

(g) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.

1530.5 If administrative difficulties are encountered after bid opening which may delay award beyond the bidders' acceptance period, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for readvertisement.

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CDCR 27-1531 (2007)

27-1531. REJECTION OF INDIVIDUAL BIDS

1531.1 Any bid that fails to conform to the essential requirements of the IFB shall be rejected.

1531.2 Any bid that does not conform to the applicable specifications shall be rejected unless the IFB authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the IFB.

1531.3 Any bid that fails to conform to the delivery schedule or permissible alternates stated in the IFB shall be rejected.

1531.4 A bid shall be rejected if the bidder imposes conditions that would modify requirements of the IFB or limit the bidder's liability to the District. For example, a bid shall be rejected if the bidder does the following:

- (a) Protects against future changes in conditions, such as increased costs, if total possible costs to the District cannot be determined;
- (b) Fails to state a price and indicates that price shall be "price in effect at time of delivery" or words of equivalent meaning;
- (c) States a price but qualifies it as being subject to "price in effect at time of delivery" or words of equivalent meaning;
- (d) When not authorized by an IFB, the bidder 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; or
- (e) Limits the rights of the District under any contract clause.

1531.5 A low bidder may be requested to delete objectionable conditions from a bid, so long as the conditions do not go to the substance, as distinguished from the form, of the bid or would give the bidder an unfair advantage over other bidders. A condition goes to the substance of a bid when it affects price, quantity, quality, or delivery of the items or services offered.

1531.6 Any bid may be rejected if the contracting officer determines in writing that the bid price is unreasonable.

1531.7 A bid received from any bidder that is suspended, debarred, or otherwise ineligible shall be rejected if the period of suspension, debarment, or ineligibility has not expired by the bid opening date.

1531.8 Low bids received from bidders determined to be not responsible shall be rejected.

1531.9 When a bid security is required and a bidder fails to furnish the security in accordance with the requirements of the IFB, the rules set forth in § 2701 of chapter 27 of this title shall be applicable.

1531.10 The originals of all rejected bids, and any written findings with respect to the rejections, shall be maintained in the contract file.

1531.11 If the contracting officer determines that it is necessary to reject all bids, the contracting officer shall notify each bidder that all bids have been rejected and shall state the reason for the action.

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CDCR 27-1532 (2007)

27-1532. ALL OR NONE QUALIFICATIONS

1532.1 Unless the solicitation provides otherwise, a bid may be responsive even though the bidder specifies that award will be accepted only on all, or a specified group, of the items.

1532.2 Bidders shall not be permitted to withdraw or modify an "all or none" qualification after bid opening because "all or none" qualifications are substantive and affect the rights of other bidders.

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1533-1534. RESERVED

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CDCR 27-1535 (2007)

27-1535. MINOR INFORMALITIES OR IRREGULARITIES IN BIDS

1535.1 Minor informalities or irregularities in bids may be waived if the contracting officer determines that the waiver is in the best interests of the District.

1535.2 The contracting officer may determine that the following, among others, are minor informalities or irregularities:

(a) When a bidder fails to return the number of copies of signed bids required by the IFB;

(b) When the bidder fails to furnish information concerning the number of its employees;

(c) When a bidder fails to sign its bid, but only if one (1) of the following applies:

(1) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid (such as the submission of a bid guarantee or a letter signed by the bidder, with the bid, referring to and clearly identifying the bid itself); or

(2) The firm submitting the bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature; submits evidence of that authorization; and the bid carries the proper

(d) When the bidder fails to acknowledge receipt of an amendment to the IFB, but only if one (1) of the following applies:

(1) The bid received clearly indicates that the bidder received the amendment (such as where the amendment added another item to the IFB and the bidder submitted a bid on the item); or

(2) The amendment involves only a matter of form or has either no effect or merely a negligible effect on price, quantity, quality, or delivery of the item bid upon.

1535.3 When the bidder fails to provide timely certifications or information with respect to Equal Opportunity and Affirmative Action Programs or other IFB requirements, the contracting officer may allow additional time for the submission to be made prior to the award

1535.4 When it is in the best interests of the District, the contracting officer shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or waive the deficiency.

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CDCR 27-1536 (2007)

27-1536. MISTAKES IN BIDS BEFORE AWARD

1536.1 After the opening of bids, the contracting officer shall examine each bid for mistakes.

1536.2 In cases of apparent mistakes and in cases where the contracting officer has reason to believe that a mistake may have been made, the contracting officer shall request from the bidder a verification of the bid and call attention to the suspected mistake.

1536.3 If the bidder alleges a mistake, the matter shall be processed before award in accordance with this section.

1536.4 The contracting officer may correct an apparent clerical mistake before award. If correction is allowed, the bid shall be corrected to the intended correct bid and may not be withdrawn.

1536.5 The authority to permit corrections of bids is limited to bids that, as submitted, are responsive to the IFB and shall not be used to permit correction of bids to make them responsive.

1536.6 If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn.

1536.7 A bidder may be permitted to withdraw a low bid in either of the following circumstances:

(a) If a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(b) If the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

1536.8 When a bid is corrected or withdrawn, or correction or withdrawal is denied, the contracting officer shall prepare a determination showing that the relief was granted or denied in accordance with this section.

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CDCR 27-1537 (2007)

27-1537. MISTAKES IN BIDS AFTER AWARD

1537.1 If a mistake in a bid is not discovered until after award, the mistake may be corrected by contract amendment if correcting the mistake would be favorable to the District without changing the essential requirements of the specifications.

1537.2 In addition to the cases contemplated in § 1537.1 or as otherwise authorized by law, if a mistake in a bid is not discovered until after award, the Director shall make one (1) of the following determinations:

- (a) To rescind a contract;
- (b) To reform a contract to delete the items involved in the mistake or to reform a contract to increase the price if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original IFB; or
- (c) That no change shall be made in the contract as awarded.

1537.3 Determinations under §§ 1537.2(a) and 1537.2(b) shall be made only on the basis of clear and convincing evidence that a mistake was mutual or unilaterally made by the contractor, and was so apparent as to have given the contracting officer notice of the probability of the mistake.

1537.4 Each proposed determination shall be submitted to the Corporation Counsel for review.

1537.5 Each agency shall include in the contract file a record of each determination made in accordance with this section, the facts involved, and the action taken.

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CDCR 27-1538 (2007)

1538-1539. RESERVED

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CDCR 27-1540 (2007)

27-1540. BID EVALUATION

1540.1 The contracting officer shall determine whether a prospective contractor is responsible and whether the prices offered are reasonable.

1540.2 Prompt payment discounts shall not be considered in the evaluation of bids. However, any discount offered will form a part of the award and will be taken by the District if payment is made within the discount period specified by the bidder.

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CDCR 27-1541 (2007)

27-1541. CONTRACT AWARDS

1541.1 Each contract shall be awarded to the responsible and responsive bidder whose bid meets the requirements set forth in the IFB, and is the lowest bid price or lowest evaluated bid price, considering only price and price related factors included in the IFB.

1541.2 A bid shall not be evaluated for any criterion that is not disclosed in the IFB.

1541.3 Award shall not be made until all required approvals have been obtained.

1541.4 The contracting officer shall make a contract award by written notice within the time for acceptance specified in the bid or an extension.

1541.5 A contract shall be deemed to have been awarded on the date that the contracting officer signed the contract.

1541.6 Following an award, a record showing the basis for determining the successful bidder shall be made a part of the contract file.

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CDCR 27-1542 (2007)

27-1542. ECONOMIC PRICE ADJUSTMENT

1542.1 If a solicitation does not contain an economic price adjustment clause, but a bidder proposes an adjustment clause with a ceiling that the price will not exceed, the bid shall be evaluated on the basis of the maximum possible economic price adjustment of the quoted base price.

1542.2 If a bid received with an unsolicited economic price adjustment clause is eligible for award, the contracting officer shall request the bidder to agree to the inclusion in the award of a standard District economic price adjustment clause, approved by the Director, that is subject to the same ceiling. If the bidder will not agree to an approved clause, the award may be made on the basis of the bid as originally submitted.

1542.3 A bid that contains an economic price adjustment with no ceiling shall be rejected unless a clear basis for evaluation exists.

1542.4 If an IFB contains an economic price adjustment clause and no bidder takes exception to the provisions, bids shall be evaluated on the basis of the quoted prices without the addition of the allowable economic price adjustment.

1542.5 If a bidder increases the maximum percentage of economic price adjustment stipulated in the IFB or limits the downward economic price adjustment provisions of the IFB, the bid shall be rejected as nonresponsive.

1542.6 If a bid indicates deletion of the economic price adjustment clause, the bid shall be rejected as nonresponsive.

1542.7 If a bidder decreases the maximum percentage of economic price adjustment stipulated in the IFB, the bid shall be evaluated at the base price on an equal basis with bids

that do not reduce the stipulated ceiling. However, after evaluation, if the bidder offering the lower ceiling is in a position to receive the award, the award shall reflect the lower ceiling.

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CDCR 27-1543 (2007)

27-1543. RESOLVING TIE BIDS

1543.1 Contracts shall be awarded in the following order by priority when two (2) or more low bids are equal in all respects:

- (a) Minority business certified by the Minority Business Opportunity Commission;
- (b) District-based business;
- (c) Other businesses.

1543.2 Notwithstanding the requirements of § 1543.1, when the imposition of a penalty pursuant to D.C. Law 6-116 results in equal lowest price evaluation between bidders with business interests in the Republic of South Africa or Namibia and a bidder who does not have these business interests, the contract shall be awarded to the bidder with no business interests in the Republic of South Africa or Namibia.

1543.3 If two (2) or more bidders remain equally eligible for award, award shall be made by a drawing by lot limited to those bidders.

1543.4 The drawing shall be witnessed by at least three (3) persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

1543.5 If an award is made by using the priorities in this section, the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.

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CDCR 27-1544 (2007)

27-1544. INFORMATION TO BIDDERS

1544.1 Written notice of award shall be sent to the successful bidder.

1544.2 Notice of award shall be made available to the public.

1544.3 Notices of awards of all contracts of ten thousand dollars (\$ 10,000) and above shall be published in the "District of Columbia Procurement Digest."

1544.4 The contracting officer shall notify unsuccessful bidders promptly that their bids were not accepted, and shall return any bid security furnished with the unsuccessful bids to the unsuccessful bidders.

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CDCR 27-1545 (2007)

1545-1549. RESERVED

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CDCR 27-1550 (2007)

27-1550. TWO-STEP SEALED BIDDING

1550.1 The two-step sealed bidding method may be used for procurements requiring technical proposals, particularly those for complex items.

1550.2 The two-step sealed bidding method shall be conducted as follows:

(a) The first step consists of solicitation of technical proposals, evaluation of proposals, and (if necessary) discussion of the proposals; and

(b) The second step involves the submission of sealed priced bids by those who submitted acceptable technical proposals in step one.

1550.3 The contracting officer shall not request, and the bidder shall not submit, price or price information in step one.

1550.4 The contracting officer shall determine the acceptability of the supplies or services offered through clarification and discussion, if necessary, relating to technical proposals.

1550.5 Bids submitted shall be evaluated and awards made in accordance with the provisions of this chapter.

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CDCR 27-1551 (2007)

27-1551. CONDITIONS FOR USE OF TWO-STEP SEALED BIDDING

1551.1 Two-step sealed bidding may be used in preference to competitive sealed bids and proposals when all of the following conditions are present:

- (a) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each source and the District;
- (b) Definite criteria exist for evaluating technical proposals;
- (c) More than one (1) technically qualified source is expected to be available;
- (d) Sufficient time will be available for use of the two-step method; and
- (e) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.

1551.2 None of the following shall preclude the use of two-step sealed bidding:

- (a) Multi-year contracting;
- (b) District-owned facilities to be made available to the successful bidder; or
- (c) A sheltered market procurement.

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CDCR 27-1552 (2007)

27-1552. TWO-STEP BIDDING SOLICITATION

1552.1 Each request for technical proposals shall be publicized and distributed in accordance with chapters 13 and 16 of this title and shall include, at least, the following:

- (a) A description of the supplies or services required;
- (b) A statement of intent to use the two-step method;
- (c) The requirements of the technical proposal;
- (d) The evaluation criteria;
- (e) A statement that the technical proposals shall not include prices or pricing information;
- (f) The date and hour by which the proposal must be received;
- (g) A statement that in the second step only bids based upon technical proposals determined to be acceptable, either initially or as a result of discussions, will be considered for awards and that each bid in the second step must be based on the bidder's own technical proposals;
- (h) A statement that offerors should submit proposals that are acceptable without additional explanation or information, that the District may make a final determination regarding the acceptability of the proposal solely on the basis of the proposal as submitted, and that the District may proceed with the second step without requesting further information from any offeror; Provided, that the District may request additional information from offerors of proposals that it considers reasonably susceptible of being made acceptable and may discuss proposals with these offerors;

(i) A statement that a notice of unacceptability will be forwarded to the offeror upon completion of the proposal evaluation and final determination of unacceptability; and

(j) A statement either that only one (1) technical proposal may be submitted by each offeror or that multiple technical proposals may be submitted.

1552.2 When specifications permit different technical approaches, multiple proposals may be authorized if it would be in the best interests of the District.

1552.3 The request shall indicate that information on delivery or performance is not binding on the District and that the actual delivery or performance requirements will be contained in the IFB issued under step two.

SOURCE: Final Rulemaking published at 35 DCR 1442 (February 26, 1988)
History of Regulations since Last Compilation by Agency(July 1988)

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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1553 (2007)

27-1553. RECEIPT AND EVALUATION OF STEP ONE PROPOSALS

1553.1 Upon receipt, the contracting officer shall do the following:

- (a) Safeguard proposals against disclosure to unauthorized persons;
- (b) Accept and handle data with restrictive disclosure procedures in accordance with chapter 31 of this title; and
- (c) Remove any reference to price or cost.

1553.2 The contracting officer shall establish a time period for evaluating technical proposals. The period may vary with the complexity and the number of proposals received.

1553.3 Evaluations shall be based on the criteria in the request for proposals without consideration of responsibility.

1553.4 Proposals shall be categorized as one (1) of the following:

- (a) Acceptable;
- (b) Reasonably susceptible of being made acceptable; or
- (c) Unacceptable.

1553.5 Any proposal which modifies or fails to conform to the essential requirements or specifications of the request for technical proposals shall be considered nonresponsive and categorized as unacceptable.

1553.6 The contracting officer may proceed directly with step two if there are a sufficient number of acceptable proposals to ensure adequate price competition under step two, and if further time, effort, and delay to make additional proposals acceptable and thereby increase competition would not be in the best interests of the District.

1553.7 If it is not in the best interests of the District to proceed directly with step two, the contracting officer shall request bidders whose proposals may be made acceptable to submit additional clarifying or supplemental information.

1553.8 If discussions are held, the contracting officer shall identify the nature of the deficiencies in the proposal or the nature of the additional information required.

1553.9 No proposal shall be discussed with any offeror other than the submitting offeror.

1553.10 When initiating a request for additional information, the contracting officer shall fix an appropriate time for bidders to conclude discussions, if any, submit all additional information, and incorporate that additional information as part of their proposals.

1553.11 The time for completing the actions under § 1553.10 may be extended at the discretion of the contracting officer.

1553.12 If the additional information incorporated as part of a proposal within the final time fixed by the contracting officer establishes that the proposal is acceptable, it shall be so categorized. Otherwise, it shall be categorized as unacceptable.

1553.13 If a technical proposal is found unacceptable, either initially or after clarification, the contracting officer shall promptly notify the offeror of the basis of the determination and notify the offeror that a revision of the proposal will not be considered.

1553.14 Upon written request, and as soon as possible after award, the contracting officer may debrief unsuccessful offerors.

1553.15 If it is necessary to discontinue two-step sealed bidding, the contracting officer shall include a statement of the facts and circumstances in the contract file.

1553.16 Each offeror shall be notified in writing of the discontinuance of two-step sealed bidding.

SOURCE: Final Rulemaking published at 35 DCR 1443 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1554 (2007)

27-1554. STEP TWO PROCEDURES

1554.1 Competitive sealed bidding procedures shall be followed except as follows:

- (a) An IFB shall be issued only to those offerors submitting acceptable technical proposals in step one;
- (b) The IFB shall prominently state that the bidder shall comply with the specifications and the bidder's technical proposal; and
- (c) The IFB shall not be advertised in newspapers or publicly posted.

SOURCE: Final Rulemaking published at 35 DCR 1444 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 15. PROCUREMENT BY COMPETITIVE SEALED BIDDING

CDCR 27-1599 (2007)

27-1599. DEFINITIONS

1599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Apparent clerical mistake - clerical or typographical mistake apparent on the face of a bid.

Bid samples - a sample to be furnished by a bidder to show the characteristics of the product offered in a bid.

Descriptive literature - information (such as cuts, illustrations, drawings, and brochures) which shows the characteristics or construction of a product or explains its operation.

Director - the Director of the Department of Administrative Services.

District-based business - a business which qualifies as a "District-based business" for preferential treatment in District procurement under the provisions of chapter 11 of this title.

Local trading area - the Greater Washington Metropolitan Statistical Area as defined by the Greater Washington Research Center or any successor entity recognized by the Director.

Lowest evaluated bid price - the lowest bid price after considering all price related factors including but not limited to trade discounts and price penalty for businesses having business interest in the Republic of South Africa or Namibia.

Minor informality or irregularity - some immaterial defect in a bid or variation of a bid from the exact requirements of the IFB that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the requirement.

Postmark - a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. or Canadian Postal Service.

Responsive bid - a bid that conforms in all material respects to the invitation for bids.

Telegraphic bids - bids or amendments to bids furnished by telegraph or mailgrams.

Two-step sealed bidding - a method of contracting designed to obtain the benefits of competitive sealed bidding when adequate specifications are not available.

SOURCE: Final Rulemaking published at 35 DCR 1445 (February 26, 1988)
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