Federal Acquisition Regulation

shall be rejected, except as otherwise provided in 28.101–4.

(k) The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved with the papers relating to the acquisition.

(l) After submitting a bid, if all of a bidder’s assets or that part related to the bid are transferred during the period between the bid opening and the award, the transferee may not be able to take over the bid. Accordingly, the contracting officer shall reject the bid unless the transfer is effected by merger, operation of law, or other means not barred by 41 U.S.C. 15 or 31 U.S.C. 3727.


14.404–3 Notice to bidders of rejection of all bids.

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

14.404–4 Restrictions on disclosure of descriptive literature.

When a bid is accompanied by descriptive literature (as defined in 2.101), and the bidder imposes a restriction that prevents the public disclosure of such literature, the restriction may render the bid nonresponsive. The restriction renders the bid nonresponsive if it prohibits the disclosure of sufficient information to permit competing bidders to know the essential nature and type of the products offered or those elements of the bid that relate to quantity, price, and delivery terms. The provisions of this paragraph do not apply to unsolicited descriptive literature submitted by a bidder if such literature does not qualify the bid (see 14.202–5(e)).


14.405 All or none qualifications.

Unless the solicitation provides otherwise, a bid may be responsive notwithstanding that the bidder specifies that award will be accepted only on all, or a specified group, of the items. Bidders shall not be permitted to withdraw or modify all or none qualifications after bid opening since such qualifications are substantive and affect the rights of other bidders.

14.405 Minor informalities or irregularities in bids.

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation 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 supplies or services being acquired. The contracting officer either shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the Government. Examples of minor informalities or irregularities include failure of a bidder to—

(a) Return the number of copies of signed bids required by the invitation;
(b) Furnish required information concerning the number of its employees;
(c) Sign its bid, but only if—
   (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 a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature;
(d) Acknowledge receipt of an amendment to an invitation for bids, but only if—
(1) The bid received clearly indicates that the bidder received the amend-
ment, such as where the amendment added another item to the invitation 
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; and
(e) Execute the representations with 
respect to Equal Opportunity and Af-
firmative Action Programs, as set 
forth in the clauses at 52.222–22, Pre-
vious Contracts and Compliance Re-
ports, and 52.222–25, Affirmative Action 
Compliance.

[48 FR 42171, Sept. 19, 1983, as amended at 55 
64 FR 10532, Mar. 4, 1999]

14.406 Receipt of an unreadable elec-
tronic bid.

If a bid received at the Government 
facility by electronic data interchange 
is unreadable to the degree that con-
formance to the essential requirements 
of the invitation for bids cannot be 
ascertained, the contracting officer im-
mediately shall notify the bidder that 
the bid will be rejected unless the bid-
der provides clear and convincing evi-
dence—
(a) Of the content of the bid as origi-
nally submitted; and
(b) That the unreadable condition of 
the bid was caused by Government 
software or hardware error, malfunc-
tion, or other Government mis-
handling.

[60 FR 34738, July 3, 1995]

14.407 Mistakes in bids.

14.407–1 General.

After the opening of bids, contracting 
officers shall examine all bids for mis-
takes. In cases of apparent mistakes 
and in cases where the contracting offi-
cer has reason to believe that a mis-
take may have been made, the con-
tracting officer shall request from the 
bidder a verification of the bid, calling 
attention to the suspected mistake. If 
the bidder alleges a mistake, the mat-
ter shall be processed in accordance 
with this section 14.407. Such actions 
shall be taken before award.

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

14.407–2 Apparent clerical mistakes.

(a) Any clerical mistake, apparent on 
its face in the bid, may be corrected by 
the contracting officer before award. 
The contracting officer first shall ob-
tain from the bidder a verification of 
the bid intended. Examples of apparent 
mistakes are—
(1) Obvious misplacement of a dec-
imal point;
(2) Obviously incorrect discounts (for 
example, 1 percent 10 days, 2 percent 20 
days, 5 percent 30 days);
(3) Obvious reversal of the price f.o.b. 
destination and price f.o.b. origin; and
(4) Obvious mistake in designation of 
unit.
(b) Correction of the bid shall be ef-
fected by attaching the verification to 
the original bid and a copy of the 
verification to the duplicate bid. Cor-
rection shall not be made on the face of 
the bid; however, it shall be reflected 
in the award document.
(c) Correction of bids submitted by 
electronic data interchange shall be ef-
fected by including in the electronic 
solicitation file the original bid, the 
verification request, and the bid 
verification.

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

14.407–3 Other mistakes disclosed be-
fore award.

In order to minimize delays in con-
tract awards, administrative deter-
minations may be made as described in 
this 14.407–3 in connection with mis-
takes in bids alleged after opening of 
bids and before award. The authority 
to permit correction of bids is limited 
to bids that, as submitted, are respon-
sive to the invitation and may not be 
used to permit correction of bids to 
make them responsive. This authority 
is in addition to that in 14.407–2 or that 
may be otherwise available.
(a) If a bidder requests permission to 
correct a mistake and clear and con-
vincing evidence establishes both the 
existence of the mistake and the bid 
actually intended, the agency head