

Ch 8 - Price-Related Decisions in Sealed Bidding

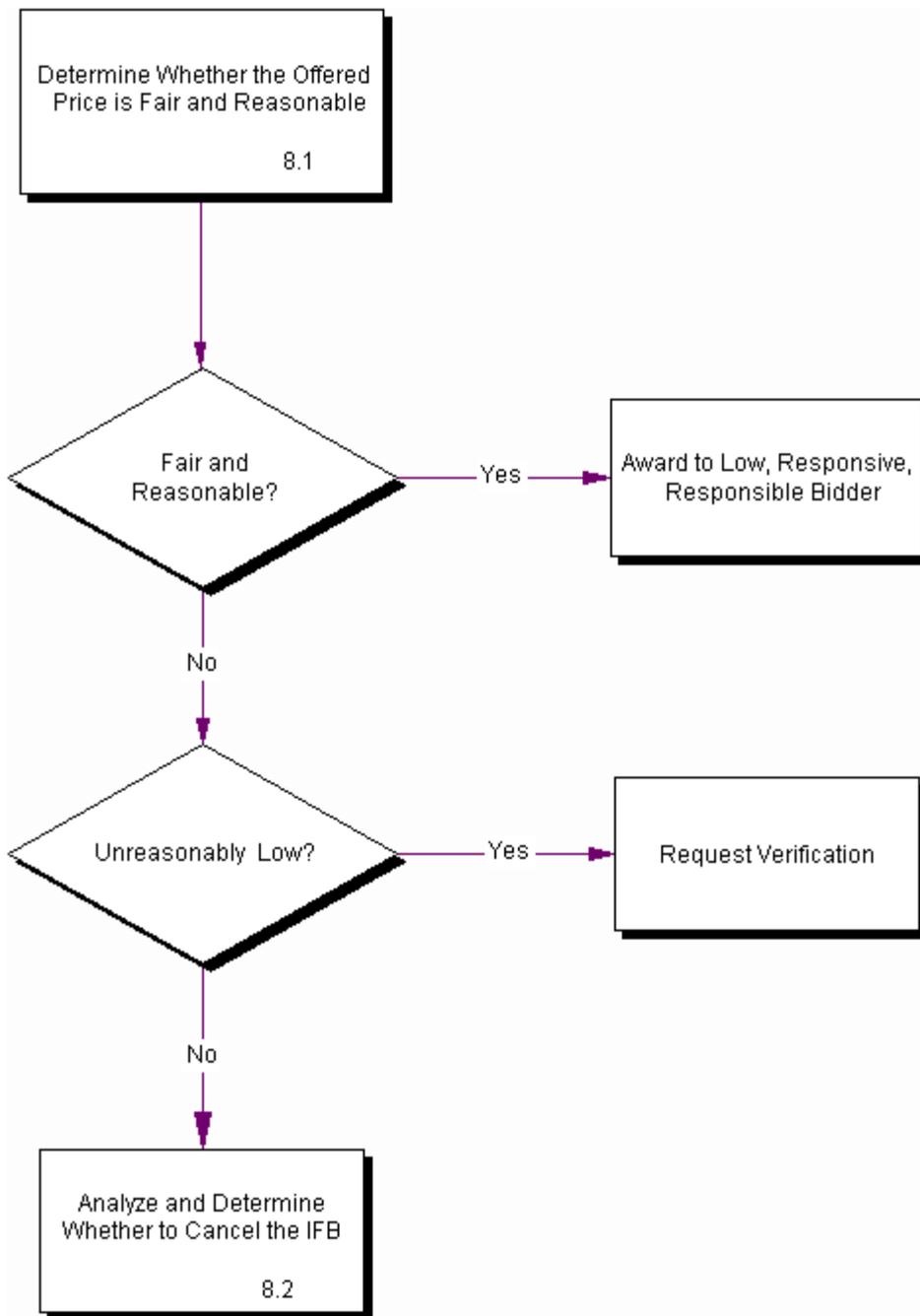
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8.0 Chapter Introduction

Introduction ([FAR 14.404-1](#) and [14.404-2](#)). To maintain the integrity of sealed bidding as a method of procurement, you must award to that responsible bidder which submitted the lowest responsive bid, as determined by applying the IFB's price-related factors. However, this general rule does not hold if you have reason to believe that the low bid is:

The result of a mistake by the bidder, Materially unbalanced, or Otherwise unreasonable as to price.

Price-Related Decision Process. The figure below depicts the process involved in making price-related decisions in sealed bidding.



8.1 Examine Individual Bids

This section covers the following topics:

- 8.1.1 - [Suspected Mistakes In Bids](#)
- 8.1.2 - [Unbalanced Bids](#)

8.1.1 Suspected Mistakes In Bids

Unexpectedly Low Bids ([FAR 14.404-2\(f\)](#)). What if the low bid is well below all other bids? What if the low bid is well below your estimate of the should-pay price? The FAR states that "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." To determine whether an unexpectedly low bid is unreasonable, use the FAR "mistake in bid" procedure.

Examining Bids for Mistakes ([FAR 14.407](#)). After the bid opening, examine all bids for mistakes. Look for two kinds of mistakes:

- Apparent clerical errors; and
- Other indications of error -- such as a bid price that is far out of line with other bids or with the dollar amount determined by the contracting officer to be reasonable.

If you suspect that the bidder has erred, request verification of the bid from the bidder. This is your opportunity to talk with (and even meet) the bidder to find out why the bid price is so low. The bidder may, at this point, admit to having made a mistake in preparing the bid. Or the bidder may stand by the bid price. In either case, the burden of proof is on the bidder.

Correcting Apparent Clerical Mistakes ([FAR 14.407-2](#)). When you examine bids, you may spot a clerical error apparent on the face of the bid. Examples of apparent clerical errors:

- Obvious misplacement of a decimal point.
- Obviously incorrect discounts (e.g., 1% 10 days, 2% 20 days, 5% 30 days).
- Obvious reversal of the price f.o.b. origin, and the price f.o.b. destination.

The contracting officer may correct, before award, any clerical error which is apparent on the face of the bid. Follow this 3-step process:

1. Ask the bidder to verify the intended bid.
2. Attach the bidder's verification to the original bid and a copy of the verification to the duplicate bid.
3. Reflect the corrected price in the award document.

Other Suspected or Alleged Mistakes ([FAR 14.407-3\(g\)\(1\)](#)). If you suspect that the bidder made a less obvious mistake, such as grossly underestimating the cost of doing the work, immediately ask the bidder to verify the bid. Your action must be sufficient to reasonably assure that the bid is correct or to elicit an admission of a mistake by the bidder.

To put a bidder on notice of the suspected mistake, advise the bidder, as appropriate:

- That its bid is so much lower than the other bids or the Government's estimate as to indicate the possibility of error.
- Of important or unusual characteristics associated with the Government requirements,
- Changes in the requirements from those of previous acquisitions, or
- Any other information, proper for disclosure, that leads you to suspect a mistake.

After you have raised the possibility of a mistake to the bidder, the bidder may take one of three courses of action:

- Allege that a mistake was made and request permission to correct the mistake.
- Allege that a mistake was made and request permission to withdraw the bid.
- Verify the original bid.

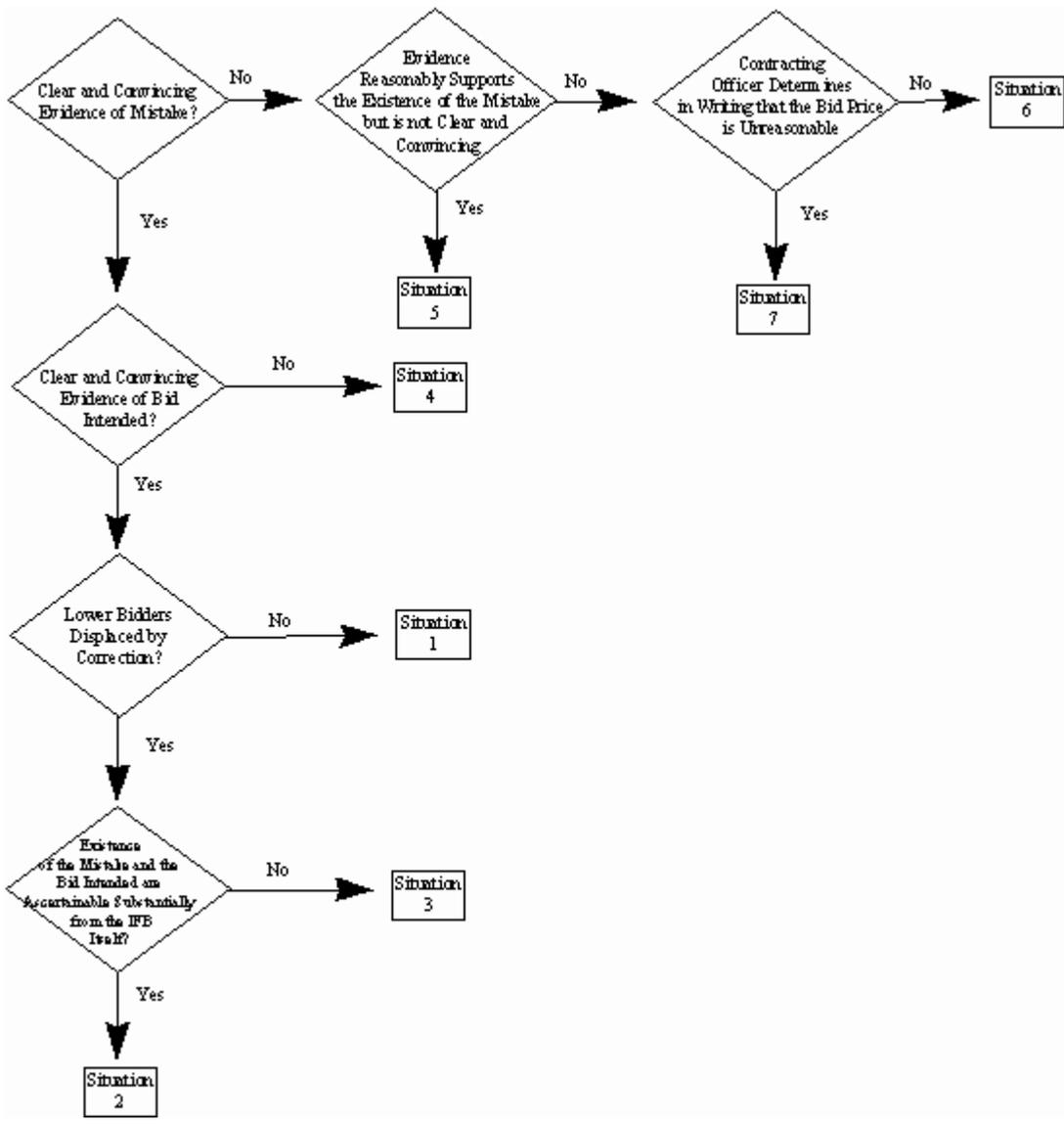
Clear and Convincing Evidence ([FAR 14.407-3\(g\)\(2\)](#)). If a bidder alleges that a mistake was made, the bidder must submit a written request to withdraw or modify the bid supported by statements (sworn, if possible) and by clear and convincing evidence of the mistake.

What constitutes clear and convincing evidence?

All pertinent evidence establishing the existence of the error, the manner in which it occurred, and the bid actually intended. Examples of such evidence include:

- The bidder's file copy of the bid.
- The original work sheets and other data used in preparing the bid.
- Subcontractors' quotations, if any.
- Published price lists.

Bid Verification Flow Chart ([FAR 14.407-3](#)). The flow chart below outlines the analysis of prices involved when a bidder requests permission to correct an alleged mistake in bid. The situations identified in this flow chart relate to the situations identified in the table that follows the flow chart.



Bidder Requests Correction ([FAR 14.407-3](#)). The following table documents authorized Government courses of action, given the circumstances of the alleged mistake. Each agency will publish any delegation of agency head authority. For example, in the Department of Defense, delegation of agency head authority is defined in DFARS.

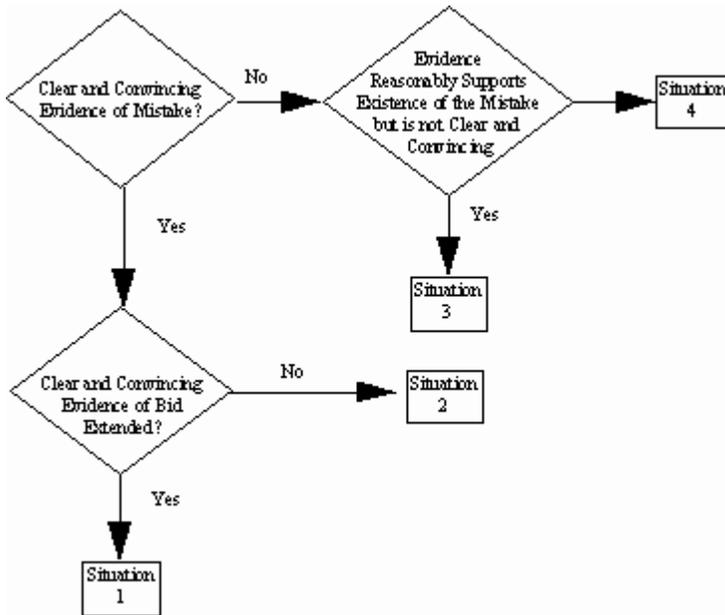
Bidder Requests Permission to Correct the Mistake		
Situation	If	Then
1 FAR	You have clear and convincing evidence of a	Agency head, or delegated official, may permit the bidder to

<p>14.407-3(a)</p>	<p>mistake</p> <p style="text-align: center;">AND</p> <p>You have clear and convincing evidence of the bid intended</p> <p style="text-align: center;">AND</p> <p>Lower bidders would NOT be displaced by the correction</p>	<p>CORRECT the mistake.</p>
<p>2</p> <p>FAR 14.407-3(a)</p>	<p>You have clear and convincing evidence of a mistake</p> <p style="text-align: center;">AND</p> <p>You have clear and convincing evidence of the bid intended</p> <p style="text-align: center;">AND</p> <p>Lower bidders WOULD BE DISPLACED by the correction</p> <p style="text-align: center;">AND</p> <p>Existence of the mistake and the bid intended ARE ASCERTAINABLE substantially from the invitation and the bid itself</p>	<p>Agency head, or delegated official, may permit the bidder to CORRECT the mistake.</p>
<p>3</p> <p><u>FAR 14.407-3(a)</u></p>	<p>You have clear and convincing evidence of mistake</p> <p style="text-align: center;">AND</p> <p>You have clear and convincing evidence of</p>	<p>The bidder SHALL NOT BE PERMITTED TO CORRECT the mistake.</p>

	<p>the bid intended</p> <p style="text-align: center;">AND</p> <p>Lower bidders WOULD BE DISPLACED by the correction</p> <p style="text-align: center;">BUT</p> <p>Existence of the mistake and the bid intended are NOT ASCERTAINABLE substantially from the invitation and the bid itself</p>	
<p>4</p> <p><u>FAR 14.407-3(c)</u></p>	<p>You have clear and convincing evidence of mistake</p> <p style="text-align: center;">AND</p> <p>There is NO clear and convincing evidence of the bid intended</p>	<p>An official above the contracting officer may permit the bidder to WITHDRAW the bid.</p>
<p>5</p> <p><u>FAR 14.407-3(c)</u></p>	<p>The evidence reasonably supports the existence of the mistake but is NOT clear and convincing.</p>	<p>An official above the contracting officer may permit the bidder to WITHDRAW the bid.</p>
<p>6</p> <p><u>FAR 14.407-3(d)</u></p>	<p>The evidence does NOT reasonably support the existence of a mistake</p> <p style="text-align: center;">AND</p> <p>The contracting officer has determined that the bid price is reasonable</p>	<p>Agency head, or delegated official, may determine that the bid can be NEITHER WITHDRAWN NOR CORRECTED.</p>
<p>7</p> <p><u>FAR 14.407-3(g)</u></p>	<p>The evidence does NOT reasonably support the existence of a mistake</p> <p style="text-align: center;">AND</p> <p>The contracting officer has</p>	<p>Contracting officer must reject the bid as unreasonable</p>

	determined that the bid price is unreasonable	
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Bid Verification Flow Chart (FAR 14.407-3). The flow chart below outlines the analysis of prices involved when a bidder requests permission to withdraw an alleged mistake in bid. The situations identified in this flow chart relate to the situations identified in the table that follows the flow chart.



Bidder Requests Withdrawal (FAR 14.407-3). The table below documents authorized Government courses of action, given the listed circumstances of the alleged mistake. Each agency will publish any delegation of agency head authority. For example, in the Department of Defense, delegation of agency head authority is defined in DFARS.

Bidder Requests Permission to Withdraw the Bid		
Situation	If	Then
1 FAR 14.407-	You have clear and convincing evidence of mistake	The agency head, or delegated official, may determine to CORRECT the bid and NOT PERMIT WITHDRAWAL.

<p><u>3(b)</u></p>	<p style="text-align: center;">AND</p> <p>You have clear and convincing evidence of the bid intended</p> <p style="text-align: center;">AND</p> <p>The bid, both as corrected and uncorrected, is the lowest received.</p>	
<p>2</p> <p><u>FAR 14.407-3(c)</u></p>	<p>You have clear and convincing evidence of mistake</p> <p style="text-align: center;">BUT</p> <p>Evidence of the bid intended is NOT clear and convincing</p>	<p>An official above the contracting officer may permit the bidder to WITHDRAW the bid.</p>
<p>3</p> <p><u>FAR 14.407-3(c)</u></p>	<p>The evidence reasonably supports the existence of the mistake but is NOT clear and convincing</p>	<p>An official above the contracting officer may permit the bidder to WITHDRAW the bid.</p>
<p>4</p> <p><u>FAR 14.407-3(d)</u></p>	<p>The evidence does NOT reasonably support the existence of the mistake</p> <p style="text-align: center;">AND</p> <p>The contracting officer has determined that the bid price is reasonable</p>	<p>Agency head, or delegated official, may determine that the bid can be NEITHER WITHDRAWN NOR CORRECTED.</p>

Bidder Verifies Bid as Submitted (FAR 14.407-3(g)(5)). The table below documents authorized Government courses of action if the bidder verifies its original bid and denies that a mistake was made.

Bidder Verifies Bid As Submitted		
Situation	If	Then

<p>1</p> <p><u>FAR 14.407-3(g)(5)</u></p>	<p>The dollar amount of the low bid is far out of line with:</p> <ul style="list-style-type: none"> • The dollar amounts of other bids received, or • The Government price estimate, or • The dollar amount determined by the contracting officer to be reasonable. 	<p>The contracting officer should consider rejecting the bid as unfair to the bidder and the other bonafide bidders.</p>
<p>2</p> <p><u>FAR 14.407-3(g)(5)</u></p>	<p>There are other clear indications of error, such as low bidder inability or unwillingness to:</p> <ul style="list-style-type: none"> • Demonstrate a clear understanding of contract requirements. • Present original work sheets that support the reasonableness of the bid price • Explain how the work can be completed at the bid price. 	<p>Note: Fully document attempts made to obtain the information required to determine bid fairness and the action taken with respect to the suspect bid.</p>
<p>3</p> <p><u>FAR 14.407-3(g)(5)</u></p>	<p>Neither Situation 1 or 2 exist</p>	<p>The contracting officer should consider the bid as submitted.</p>

The following are summaries of two Comptroller General decisions related to contracting officer decisions to reject offers as unfair to the bidder or to other

authorized bidders (Pamfilis Painting, Inc., CGEN B-237968, April 3, 1990, TLC Financial Grp., CGEN B-237384, January 26, 1990, and VA - Adv. Decision, CGEN B-225815.2, October 15, 1987).

Decision Summary 1. Pamfilis Painting, Inc.

The contracting officer suspected a mistake in Pamfilis's bid because it was 44% below the government estimate. Three bid verification meetings were held with Pamfilis. During these meetings, agency officials reviewed the contract requirements, specifications, government estimate, and bid submission with Pamfilis to en-sure that the firm's bid represented a clear understanding of the scope of work. It be-came apparent that Pamfilis did not understand the requirements of the IFB. As a result, Pamfilis had not priced several essential items of work required by the IFB, and the bid contained numerous errors based on Pamfilis's erroneous interpretation of the IFB. The contracting officer rejected Pamfilis's bid.

The CGEN concluded that "A contracting officer's decision to reject an apparently mistaken bid under ... [FAR] 14.407-3(g)(5) is subject to question only where it is shown to be unreasonable. See TLC Financial Group, B-237384, Jan. 26, 1990, 90-1 CPD P 116; Veterans Administration - Advance Decision, B-225815.2, Oct. 15, 1987, 87-2 CPD P 362. **Moreover, an obviously erroneous bid may not be accepted even if it is verified by the bidder.**" (emphasis added).

Decision Summary 2. TLC Financial Group.

TLC bid \$500,000 for a line item. This bid was 68% below the Government estimate and 64% below the second low bid. Government officials met with TLC officials, to verify whether TLC's bid was based on a full understanding of the scope of work and to review work sheets used by TLC to calculate its bid price.

Despite several requests, TLC did not submit its bid work sheets. However, based on information contained in TLC's bid and discussions at the meeting, the contracting officer determined that TLC had misinterpreted the scope of work required by the IFB,

resulting in an unrealistically low bid.

The contracting officer concluded that TLC's bid was clearly a mistake and determined that award to TLC would be unreasonable and unfair to the other bidders under FAR 14.407-3(g)(5). The Navy therefore rejected TLC's bid. The Comptroller General upheld Navy's decision.

Determine the Reasonableness of a Low Bid. As demonstrated in the above cases, bid verification gives you the opportunity to investigate the reasons for a bid that is "far out of line" with other bids or your should-pay estimate. Reject such a bid when the evidence supports a finding that the bidder is nonresponsible, misunderstands the requirement, or has underestimated the costs and risks of performance. Accept the bid when the evidence establishes that the bidder can ably perform at the price bid (e.g., because the bidder is the most efficient performer or has knowingly submitted a below-cost bid and has the financial reserves to cover probable losses). You may have to cancel the IFB if your investigation uncovers a Government mistake (e.g., a defective requirement).

8.1.2 Unbalanced Bids

Identify Unbalanced Pricing ([FAR 14.404-2\(g\)](#) and [15.404-1\(g\)](#)). Analyze all bids with separately priced line items or subline items to determine if prices are unbalanced.

Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly over or understated as indicated by application of cost or price analysis techniques.

Consider Risk to the Government. Whenever you identify unbalance pricing, you must consider the probability that award to the bidder with the unbalanced price will:

- Increase contract performance risk; or
- Result in payment of unreasonably high prices.

The risk is normally greatest when:

- Startup work, mobilization, first articles, or first article testing are separate line items;
- Base quantities and option quantities are separate line items; or
- The evaluated price is the aggregate of estimated quantities to be ordered under separate line items of an indefinite-quantity contract.

Reject Bids with Unacceptable Risk. You may reject a bid if the contracting officer determines that the lack of balance poses an unacceptable risk to the Government. Such bids are generally described as materially unbalanced. A bid is **materially unbalanced** IF it is **mathematically unbalanced** AND one of the following is true:

- There is reasonable doubt that the lowest evaluated bid will actually result in the lowest cost to the Government.
- The offer is so grossly unbalanced that its acceptance would be tantamount to allowing an advanced payment.

A bid is **mathematically unbalanced** IF it is based on prices that are significantly less than cost for some line items AND significantly more than cost for other line items.

Identification of Materially Unbalanced Bids. In sealed bidding, you must normally use price analysis to determine if bids are materially unbalanced.

For example. You could use the following price analysis comparisons to determine if bid prices for a contract requiring both first article testing and production are materially unbalanced:

- Compare all bids to determine if the structure of any bid differs significantly from the structure of other bids concerning the pricing for first articles and production units. (Does one bid contain a first article price that is significantly greater than other bids, while production units are significantly cheaper?)
- Compare the production unit price with the price of similar production units.
- Compare the difference between the first article price and the production unit price, with the price

- differences experienced between first article and production units on contracts for similar items.
- Compare the difference between the first article price and the production unit price, with the Independent Government Estimate of the price of first article test effort, excluding the price of the units required for test.
 - Compare the price for the first article and the price for production units with the Independent Government Estimates.

Document Analysis of Unbalanced Bids. Carefully document your analysis of bids that appear to be materially unbalanced. This documentation will form the basis for any determinations and Government actions.

- If analysis supports a determination that unbalanced pricing poses an unacceptable risk to the Government, the documentation will serve as a basis for rejecting the bid.
- If analysis shows that the risk is acceptable, the documentation will provide information on the facts as they were considered during analysis.

Example of a Materially Unbalanced Bid (Person Sys. Integ., Ltd., CGEN B-236790.2 May 20, 1990).

In the case of Person System Integration, Ltd., the CGEN found that the PSI bid was unbalanced because the bid was front-loaded. A fixed-price service contract was to be awarded for a firm requirement for a 60-day mobilization period, an initial 10-month option period, 3 subsequent option years, an additional 10-month option period, and a final 60-day transition option period.

The CGEN found that PSI's price for the 60-day mobilization period was 63 percent of the price for a 1-year performance period and 22 percent of the potential 5-year contract. PSI stated that the amount included the cost of extensive advance purchases of replacement parts. However, the CGEN found the amount to be so far in excess of the actual value of the items or services to be provided that acceptance of the bid would provide a disincentive for the Government to administer (i.e., terminate) the contract after the enhanced payments were made.

8.2 Determine Need To Cancel The IFB

- 8.2.1 - [Price-Related Reasons For Canceling The IFB](#)
- 8.2.2 - [Negotiation After Cancellation](#)

8.2.1 Price-Related Reasons For Canceling The IFB

Reasons for Canceling IFBs ([FAR 14.404-1\(b\)](#) and [14.404-1\(c\)](#)). FAR provides eleven possible reasons for canceling an invitation for bid (IFB) after bid opening. The highlighted paragraphs below show that five of eleven are clearly pricing-related. Other reasons for cancellation (e.g., cancellation clearly in the public interest) could also be related to pricing concerns.

(b) When it is determined before award but after opening that the requirements of FAR 11.201 (relating to the availability and identification of specifications) have not been met, the invitation shall be canceled.

(c) Invitations may be canceled and all bids rejected before award but after opening when, consistent with subparagraph (a)(1) above, the agency head determines in writing that-

(1) Inadequate or ambiguous specifications were cited in the invitation;

(2) Specifications have been revised;

(3) The supplies or services being contracted for are no longer required;

(4) The invitation did not provide for consideration of all factors of cost to the Government, such as cost of transporting Government-furnished property to bidders' plants;

(5) Bids received indicate that the needs of the Government can be satisfied by a less expensive article differing from that for which the bids were invited;

(6) All otherwise acceptable bids received are at unreasonable prices, or only one bid is received and the

contracting officer cannot determine the reasonableness of the bid price;

(7) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith (see Subpart 3.3 for reports to be made to the Department of Justice);

(8) No responsive bid had been received from a responsible bidder;

(9) A cost comparison as prescribed in OMB Circular A-76 and Subpart 7.3 shows that performance by the Government is more economical; or

(10) For other reasons, cancellation is clearly in the public's interest.

Situations Requiring Cancellation ([FAR 14.404-1\(b\)&\(c\)](#)).

The following table summarizes the five price-related reasons for canceling the solicitation after bid opening, how to avoid each situation and analyze it when it occurs.

Possible Cancellation Situation	Avoiding the Situation	Analyzing the Situation When It Occurs
IFB Did Not Consider All Factors of Cost	<p>In earlier chapters, you learned about selecting and applying price-related factors in making the award decision. In preparing a solicitation, you should consider those principles. Doing so should help you avoid most situations in which you must cancel an IFB for failing to properly consider all factors of cost to the Government.</p> <p>During the solicitation period, you must be alert to price-related factors that are not considered in the solicitation. Carefully review comments and questions received from potential bidders to identify such factors.</p>	<p>In price analysis, you must apply the price-related factors included in the award criteria.</p> <p>During your analysis, you must be alert to identifying price-related factors that were not properly considered in developing the award criteria and to identifying important price-related factors that were not considered at all.</p>

<p>Government Needs Can Be Satisfied with Less Expensive Product</p>	<p>Establish a best estimate of price or value as part of acquisition planning. In that process, you should carefully review the purchase request estimate, analyze market data and acquisition histories, and identify and collect other related pricing data. During that review, you must be alert to alternative products that will meet Government needs at a lower total cost.</p> <p>If you identify a lower priced product, coordinate with the requiring activity to assure that the product is acceptable. If it is, assure that the solicitation is modified to permit bidders to furnish the product identified.</p> <p>Develop solicitations that:</p> <ul style="list-style-type: none"> • Maximizes competition; • Maximizes use of commercial products; and • Eliminates unnecessary costs. <p>During the solicitation period, you must be alert to alternative products.</p>	<p>During your efforts to determine price reasonableness, you should consider pricing yardsticks and cost estimating relationships based on the prices of similar items. You may also request Government technical personnel to perform a visual or value analysis.</p> <p>Analysis could identify a product, other than the product for which bids were solicited, that will meet Government requirements at a lower price.</p> <p>Review the impact of the specification on bids, bearing in mind that revising the specification can be a reason for canceling the solicitation.</p>
<p>Unacceptable Prices for Otherwise Acceptable Bids</p>	<p>Maximize price competition. Efforts such as source development, proper selection of business terms, and appropriate publicizing of the purchase should maximize price competition. Adequate price competition should encourage bidders to submit fair and reasonable prices.</p>	<p>Analyze significant differences between different estimates of price reasonableness and between the estimates and actual prices. Both vendor differences and market differences must be carefully explored before you determine that a price is so unacceptably high as to justify cancellation.</p>

<p>Bids Not Arrived at Independently</p>	<p>Encourage independent bid development.</p> <p>Take special care to avoid brand name purchase descriptions and contract requirements that require all bidders to use a key component or technology controlled by one of the competitors. Such requirements make independent bid development a practical impossibility.</p> <p>During the solicitation period, be alert to potential bidder comments concerning specifications that will restrict independent competition.</p>	<p>Earlier in the text, you learned about practices and events that indicate collusive practices and potential antitrust violations. You also learned about the importance of thorough review before making any allegation of collusive practices.</p>
<p>More Economical Government Performance</p> <p>(FAR 7.304(b), 7.306, and 52.207-1)</p>	<p>The Government is always a potential competitor to perform required services. If you have reason to believe that the bid price will be higher than the cost of Government performance, request that Government personnel prepare a cost estimate and include the FAR Notice of Cost Comparison (Sealed-Bid), in the IFB. This action will put potential bidders on notice that the requirement may be performed in-house and encourage price competition.</p>	<p>If a cost estimate has been prepared and the appropriate notices included in the IFB:</p> <p>Open the cost comparison form containing the Government performance cost estimate at the time of bid opening.</p> <p>After evaluation of bids and determination of low bidder responsibility, provide the low bid price to the organization that prepared the Independent Government Estimate for final cost comparison.</p> <p>Provide cost comparison results to the agency authority responsible for deciding between Government and contract performance.</p> <p>If the cost estimate has not been prepared under FAR requirements and the appropriate notices have not been included in the IFB, the solicitation cannot be formally</p>

		<p>compared with the cost of Government performance.</p> <p>The contract price must still be determined reasonable based on other bases of price analysis. If the price cannot be determined to be reasonable, consider canceling the solicitation based on unreasonable prices.</p> <p>If you believe that Government performance would be more economical, schedule the requirement for a formal cost comparison.</p>
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Decision to Cancel the Invitation. In some circumstances, when you are determining if the invitation should be canceled, you will need to consider the relative advantages and disadvantages to the Government. In other circumstances, the pricing concern is so great that you should cancel the solicitation whenever the situation is confirmed to exist.

Possible Cancellation Situation	Recommend Invitation Cancellation If ...
IFB Did Not Consider All Factors of Cost	<p>One of the following statements about the IFB is true:</p> <ul style="list-style-type: none"> • It did not consider all price-related factors, or • It did not properly consider all price-related factors <p style="text-align: center;">AND</p> <p>The lack of proper consideration will affect selection of the successful bidder,</p> <p style="text-align: center;">AND</p> <p>The anticipated total cost to the Government</p>

	for canceling the solicitation and soliciting new bids with revised award criteria is less than the cost for proceeding with award under the current award criteria.
Government Needs Can be Satisfied with Less Expensive Product	<p>An alternative product will satisfy the needs of the Government at a lower price,</p> <p style="text-align: center;">AND</p> <p>The total cost to the Government for canceling the solicitation and resolicitation is less than the cost for proceeding with award under the current award criteria.</p>
Unacceptable Prices for Otherwise Acceptable Bids	<p>The Government's requirement can be deferred,</p> <p style="text-align: center;">OR</p> <p>There is reason to believe that canceling and resoliciting or negotiating would result in an acceptable price ¹</p>
Bids Not Arrived at Independently	Available information demonstrates that bids were not arrived at independently.
More Economical Government Performance (FAR 7.304 , 7.305 , and OMB Circ A-76)	<p>The cost estimate for Government performance was prepared prior to bid opening,</p> <p style="text-align: center;">AND</p> <p>The appropriate notices were included in the solicitation,</p> <p style="text-align: center;">AND</p> <p>Cost comparison demonstrates sufficient savings, to warrant in-house Government performance,</p> <p style="text-align: center;">AND</p> <p>The responsible agency official determines that performance by the Government is in the Government interest.</p>

¹ Because you expect demand to decline relative to supply, or you expect to reenter the market at a more favorable point in the cycle, or you have plans for source development, or you plan to resolicit under business terms and conditions which are more in keeping with market norms, etc.

Document Your Decision. Whenever you consider an invitation cancellation, you should document your analysis and decision process. Documentation is essential to support the decision by the agency head, or delegated official, to cancel an invitation for bids.

Documentation is also necessary when a determination is made not to cancel the solicitation. Buyers will later be able to use the information provided in acquisition planning to prevent similar situations and possible solicitation cancellations.

8.2.2 Negotiation After Cancellation

Introduction. Negotiation after IFB cancellation is authorized in two of the situations where the invitation may be canceled for pricing-related reasons. To use negotiations to complete the sealed-bid acquisition, the agency head, or delegated official, must determine that the invitation is to be canceled and that the use of negotiations is appropriate to complete the acquisition.

Possible Cancellation Situations ([FAR 14.404-1\(e\)](#) and [DFARS 214.404-1](#)). The table below identifies five possible cancellation situations and describes whether acquisition through negotiation is authorized after IFB cancellation.

Possible Cancellation Situation	Is completion of the Acquisition through Negotiation Authorized after IFB Cancellation?
IFB Did Not Consider All Factors of Cost	No, acquisition completion through negotiation is not authorized. Proceed with a new acquisition.
Government Needs Can be Satisfied with Less Expensive	No, acquisition completion through negotiation is not authorized. Proceed with a new acquisition.

Product	
Unacceptable Prices for Otherwise Acceptable Bids	Yes, if authorized by the agency head, or delegated official, in the determination to cancel the IFB.
Bids Not Arrived at Independently	Yes, if authorized by the agency head, or delegated official, in the determination to cancel the IFB.
More Economical Government Performance	Not applicable.

Make Award without Issuing a New Solicitation ([FAR 14.404-1\(f\)](#)). When the agency head has determined that the IFB should be canceled and that the use of negotiations is in the Government's interest, the contracting officer may award the contract without issuing a new solicitation, provided:

- Each responsible bidder in the sealed bid acquisition has been given notice that negotiations will be conducted and has been given an opportunity to participate in the negotiations; and
- The award is made to the responsible bidder offering the lowest negotiated price.