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**Comptroller General  
of the United States**

Washington, D.C. 20548

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## **Decision**

**Matter of:** DeLancey Printing

**File:** B-277698

**Date:** November 12, 1997

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M. J. Mintz, Esq., and Robert J. Moss, Esq., Dickstein, Shapiro, Morin & Oshinsky, for the protester.

Kerry L. Miller, Esq., Government Printing Office, for the agency.

Wm. David Hasfurther, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Where IFB stated that prices submitted signified request for offers of product quality level IV requirements and that to receive additional offers of level III requirements bidders had to check box requesting offers for production of both product quality level III and IV requirements, agency reasonably concluded that since bidder did not check box, it had elected to receive only level IV requirements.

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### **DECISION**

DeLancey Printing protests the decision by the Government Printing Office (GPO) not to issue quality level III orders to the firm under invitation for bids (IFB) No. 814-M.<sup>1</sup> DeLancey argues that the GPO improperly found its bid nonresponsive for level III orders since the question of whether DeLancey is qualified to do level III work concerns its responsibility. DeLancey also argues that the IFB contains a latent ambiguity, which requires the IFB to be canceled and GPO's needs to be resolicited.

We deny the protest.

The IFB, issued on June 20, 1997, requested prices for GPO printing requirements for books and pamphlets. While the IFB stated that the work would be either product quality level III or IV, bidders were to submit prices only for the quality level IV work. The IFB advised bidders that prices for level III needs would be

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<sup>1</sup>GPO has implemented a quality assurance through attributes program (QATAP) to ensure that products printed by contractors satisfy objectively measured quality levels. QATAP contains five product quality levels. Level III is good quality and Level IV is basic quality. See Shepard Printing, B-260362 et al., June 6, 1995, 95-2, CPD ¶ 119 at 2.

priced at 5 percent higher than the prices bid for level IV. On the last page (page 29) of the IFB was the following provision:

Submission of prices in the Schedule of Prices signifies a request for offers of quality level IV requirements. To receive additional offers of quality level III requirements, check the box below:

☐ I request offers for production of quality level III and IV requirements.

DeLancey's bid included page 29 of the IFB. However, Delancey did not check the box to show that it requested orders for level III work as well as level IV work. As a result, the GPO determined that DeLancey bid for level IV orders only.

DeLancey argues that the rejection of its bid as nonresponsive for level III orders was improper since the question of whether it could perform level III work concerns the firm's responsibility. It also argues that its failure to check the box to show that it requested an award for level III work was a correctable mistake.

We believe that the GPO correctly determined that on the basis of its bid, DeLancey could receive orders for level IV work, but not for level III work. The IFB provision clearly states that orders will be offered for level IV work only unless the bidder checks the box to show that it also requests orders for level III work. The provision has nothing to do with whether a bidder is qualified to perform at the designated quality level. Simply, by not checking the box, under the plain language of this provision, DeLancey bid for level IV orders only.

We also find without merit the contention that DeLancey should be permitted to correct its bid to show that it will accept level III orders. As discussed above, DeLancey submitted a bid only for level IV orders. It now, in essence, wants to submit another bid for level III work--after bid opening has taken place. Where the correction of a bid would permit the bidder to submit a new bid after bid opening, that correction may not be permitted. Apex Micrographics, Inc., B-235811, Aug. 31, 1989, 89-2 CPD ¶ 205 at 3.

In its comments on GPO's report to our Office, DeLancey argued that the provision in question contains a latent ambiguity which requires the solicitation to be canceled and the procurement readvertised after the ambiguity is corrected. This argument is both untimely and lacking in merit. In its comments on the agency report, DeLancey argued that, in response to the protest, GPO had "manufactured a new interpretation of the IFB" and that the agency "now claims that bidders were required to check the box on page 29 of the IFB in order to receive any Level III orders." (Emphasis in original.) DeLancey claims that this "new" interpretation created a latent ambiguity that misled bidders, including the protester. The allegation that the agency's interpretation had created a latent ambiguity is untimely, since it was not filed within 10 days after it was known.

4 C.F.R. § 21.2(a)(2) (1997). In its initial protest, DeLancey had complained that the agency had improperly found that, because the firm had not checked the box on page 29 of the IFB, the firm would not be considered for any Level III requirement. DeLancey was thus aware at the time it filed its protest that the agency's interpretation was that bidders were required to check the box on page 29 of the IFB in order to receive any Level III orders. DeLancey did not allege an ambiguity at that time, and it could not do so for the first time in response to the agency report.

In any event, in order for an ambiguity--patent or latent--to exist, the language leading to the alleged ambiguity must be shown to have two or more reasonable meanings. MLC Fed., Inc., B-254696, Jan. 10, 1994, 94-1 CPD ¶ 8 at 5, and DeLancey has not shown any reasonable meaning of the provision at issue other than the one adopted by GPO. While DeLancey focuses on the word "additional" in the provision and suggests that it implies that anyone submitting a bid was automatically bidding on both quality level III and quality level IV requirements, in our view, that interpretation is unreasonable. The sentence after the box ("I request offers...") makes clear that checking the box was necessary to receive any level III production offers.

The protest is denied.

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of the United States