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be taken by the payment center if payment is made within the discount period specified by the bidder. As an alternative to indicating a discount in conjunction with the offer, bidders may prefer to offer discounts on individual invoices.

(b) See 32.111(b)(1), which prescribes the contract clause at 52.232-8, Discounts for Prompt Payment.

[48 FR 42171, Sept. 19, 1983, as amended at 50 FR 26903, June 28, 1985. Redesignated at 60 FR 34738, July 3, 1995; 70 FR 43581, July 27, 2005]

14.408-4 Economic price adjustment.

(a) *Bidder proposes economic price adjustment.* (1) When a solicitation does not contain an economic price adjustment clause but a bidder proposes one 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.

(2) If the bid is eligible for award, the contracting officer shall request the bidder to agree to the inclusion in the award of an approved economic price adjustment clause (see 16.203) 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.

(3) Bids that contain economic price adjustments with no ceiling shall be rejected unless a clear basis for evaluation exists.

(b) *Government proposes economic price adjustment.* (1) When an invitation 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 allowable economic price adjustment being added.

(2) When a bidder increases the maximum percentage of economic price adjustment stipulated in the invitation or limits the downward economic price adjustment provisions of the invitation, the bid shall be rejected as non-responsive.

(3) When a bid indicates deletion of the economic price adjustment clause, the bid shall be rejected as non-responsive since the downward economic

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price adjustment provisions are thereby limited.

(4) When a bidder decreases the maximum percentage of economic price adjustment stipulated in the invitation, 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.

[48 FR 42171, Sept. 19, 1983. Redesignated at 60 FR 34738, July 3, 1995]

14.408-5 [Reserved]

14.408-6 Equal low bids.

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

(1) Small business concerns that are also labor surplus area concerns.

(2) Other small business concerns.

(3) Other business concerns.

(b) If two or more bidders still remain equally eligible after application of paragraph (a) above, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

(c) When an award is to be made by using the priorities under this 14.408-6, 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.

[48 FR 42171, Sept. 19, 1983. Redesignated and amended at 60 FR 34738, July 3, 1995; 60 FR 48260, Sept. 18, 1995]

14.408-7 Documentation of award.

(a) The contracting officer shall document compliance with 14.103-2 in the contract file.

(b) The documentation shall either state that the accepted bid was the lowest bid received, or list all lower bids with reasons for their rejection in sufficient detail to justify the award.

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(c) When an award is made after receipt of equal low bids, the documentation shall describe how the tie was broken.

[48 FR 42171, Sept. 19, 1983. Redesignated at 60 FR 34738, July 3, 1995]

14.408-8 Protests against award.

See subpart 33.1, Protests.

[50 FR 23606, June 4, 1985. Redesignated at 60 FR 34738, July 3, 1995]

14.409 Information to bidders.

14.409-1 Award of unclassified contracts.

(a)(1) The contracting officer shall as a minimum (subject to any restrictions in Subpart 9.4)—

(i) Notify each unsuccessful bidder in writing or electronically within three days after contract award, that its bid was not accepted. "Day," for purposes of the notification process, means calendar day, except that the period will run until a day which is not a Saturday, Sunday, or legal holiday;

(ii) Extend appreciation for the interest the unsuccessful bidder has shown in submitting a bid; and

(iii) When award is made to other than a low bidder, state the reason for rejection in the notice to each of the unsuccessful low bidders.

(2) For acquisitions covered by the World Trade Organization Government Procurement Agreement or a Free Trade Agreement (see 25.408(a)(5)), agencies must include in notices given unsuccessful bidders from World Trade Organization Government Procurement Agreement or Free Trade Agreement countries—

(i) The dollar amount of the successful bid; and

(ii) The name and address of the successful bidder.

(b) Information included in paragraph (a)(2) of this subsection shall be provided to any unsuccessful bidder upon request except when multiple awards have been made and furnishing information on the successful bids would require so much work as to interfere with normal operations of the contracting office. In such circumstances, only information concerning location of the abstract of offers need be given.

(c) When a request is received concerning an unclassified invitation from an inquirer who is neither a bidder nor a representative of a bidder, the contracting officer should make every effort to furnish the names of successful bidders and, if requested, the prices at which awards were made. However, when such requests require so much work as to interfere with the normal operations of the contracting office, the inquirer will be advised where a copy of the abstract of offers may be seen.

(d) Requests for records shall be governed by agency regulations implementing Subpart 24.2.

[60 FR 42654, Aug. 16, 1995, as amended at 64 FR 72418, Dec. 27, 1999; 67 FR 6120, Feb. 8, 2002; 69 FR 1053, Jan. 7, 2004; 69 FR 77872, Dec. 28, 2004]

14.409-2 Award of classified contracts.

In addition to 14.409-1, if classified information was furnished or created in connection with the solicitation, the contracting officer shall advise the unsuccessful bidders, including any who did not bid, to take disposition action in accordance with agency procedures. The name of the successful bidder and the contract price will be furnished to unsuccessful bidders only upon request. Information regarding a classified award shall not be furnished by telephone.

[48 FR 42171, Sept. 19, 1983. Redesignated and amended at 60 FR 34738, July 3, 1995]

Subpart 14.5—Two-Step Sealed Bidding

14.501 General.

Two-step sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. An objective is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the Government's requirements, including an adequate technical data package, so that subsequent acquisitions may be made by conventional sealed bidding. This method is especially useful in acquisitions requiring technical proposals,