

## Federal Property Management Regulations

## § 101-47.304-14

(e) Copies of the Administrator of General Services' transmittal letters to the committees of the Congress, §101-47.304-12(d), will be furnished to the disposal agency.

(f) In the absence of adverse comment by an appropriate committee or subcommittee of the Congress on the proposed negotiated disposal, the disposal agency may consummate the sale on or after 35 days from the date of the Administrator of General Services letters transmitting the explanatory statement to the committees.

[29 FR 16126, Dec. 3, 1964, as amended at 41 FR 22354, June 3, 1976; 54 FR 12198, Mar. 24, 1989]

### § 101-47.304-13 Provisions relating to asbestos.

Where the existence of asbestos on the property has been brought to the attention of the disposal agency by the Standard Form 118 information provided in accordance with §101-47.202-2)(b)(9), the disposal agency shall incorporate such information (less any cost or time estimates to remove the asbestos-containing materials) in any Invitation for Bids/Offers to Purchase and include the following:

#### NOTICE OF THE PRESENCE OF ASBESTOS— WARNING!

(a) The Purchaser is warned that the property offered for sale contains asbestos-containing materials. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

(b) Bidders (Offerors) are invited, urged and cautioned to inspect the property to be sold prior to submitting a bid (offer). More particularly, bidders (offerors) are invited, urged and cautioned to inspect the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The disposal agency will assist bidders (offerors) in obtaining any authorization(s) which may be required in order to carry out any such inspection(s). Bidders (Offerors) shall be deemed to have

relied solely on their own judgment in assessing the overall condition of all or any portion of the property including, without limitation, any asbestos hazards or concerns.

(c) No warranties either express or implied are given with regard to the condition of the property including, without limitation, whether the property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of any bidder (offeror) to inspect, or to be fully informed as to the condition of all or any portion of the property offered, will not constitute grounds for any claim or demand for adjustment or withdrawal of a bid or offer after its opening or tender.

(d) The description of the property set forth in the Invitation for Bids (Offer to Purchase) and any other information provided therein with respect to said property is based on the best information available to the disposal agency and is believed to be correct, but an error or omission, including but not limited to the omission of any information available to the agency having custody over the property and/or any other Federal agency, shall not constitute grounds or reason for nonperformance of the contract of sale, or any claim by the Purchaser against the Government including, without limitation, any claim for allowance, refund, or deduction from the purchase price.

(e) The Government assumes no liability for damages for personal injury, illness, disability or death, to the Purchaser, or to the Purchaser's successors, assigns, employees, invitees, or any other person subject to Purchaser's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the property which is the subject of this sale, whether the Purchaser, its successors or assigns has or have properly warned or failed properly to warn the individual(s) injured.

(f) The Purchaser further agrees that in its use and occupancy of the property it will comply with all Federal, state, and local laws relating to asbestos.

[53 FR 29894, Aug. 9, 1988]

### § 101-47.304-14 Provisions relating to hazardous substance activity.

(a) Where the existence of hazardous substance activity has been brought to the attention of the disposal agency by the Standard Form 118 information provided in accordance with §101-47.202-2)(b)(10), the disposal agency shall incorporate such information into any Invitation for Bids/Offers to Purchase and include the following statements:

## § 101-47.305

Notice regarding hazardous substance activity:

The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), 42 U.S.C. section 9620(h).

The (holding agency) advises that (provide information on the type and quantity of hazardous substances; the time at which storage, release, or disposal took place; and a description of the remedial action taken).

All remedial action necessary to protect human health and the environment with respect to the hazardous substance activity during the time the property was owned by the United States has been taken. Any additional remedial action found to be necessary shall be conducted by the United States.

(b) In the case where the purchaser is a potentially responsible party (PRP) with respect to the hazardous substance activity, the above statements must be modified as appropriate to properly represent the liability of the PRP for any remedial action.

[56 FR 15048, Apr. 15, 1991]

### § 101-47.305 Acceptance of offers.

#### § 101-47.305-1 General.

(a) When the head of the disposal agency or his designee determines that bid prices (either as to all or some part of the property) received after advertising therefor or received in response to the action authorized in paragraph (b) of this § 101-47.305-1, are reasonable, i.e., commensurate with the fair market value of the property, and were independently arrived at in open competition, award shall be made with reasonable promptness by notice to the bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. Any or all offers may be rejected when the head of the disposal agency or his designee determines it is in the public interest to do so.

(b) Where the advertising does not result in the receipt of a bid at a price commensurate with the fair market value of the property, the highest bidder may, at the discretion of the head of the disposal agency or his designee and upon determination of responsiveness and bidder responsibility, be afforded an opportunity to increase his

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offered price. The bidder shall be given a reasonable period of time, not to exceed fifteen working days, to respond. At the time the bidder is afforded an opportunity to increase his bid, all other bids shall be rejected and bid deposits returned. Any sale at a price so increased may be concluded without regard to the provisions of § 101-47.304-9 and § 101-47.304-12.

(c) The disposal agency shall allow a reasonable period of time within which the successful bidder shall consummate the transaction and shall notify the successful bidder of the period allowed.

(d) It is within the discretion of the head of the disposal agency or his designee to determine whether the procedure authorized by paragraph (b) of this § 101-47.305-1 is followed or whether the bids shall be rejected and the property reoffered for sale on a publicly advertised competitive bid basis in accordance with the provisions of § 101-47.304-7, or disposed of by negotiation pursuant to § 101-47.306-1, or offered for disposal under other applicable provisions of this subpart 101-47.3.

[29 FR 16126, Dec. 3, 1964, as amended at 50 FR 25223, June 18, 1985]

#### § 101-47.305-2 Equal offers.

*Equal offers* means two or more offers that are equal in all respects, taking into consideration the best interests of the Government. If equal acceptable offers are received for the same property, award shall be made by a drawing by lot limited to the equal acceptable offers received.

#### § 101-47.305-3 Notice to unsuccessful bidders.

When an offer for surplus real property has been accepted, the disposal agency shall notify all other bidders of such acceptance and return their earnest money deposits, if any.

#### § 101-47.306 Absence of acceptable offers.

##### § 101-47.306-1 Negotiations.

(a) When the head of the disposal agency or his designee determines that bid prices after advertising therefor (including the action authorized by the provisions of § 101-47.305-1(b)) are not reasonable either as to all or some part