

Section 7D: Bid Handling

Authority

7D.300 (2004-05-14) Business Management Directorate (BMD) is responsible for the systems and procedures relating to the receipt and custody of bids.

At headquarters, bids are processed centrally at the Bid Receiving Unit, an organization of BMD. In the regions, operating procedures may be adapted to suit local conditions.

Bid Timeliness

7D.304 (2001-05-25) For all bid solicitations, except Requests For Quotations (RFQs) directed to the contracting officer, the bid closing date and time stipulated in the solicitation are firm. Contract award may take place immediately following bid closing or any time thereafter. The onus is on the bidder to ensure that the bid is delivered on time to the location designated in the solicitation. The only acceptable evidence to show timely receipt in the specified bid receiving area is a date and time stamp or other documentary evidence of receipt within the control of the bid receiving area.

Late bids are not to be accepted and will be returned. Records will be kept of all returned bids or proposals.

In headquarters, the BRU provides this service.

To reduce the effect of geographic distance, a bid delivered to the specified bid receiving area after bid closing and prior to contract award (which would otherwise be late), will be considered delayed and will be accepted only under the following circumstance (unless it is stated in the tender document that there will be a public opening):

A bid delivered prior to contract award will be considered if it was postmarked by Canada Post (or the national equivalent of a foreign country) prior to the date of bid closing. Bids received after contract award will be returned to the sender.

The only pieces of evidence relating to a delay in the Canada Post Corporation (CPC) system that are acceptable to Public Works and Government Services Canada (PWGSC) are:

- (a) a CPC cancellation date stamp;
- (b) a CPC Priority Courier Bill of Lading; and
- (c) a CPC Xpresspost Label,

that clearly indicate that the bid was mailed prior to the bid closing date.

7D.305 (1998-06-15) The onus for submitting bids on time at the specified location rests with the bidder. It is the bidder's responsibility to ensure correct delivery of its bid to the Crown.

7D.306 (1994-06-23) Written quotations directed to the contracting officer will be considered non-responsive if received after the specified date, regardless of the date of mailing.

To ensure that all responsive quotations are considered and to accommodate internal mail delivery schedules, contracting officers may need to delay the award of a purchase order until after delivery of the first morning mail on the day following the closing date.

Quotations must be signed and dated by the contracting officer upon receipt. Sectors/regions must ensure that the receipt, custody and handling of quotations submitted directly to the contracting officer are conducted in a manner that reflects the principle of fairness to all suppliers.

7D.307 (1994-06-23) A bid being submitted by electronic transmission starting before, but ending after,

the stated bid closing time is considered on time. When several bids form part of the same transmission, only those bids which began transmission before closing time will be accepted. Each bid is to be considered as a separate bid, even though it is part of the same transmission.

7D.308 (1994-06-23) In order to be accepted, a bid must contain the bid reference number, the closing date and time, and sufficient information to allow evaluation, such as: unit prices; country (when the bid is submitted in a foreign currency); sales tax; duty; technical data (where applicable); and, any deviations from the bid solicitation document.

7D.309 (1994-06-23) To ensure that official bid receipt time-keeping equipment represents the correct time, bid receiving areas shall calibrate this equipment and other official time pieces against the official [National Research Council](#) (NRC) time standard at least once every two working days. *The NRC time standard can be checked 24 hours a day at (613) 745-1576 (English) or (613) 745-9426 (French).*

Bid Receiving

7D.315 (1998-06-15) Competitive bids, submitted to the bid receiving area, will be time and date stamped upon receipt, and kept unopened in a locked receptacle until after the closing time.

If an envelope/package does not indicate sufficient information for bid identification - i.e. solicitation number, company name and closing date and time, it will be necessary to open the envelope/package. Bid receiving staff will, in these instances, transfer the necessary information to the envelope/package, and reseal and initial the envelope/package before it is placed in the bid box.

Bids delivered after the bid closing (see [7D.304](#)), or for which the solicitation has been cancelled, are returned to the supplier unopened, with a covering letter explaining why the bid has been returned. If the envelope/package does not contain sufficient information to identify the company and/or the solicitation number, Bid Receiving Unit (BRU) staff will open the envelope/package for identification purposes, and return the bid with the appropriate letter explaining the reason for opening the bid.

At headquarters, bids received by the mail room are sorted and delivered unopened to the BRU. Facsimile bids destined for the BRU must be submitted to the Communications Center.

7D.316 (2004-05-14) When soliciting bids by telephone, the contracting officer must accurately transcribe the information taken, record the time and date, and initial the written record on file immediately. Written bid responses that have been solicited by telephone and directed to a central bid receiving area should not be opened publicly.

7D.317 (1994-06-23) For responses transmitted electronically, written confirmation by the bidder is required within a reasonable period of time after bid closing, unless an exact copy of the bid was sent by facsimile.

All documents confirming bids should bear the word "CONFIRMATION" and, upon receipt in the designated bid receiving area, will be time and date stamped and sent to the contracting officer. *This is to ensure that in case of conflict it is clear which bid takes precedence.*

Bid Opening

7D.321 (1994-06-23) After bid closing, bids are removed from the locked receptacle and opened. A designated official, in the presence of at least one witness, records on a Bidders List, beside the name of the bidder, the type of response and, if applicable, the nature of the security submitted. This list is signed by the designated official and the witness.

7D.322 (1994-06-23) The bid receiving area will screen bids for completeness and, using a marker of non-reproducible ink that will stand out, draw lines through blank pricing spaces. Where pencilled

or corrected information is shown, a photocopy of the bid is made and kept for audit purposes. This is to ensure that a bid cannot be altered. As evidence that the documents were processed and verified, all pages of a bid and any correspondence containing pricing information are perforated within the Date and Method of Solicitation area, or stamped on the reverse side, by the processing group. The bids are then verified and certified against the Bidders' List. The Bidders' List is kept on the purchase file.

7D.323 (2000-12-01) The bid receiving area will deal with bid security as instructed by the contracting officer. If no instructions have been provided, refer to [Annex 7.4](#).

Handling of Sensitive Documents

7D.327 (2003-05-30) If a bid is marked as PROTECTED, CONFIDENTIAL, SECRET or TOP SECRET, it is to be delivered and transferred in accordance with government procedures for the transmittal of Protected/Classified information or assets. All responses and all other information or assets concerning a sensitive bid are sent by hand, at the appropriate time, to the contracting officer who originated the bid solicitation, and a receipt must be obtained.

Information about security procedures is available from the [Canadian and International Industrial Security Directorate](#) Web site.

Public Opening of Tenders

7D.333 (1994-06-23) When tenders are to be opened publicly, they are withdrawn from the locked receptacle, transported to the place of public opening and opened in the presence of a witness. The procedures for opening, screening, checking, verifying and certifying tenders opened publicly are the same as those for bids which are not opened publicly. The name and address of each bidder and the amount of each bid are to be read out.

If the tender requires multi-item bids without a total bid price, the bid price on each item is read out.

Modification and Withdrawal of Bids

7D.339 (1994-06-23) A response to a PWGSC bid solicitation, except RFQs, constitutes an offer which becomes a contractually binding commitment when it is accepted without deviation by PWGSC. One of the essential characteristics of an offer under the Invitation To Tender (ITT) and Request For Proposal (RFP) methods of bid solicitation is that the bidder agrees to keep the offer open for acceptance by PWGSC for a specific period after the bid closing.

Contracting officers should be aware of the rights afforded by law to both the buyer and the seller and to exercise care in dealing with suppliers when issues arise in relation to these rights. In common law, a mere statement that an offer will remain open for acceptance for a certain length of time, does not commit the offeror, who may effectively revoke the offer before the time has expired, if it has not been accepted. Under Quebec's civil law, a bidder who undertakes to keep an offer open for a specified period of time cannot withdraw the offer during such period of time without becoming exposed to a damage claim.

Although suppliers may not have the same rights under the law, PWGSC procedures are applied equally to all suppliers in a particular procurement.

Modification

7D.345 (1994-06-23) After bid closing, modifications initiated by a bidder are not permitted when they:

- (a) change the price or any other substantive element of the bid (except in the situation where an already otherwise successful bidder submits a modification which makes the original offer more favourable to the Crown and in no way increases the tendered price); or

- (b) change the position of the bid relative to any others received; or
- (c) add a bid for an item or items which were omitted in the original bid; or,
- (d) provide any bidder with an advantage, over any of the other bidders, which can be construed to be unfair or which in any way detracts from the integrity and impartiality of the competitive bidding process.

Withdrawal

7D.346 (1994-06-23) A bid withdrawn after bid closing cannot be resubmitted.

7D.347 (1994-06-23) Bids, submitted with bid security, may be withdrawn without compensation to the Crown if there is a significant error on the face of the bid. Approval at the director level is required before an error can be declared "significant on the face of the bid."

Examples of such errors include a missing page or a mistake in the addition of a series of numbers that appear in the bid.

If a bidder wishes to withdraw such a bid for any reason other than a significant error on the face of the bid, Legal Services must be consulted.

If there was a public opening, all bidders will be advised, under the signature of a director, of a decision to allow a bidder to withdraw a bid submitted with bid security, without a penalty, due to a significant error on the face of the bid.

Bid Discrepancies

7D.353 (1994-06-23) When there is a discrepancy between a telephoned or electronically transmitted bid and the confirming bid, the following applies:

- (a) if both are received before the closing date, the lower price will govern unless the bid containing the higher price clearly states that it cancels and supersedes the previous submitted price;
- (b) if the confirming bid is received after the closing date, the price in the electronically transmitted or telephoned response will govern.

Communications - Solicitation Period

7D.355 (2005-12-16) To ensure the integrity of the competitive bid process, enquiries and other communications regarding the bid solicitation must be directed **only** to the PWGSC contracting officer identified in the bid solicitation, not to the client department or other government officials. (See *Standard Acquisition Clauses and Conditions Manual* clause [A0012T](#).)

Evaluation of Responses

7D.359 (1994-06-23) Evaluation of the responses must proceed according to the predetermined and published evaluation criteria.

7D.360 (1994-06-23) Bids are non-responsive if they fail to meet any mandatory requirement set out in the bid solicitation. The reasons for declaring a bid non-responsive must be clearly described by the contracting officer and documented on the contract file.

Federal Contractors Program for Employment Equity

7D.364 (2004-05-14) A recommended bid of \$200,000 or more (including all applicable taxes) from a supplier subject to the [Federal Contractors Program for Employment Equity](#) (FCP-EE) cannot

proceed to award unless a signed Certificate of Commitment or valid Certificate number is provided.

The Certificate of Commitment ([LAB 1168](#)) or a valid Certificate number is an essential pre-condition to the award of the contract. Compliance with FCP-EE is not a term of the resulting contract or standing offer, however, if a verification of the certification of eligibility discloses a misrepresentation by the bidder, the Minister may treat the resulting contract as being in default.

Ineligible Contractors

7D.365 (2006-06-16) Contractors that have withdrawn from the FCE-EE for reasons other than a reduction in their workforce, have been warned of the consequence of this action (i.e. ineligibility to receive future government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations*, currently at \$25,000). *Standard Acquisition Clauses and Conditions* (SACC) Manual clause [K2002T](#) for requirements estimated over \$25,000 but below \$200,000, is to be used to advise bidders of this condition and to require that they certify that they have not been declared ineligible by Human Resources and Social Development Canada. SACC Manual clause [K2000T](#) for requirements estimated at \$200,000 and over requires that they certify their eligibility to receive government contracts by indicating that if they have been assigned a certificate number in the past, that it is still valid. SACC Manual clause [K2003C](#) is to apply in conjunction with [K2000T](#) (\$200,000 and over) and [K2002T](#) (over \$25,000). If a verification of the certification of eligibility discloses a misrepresentation by the bidder, the Minister may treat the resulting contract as being in default.

Contracting officers are to treat as non-responsive any bid over the threshold for soliciting bids (currently at \$25,000), from a supplier under sanction, either for non-compliance with the FCP-EE, or as a result of its voluntary withdrawal from the Program for a reason other than a reduction in their workforce.

While Treasury Board Contracting Policy on FCP-EE ([Appendix D](#)) recommends verifying the eligibility of contractors by consulting the Publiservice site prior to awarding a contract, it is not mandatory to do so. However, should contracting officers wish to ensure that they are not recommending the award of contracts to any ineligible contractor, they can consult the [List of Ineligible Contractors](#) available on the Publiservice site. (**NOTE: Only federal government employees can access this site**).

For policy advice and guidance, contact the Workplace Equity Program Advisor at (819) 953-7495.

Canadian Content

Certification of the Bid

7D.366 (2003-12-12) When requirements consist of more than one good, the evaluation of Canadian content certification can be done the following ways:

- (a) Aggregate: a minimum of 80 percent of the total bid price must consist of Canadian goods (see [Annex 7.8](#)); or,
- (b) Item by Item: The bid certification is conducted on an item-by-item basis.

For requirements consisting of more than one service, a minimum of 80 percent of the total bid price must be provided by personnel based in Canada (see [Annex 7.8](#)).

When requirements consist of a mix of goods and services, 80 percent of the total bid price must consist of Canadian goods and Canadian services (see [Annex 7.8](#)).

A bid can be accepted in part without resubmission of a certification.

Application of the Policy

7D.367 (2002-05-24) Bids to which the special procedures under the Canadian Content Policy applies will be evaluated as follows:

- (a) For **Solely Limited solicitations**:
 - (i) If the bidder was **required** to submit the certification with bid ([K4001T](#), [K4003T](#) or [K4004T](#)), only bids with valid certifications will be evaluated. The bid evaluation process can proceed where there is at least one bid with a valid certification, otherwise the procurement must be retendered.
 - (ii) If the bidder was **not required** to submit the certification with bid ([K4011T](#), [K4013T](#) or [K4014T](#)), the contracting officer will contact all bidders who did not submit a signed certification with bid and request the signed certification. If signed certifications are not received within the time period specified in the Canadian Content clause, bids are to be considered non-responsive. A bid will only be provided to the client for evaluation once a signed certification is received. The bid evaluation process can continue as long as there is at least one bid with a valid certification, otherwise the procurement must be retendered.
- (b) For **Conditionally Limited solicitations**, the contracting officer will, prior to the further evaluation of the bids, determine whether there are three or more bids with a valid certification. In this event, the evaluation will be limited to the bids with certification, otherwise all bids will be considered. If the bids with a valid certification are later determined to be non-responsive or withdrawn, and less than three responsive bids of Canadian goods and/or services remain, evaluation will continue among those bids which contain a valid certification. If **all** bids with a valid certification are subsequently found to be non-responsive or if their bids are withdrawn, then **all** other bids received should be evaluated.

7D.368 (2002-05-24) The onus is on the supplier to demonstrate that its bid meets the definition of Canadian goods and/or services. The supplier must execute and submit the certification form (see [5.074](#)). When the *Standard Acquisition Clauses and Conditions* (SACC) Manual clauses [K4003T](#), [K4004T](#), [K4005T](#), [K4006T](#), [K4013T](#) or [K4014T](#) are used, the supplier must clearly identify the status of each individual product.

7D.369 (1995-07-01) PWGSC may verify the validity of the certification. If the certification is found to be invalid, then the offered goods or services are deemed not to meet the definition of Canadian Content. Verification of the certification shall in no way alter the price quoted or any substantive element of the bid.

Unsolicited Offers

7D.380 (1994-06-23) When a supplier, without receiving a copy of the bid solicitation document, submits an offer for an existing requirement, the unsolicited offer is considered on the same basis as other bids.

Qualifying Joint Venture Bids

7D.384 (1997-09-15) Joint venture bids are encouraged and, for evaluation purposes, shall be treated on an equal basis with other bids. A joint venture, regardless of how it has chosen to structure itself, can only be qualified as an eligible bidder if it is a financially viable legal entity.

Clarifications

7D.389 (1997-09-15) During the evaluation, contracting officers may find it necessary to seek clarifications or additional supporting data. The contracting officer must ensure that this process does not give any bidder an advantage over the others and in no event can this clarification alter

the price quoted or any substantive element of a bid.

7D.390 (1994-06-23) In the event of errors in the mathematical extension of unit price items, the unit price prevails and the mathematical extension is adjusted accordingly. In the event of errors in the addition of lump sum prices or unit price extensions, the total is corrected and the corrected mathematical sum is reflected in the total bid price. The bidder must be advised immediately of the corrected total bid price and must confirm or withdraw the bid.

7D.391 (1994-06-23) When a contracting officer identifies an unusually low price, the bidder must be given the opportunity to either confirm or withdraw it in writing. The contracting officer must not divulge the difference in price between that bid and the next lowest bid. In no event will the bidder be permitted to increase the price.

Client Review

7D.395 (1998-02-16) Clients are responsible for the evaluation of the technical portion of the bids. They are normally not provided with price information. When referring bids to the client during the evaluation process, the following cautionary note must be included:

"Bid information is to be divulged only to government officials authorized to participate in this procurement. None of this information is to be divulged to, or discussed with, the trade."

It is desirable, particularly in complex procurements, to use a team approach for technical evaluations. If PWGSC considers it necessary to refer bids to the client for other purposes, the cautionary note above should be used.

In accordance with the Guiding Principle of Accountability (see [1.001](#)), procurement officers are responsible for ensuring that, when the technical evaluation has been carried out by the client department, the evaluation process was conducted in a fair and transparent manner, in accordance with the criteria set out in the bid solicitation document.

Taxes and Duties

7D.396 (2004-05-14) Customs duties must be considered in the evaluation of bids when bids are received from both Canadian-based and foreign-based bidders, since foreign-based bidders exclude duties in their proposals. When rates of duties or exemption status need to be verified, the contracting officer may:

- (a) obtain from the client the information on the rate of duty applicable to the goods being imported and add the estimated amount of duties to the price quoted by the foreign-based bidder; or
- (b) verify with the Canada Border Services Agency (CBSA) the application of customs duty to the goods being imported.

The tariff and value administrator at the CBSA will provide a written ruling to any request for rate of duty, tariff classification, or customs value. Importers or their agents who wish a written ruling must send their request to the nearest CBSA Office.

7D.397 (1998-02-16) Contracting officers are responsible for verifying the application of excise taxes and the amount and specific rate(s) set out in bids. Contracting officers must evaluate bids exclusive of the Goods and Services Tax (GST) and the Harmonized Sales Tax (HST), as applicable. For the list of goods on which excise tax is payable, see [Annex 6.11](#).

7D.398 (2004-05-14) Clients may require or be entitled to exemption from taxes or duties. They should, in such cases, refer to a certificate of exemption or remission or drawback Order in Council. Issues relating to such remissions should be resolved between the client and CBSA.

Financial Security

7D.402 (1997-09-15) If a bidder submits a bid which includes insufficient security, i.e. less than the exact financial security stipulated, or none at all, the bid will be considered non-responsive.

7D.405 (2000-12-01) PWGSC will hold any bid bond, payment bond, performance bond, non-negotiable security deposit (government guaranteed bonds, bills of exchange, irrevocable standby letters of credit) until the terms of the security are fulfilled. For detailed instructions on the safekeeping of these instruments, refer to [Annex 7.4](#).

Transportation Costs

7D.409 (2005-06-10) Subject to the exceptions of [6E.621](#), for goods requirements with an estimated expenditure of \$25,000 (including GST/HST) or more, and anticipated transportation costs of \$1,500 or more, transportation costs of the best bid based on the stated selection criteria must be evaluated by Traffic Management Division (TMD), Services and Technology Acquisition Management Sector. Bids should be solicited on an FOB Destination basis, and transportation charges should be identified as a separate cost item. Where transportation charges exceed \$1,500, the contracting officer must refer the bid to TMD for analysis. TMD will provide an analysis and recommendations regarding the proposed transportation method(s) and costs, within two working days, or advise the contracting officer of any delay.

Exchange Rate Issues

7D.413 (2003-05-30) Unless the bid solicitation specifically requires bids to be made in Canadian currency, bids that are made in a foreign currency must be converted to Canadian currency for evaluation. The rate given by the Bank of Canada in effect on the bid closing date, or on another date specified in the bid solicitation, must be applied as a conversion factor to the bids made in foreign currency.

If a bidder that requests the exchange rate adjustment uses a foreign exchange rate other than that specified in the bid solicitation, the price is adjusted based on the rate stipulated in the Request for Proposal and confirmed with the bidder.

For bids submitted by Canadian-based suppliers that request the exchange rate adjustment on the FCC identified in the Claim for Exchange Rate Adjustments, form [PWGSC-TPSGC 9411](#), the contracting officer will show in Column 3 of the form, the Bank of Canada rate in effect on the bid closing date, or on another date specified in the bid solicitation. This rate will be reflected in the resulting contract and will establish the conversion rate against which claims for adjustment will be calculated.

The Bank of Canada rate may be obtained by visiting the [Bank of Canada](#) Website, or by calling (613) 782-7506.

Procurement Business Number

7D.415 (2001-12-10) After bid closing, contracting officers should consider advising all Canadian bidders who have not supplied a Procurement Business Number of the requirement to do so prior to contract award (see [5.123](#)). Contracting officers may, at their discretion, decide to contact only the successful bidder or the top ranked bidders. *This option should be exercised with caution.*

Controlled Goods

7D.416 (2002-05-24) Even if there are no controlled goods in a bid solicitation, there may be situations where proposals submitted by bidders could contain controlled goods. Controlled goods cannot be released to persons that are not registered, exempt or excluded under the Controlled Goods Program.

Identical Low Bids

7D.418 (2002-12-13) "If identical low valid bids or proposals are received, the contract should be awarded on the basis of best value. The factors below should be used, subject to directives on national policies and objectives that may be issued from time to time. These criteria may be weighted as deemed appropriate by the contracting officer:

- (a) a bidder with an overall satisfactory performance record be given preference over a bidder known to have an unsatisfactory performance record;
- (b) a bidder in a position to provide adequate after-sales service, with a good record in this regard, be given preference over a bidder who is not able to provide adequate service or who has a poor record;
- (c) when delivery is an important factor, the bidder offering the best delivery date be given preference;
- (d) when there are several items included in the bid and the prices on only some of the items are identical, the offer of the firm bidding on the greatest dollar value be given preference; and
- (e) when a number of items are included in the bid and one or more firms bid lower on one or more of the items, the firm that bid low on the greatest dollar value be given preference both for the items on which it bid equal prices and for the items on which it bid low."

*Treasury Board Contracting Policy
Subsection 10.8.17*

7D.419 (1994-06-23) If there are two identical bids, and provided that the bid selected would still be considered the most advantageous to the Crown, preference should be given to the bidder who assumes all or part of the exchange rate adjustment risk over a bidder who does not assume any of this risk. Furthermore, preference should be given to the bidder who assumes all of the exchange rate adjustment risk over a bidder who assumes only part of this risk.

7D.420 (2001-05-25) If none of the above apply, a method of tie breaking which is mutually acceptable (Crown and bidders with identical bids) can be used. As an example, a simple coin toss could be agreed upon. The mutually agreed solution should involve legal advice.

Multi-Item Bids

7D.425 (1994-06-23) Where the standard terms and conditions, which provide for the acceptance of a bid in "whole or in part", have been included, the evaluation of multi-item bids should be governed by cost-benefit considerations.

The savings generated from the split of a requirement into more than one contract should be compared with the additional costs usually associated with the award of multiple contracts or creation of multiple standing offers:

- (a) costs to PWGSC, i.e. the costs of issuing, administering and closing-out contracts;
- (b) costs to the client, i.e. extra billing, extra inspection and other related administrative costs;
- (c) costs to the contractor, i.e. transportation costs, price per unit.

Sectors/regions should determine their own administrative premiums for costs such as those identified in paragraphs (a) and (b) above.

The potential savings from issuing more than one contract may be offset by other considerations, such as:

- (a) *difference in delivery times for components provided by different suppliers;*
- (b) *compatibility of items supplied by different suppliers;*
- (c) *service or maintenance of items after delivery.*

Bid Rigging/Collusion/Fraud

7D.430 (1994-06-23) The contracting officer must notify Legal Services and the director whenever there is an indication of possible bid-rigging activities, collusion or fraud. Legal Services will assist in subsequent discussions with the Bureau of Competition Policy pursuant to the "*Competition Act*."

The following are examples of possible bid-rigging activities:

- (a) *where bid rates/prices are much higher than published price lists, engineering cost estimates, or previous bid rates/prices by the same suppliers, for no apparent reason;*
- (b) *where the successful bidder usually subcontracts work to suppliers submitting higher bids on the same project;*
- (c) *where bidders use identical wording to describe non-standard items, or submit identical bids for non-standard items;*
- (d) *where there are indications of unusual communications among suppliers prior to submitting the bids with regards to bid prices, or allocation of clients, or references to "standard industry prices," "industry self-regulation," etc.;*
- (e) *where the same supplier wins bids for specific clients, or in specific geographic locations, or for specific sizes or types of work, and loses most other bids on a regular basis; or*
- (f) *where a recognizable pattern of systematic or random low bid rotation exists.*

Non-Standard Terms and Conditions

7D.435 (1994-06-23) When bidders propose terms and conditions that conflict with those normally accepted by PWGSC, or include deviations from PWGSC policies or procedures, and the contracting officer is prepared to evaluate using them, the proposed terms and conditions must be submitted to Legal Services for review prior to awarding a contract or placing a Standing Offer.

No Responsive Bid

7D.438 (1996-12-02) When no responsive bid is received in response to a competitive bid solicitation, the bid solicitation must be cancelled. (See [7D.470](#))

One Responsive Bid

7D.440 (1994-03-23) When only one responsive bid is received in response to a competitive bid solicitation, and if the Crown is obtaining fair value, the contract may be awarded using competitive authorities to the single responsive bidder without obtaining additional price support or a price certification.

7D.441 (1996-12-02) Where the contracting officer is not satisfied that the bid represents fair value, price support should be requested from the bidder. If this does not show that the price is fair and reasonable, the contracting officer may consider negotiating or cancelling and reissuing the bid solicitation. (See [7D.445](#), [7D.455](#) and [7D.468](#))

Price support can take the form of comparing the proposed prices to the current market prices and/or to previous prices paid, taking into account the reasons for any increase.

Negotiations

7D.445 (1996-12-02) When two or more responsive bids, are received in response to a competitive bid solicitation, and if no responsive bid represents fair value, contracting officers should examine the solicitation to determine possible causes. Subsequently, the contracting officer may consider negotiating with all responsive bidders or cancelling and reissuing the bid solicitation. (See [7D.455](#) and [7D.468](#).)

7D.447 (2002-12-13) “When negotiating with more than one firm, care should be taken that all are treated fairly and impartially. The negotiations should not become an auction of the contract, as firms progressively improve their proposals in the light of information about the position of other firms. The confidentiality of each firm's negotiating position is to be assured.”

*Treasury Board Contracting Policy
Section 10.6.6*

7D.448 (1994-06-23) All negotiations must be conducted by the contracting officer or, if of a technical nature, by the contracting officer in conjunction with the client. A negotiation report must be placed on the contract file.

7D.449 (2005-12-16) For all procurements that are subject to the North American Free Trade Agreement (NAFTA) or the World Trade Organization Agreement on Government Procurement (WTO-AGP) , the contracting officer may only enter into negotiations if one of the two conditions specified in NAFTA or the WTO-AGP is present. Negotiations must proceed in accordance with the steps outlined in these agreements. (Refer to NAFTA, [Article 1014](#) or WTO-AGP, [Article XIV](#), as appropriate. When both agreements apply, refer to NAFTA Article 1014.)

7D.450 (2005-12-16) For procurements that are not subject to NAFTA or the WTO-AGP,

(a) when a Request for Proposal (RFP) was used, negotiations may be entered into

- (i) prior to the completion of proposal evaluation, provided that they are held with all bidders that submitted responsive bids; or,
- (ii) after the proposal evaluation, with only one bidder, provided that the bidder submitted the only responsive proposal, or the bidder was selected after evaluating more than one responsive proposal and it can be demonstrated that if the negotiations had been held with all of the bidders that submitted responsive proposals, there would have been no change in the firm selected;

The ability to prove that the same supplier will be selected regardless of whether negotiations are conducted with all responsive bidders presupposes that the requirement (e.g. technical specifications) will not change during negotiations, and, therefore, that other bidders given the same opportunity, could not submit different, and, perhaps, better offers.

(b) when an Invitation to Tender (ITT) was used, where there is more than one responsive bid, but neither the lowest bid nor the other bids represent fair value, the contracting officer must have determined before considering entering into negotiations, that it would not be more effective to cancel the solicitation and meet the requirement using another supply method. When urgency is a major factor, the results of the original ITT might be capable of being used as the basis for entering into negotiations with bidders;

(c) when an RFQ was used, negotiations should be avoided, with the exception that some negotiations may be necessary if the requirement was not adequately defined originally.

Bypassing a Supplier

7D.455 (2005-12-16) If it is proposed to bypass the supplier who would be awarded a contract based on the published evaluation criteria and selection method, approval to enter into the proposed

contract must be sought at the appropriate non-competitive level. The award must be fully justified and documented on file.

This procedure is not permitted for procurement subject to the North American Free Trade Agreement (NAFTA), the World Trade Organization Agreement on Government Procurement or the Agreement on Internal Trade. For example, Article 1015, 4(c) of NAFTA states that "unless the entity decides in the public interest not to award the contract, the entity shall make the award to the supplier that has been determined to be fully capable of undertaking the contract and whose tender is either the lowest-priced tender or the tender determined to be the most advantageous in terms of the specific evaluation criteria set out in the notices or tender documentation". Provisions with the same effect exist in the other two agreements.

Extending the Bid Validity Period

7D.460 (2005-12-16) The standard period for acceptance of bids is sixty (60) days, unless otherwise indicated in the bid solicitation (see standard instructions and conditions [9403](#) series and [2003](#) of the *Standard Acquisition Clauses and Conditions* Manual). Occasionally, circumstances delay award of the contract, such that it is known prior to bid solicitation that award cannot be made within the standard bid acceptance period. Contracting officers must carefully assess the potential for extended bid evaluation periods and, where necessary, indicate in the bid solicitation, the modified period for bid acceptance. Contracting officers must also carefully monitor events during the bid evaluation period and contract approval process, in order to be able to respond before the bid acceptance period has expired. Expiry of bid acceptance periods before contract award should thus become an exceptional circumstance.

7D.461 (1997-03-31) If the bid acceptance period has expired, and the contract has not been awarded, the requirement must be retendered.

Any contract awarded to a respondent to the expired bid solicitation must be considered a sole-source contract, and must be justified accordingly.

7D.462 (1997-03-31) If the evaluation is incomplete, and is unlikely to be complete within a reasonable period of time, and the bid acceptance period will expire before the evaluation is complete, the process should be halted, an assessment made to identify the cause of the extraordinary delay, corrections to the solicitation or evaluation made, and the requirement retendered.

7D.463 (2005-12-16) If the bid acceptance period has not yet expired and the evaluation of bids is near completion, and can be completed within a reasonable period of time, requests to extend the bid acceptance period maintaining the terms and conditions and prices originally offered, must be sent to all responsive bidders within a minimum of three (3) days prior to the end of such period, referencing the relevant article of standard instructions and conditions ([9403](#) series and [2003](#)) which allows Canada to exercise the right to seek an extension of the bid validity period. If any of the responsive bidders decline to extend the bid acceptance period, Canada may, pursuant to the standard conditions and instructions: proceed to award to the "best assessed" among the bidders that have extended their bid, to the exclusion of those that have declined; or cancel the solicitation; or, cancel and reissue the solicitation.

If the best assessed bidder, or more than one bidder does not agree to the extension, serious consideration should be given to re-tendering the requirement.

Where a bidder does not agree to the extension and it is clear that this particular bidder has no chance of being recommended for award, (because its ranking is beyond a reasonable range) then it may be appropriate to exercise Canada's right to proceed to award with only those bidders that have agreed to an extension.

Legal Services may be consulted in instances where a bidder does not agree to the extension, particularly in the case of a trade-covered procurement.

Cancelling and Reissuing a Bid Solicitation

7D.466 (2004-12-10) If a bid solicitation is cancelled before the closing date, contracting officers must issue a cancellation notice through the Automated Buyer Environment (ABE) for transmission to the Government Electronic Tendering Service (GETS) (MERX). For those contracting officers not on ABE, functionality has been added to GETS (MERX) which allows the contracting officer to cancel its bid solicitation directly on GETS (MERX). For cancelled opportunities, GETS (MERX) will then automatically send to all suppliers who have ordered the bid solicitation, a notification of opportunity cancellation by e-mail, facsimile, mail, or courier, based on the supplier's preference indicated in their supplier profile. The contracting officer must also notify the Bid Receiving Unit of the cancellation and provide instructions regarding the disposal of any responses to the original bid solicitation.

The contracting officer is responsible for internal distribution of bid solicitation documents and updates within PWGSC and to the clients.

7D.467 (1994-06-23) If the cancellation takes place after the closing date has passed, suppliers who have submitted bids should be advised of the cancellation of the requirement.

7D.468 (2005-12-16) Contracting officers may reissue a bid solicitation, with the approval of the director (headquarters)/manager (regions) or above, where:

- (a) a significant change has occurred in a requirement before a contract is awarded;
- (b) all bids are non-responsive or do not represent fair value; or
- (c) the bid acceptance period has expired before a contract is placed.

For procurements that are subject to NAFTA, the WTO-AGP or the AIT, when there are no responsive bidders or the procurement is substantially modified, the bid solicitation must be cancelled.

Contracting officers may reissue a bid solicitation, with the approval of the manager (headquarters)/division chief (regions) or above, where no bids were received in response to a competitive solicitation.

7D.469 (1996-01-01) Whenever a solicitation is issued to replace an earlier one, the contracting officer must insert the following as the first statement in the reissued solicitation and new NPP:

"This cancels and supersedes the previous _____ (Request for Proposition/Request for a Quotation/Invitation to Tender) _____ no. _____, dated _____ which was due at _____ p.m. on _____."

7D.470 (2004-12-10) For procurements that are subject to GETS (MERX) or any of the trade agreements, a new Notice of Proposed Procurement (NPP) must be published when a bid solicitation document is cancelled and reissued, with the following exception. If there were no responsive bids received in response to the original competitive solicitation and the requirement is not being changed significantly, contracting officers may use source lists and send bid solicitations directly to suppliers without publishing a new NPP.

7D.471 (1994-06-23) When a bid solicitation list was used to invite bidders, all suppliers who bid on the original solicitation must be requested to bid on the reissued solicitation, except those who have declined in writing. Other suppliers not included in the original solicitation who requested to bid or who were added to the source list will be considered.

7D.472 (1994-06-23) Where source lists are used, the bid solicitation will not normally be reissued if a qualified supplier has been inadvertently omitted from the firms requested to bid. Should it be necessary to reissue a bid solicitation because a qualified supplier was not requested to bid, approval at the director level must be obtained prior to reissuing the bid solicitation.

A qualified supplier omitted from the bid solicitation list may be given an opportunity to bid before a bid closing time is reached provided that sufficient time is available for such action.

Notification to Unsuccessful Bidders

Ship Construction and Refit

7D.478 (1994-06-23) For new ship construction and ship refit contracts issued by Public Works and Government Services Canada headquarters, contracting officers will notify bidders whether their bid is among the two most favourable (lowest priced) and compliant bids when:

- (a) there are more than two compliant bidders;
- (b) a lengthy approval process is anticipated (generally for contracts requiring approval above the director general level); and,
- (c) none of the following circumstances apply:
 - (i) the lowest bidder is declared non-compliant; or,
 - (ii) all bids received are extremely close; or,
 - (iii) the manager feels that notifying bidders of bid status would not be in the Crown's best interests.

7D.479 (2005-06-10) For shipbuilding or ship refit contracts that do not fall within the normal criteria, contracting officers should consult with the Senior Director, Marine Systems Directorate (MSD), Land, Aerospace and Marine Systems & Major Projects Sector.

7D.480 (2005-06-10) Notification should be made after the Senior Director, MSD, has recommended the "Contract Request" (form PWGSC-TPSGC 1151-2).

7D.481 (1994-06-23) Bidders will be advised of the circumstances under which notification of their status may be withheld.

7D.482 (1994-06-23) Bidders whose offers are clearly not the two most favourable compliant bids will be permitted to withdraw their bids upon written application to the contracting officer.

Other Requirements

7D.486 (1994-06-23) For all other requirements, notification to unsuccessful bidders prior to contract award should only take place in unusual situations. Contracting officers may only notify unsuccessful bidders prior to award of the contract for contracts within their own contract approval authority and only after consideration of risks, such as:

- (a) delays which could be encountered due to an unsuccessful bidder attempting to contest the proposed award;
- (b) complications if the proposed contractor attempts to take advantage of the situation by revising its original offer;
- (c) unforeseen circumstances which could make it necessary to reconsider the selection of the successful bidder, in which case previously notified unsuccessful bidders might not sustain their original offers.

Particular care is required where bid validity periods may require extension. (See [7D.460.](#))