

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

21369

FILE: B-186733

DATE: August 19, 1976

98656

MATTER OF: Coronis Construction Company; Nickerson &
O'Day, Inc.; and Thomas Construction Corporation

DIGEST:

1. Where IFB requires contract be performed within 185 days following notice to proceed and bidder, in extending bid acceptance period, states certain work cannot be performed until early spring, bidder has taken exception to required delivery schedule and rendered bid nonresponsive.
2. Bid which fails to list proposed subcontractors in response to IFB containing requirement for subcontractor listing is nonresponsive and post-bid-opening submission of information does not cure bid defect as bid responsiveness is determined from face of bid as submitted.

On April 5, 1976, the United States Property and Fiscal Officer, National Guard Bureau, Department of the Army and the Air Force, issued invitation for bids (IFB) No. DAHA17-76-B-0003 for the renovation of a hangar at Bangor International Airport, Bangor, Maine.

The following three low bids were received in response to the IFB:

Coronis Construction Company	\$643,937
Nickerson & O'Day, Inc.	649,000
Thomas Construction Corporation	684,340

Thomas Construction Corporation (Thomas) has protested the consideration of the bids of Coronis Construction Company (Coronis) and Nickerson & O'Day, Inc. (Nickerson), for award contending that both bids are nonresponsive.

While Thomas' protest is based on the failure of the Coronis bid to comply with the subcontractor listing requirement contained in the IFB, we do not find it necessary to consider this issue in determining the responsiveness of Coronis' bid for the following reason.

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On June 18, 1976, the procuring activity contacted Coronis and requested that Coronis extend its bid for an additional 30 days. In its letter of June 23, 1976, responding to the request for bid extension, Coronis stated:

"We have called the door manufacturers and discussed delivery schedules. With the delay already created, the manufacturers have advised that delivery and installation of the hangar doors is very unlikely to be accomplished prior to winter weather. We believe it impractical to attempt installation of the hangar doors during the winter. Therefore, we agree to extending the bid acceptance period, provided the doors may be installed early next spring."

The IFB required that the contract be performed not later than 185 days following the date of the notice to proceed. It is well established that a bid which fails to meet the delivery schedule set by an invitation must be rejected as deviating from the material requirements of the IFB. A.C. Ball Company, B-185034, April 13, 1976, 76-1 CPD 249. Therefore, because of the exception taken to the delivery schedule in the IFB, Coronis' bid is nonresponsive and ineligible for award.

Regarding the bid of Nickerson, Thomas contends that it is nonresponsive because of the failure of Nickerson to list its proposed subcontractors in its bid. As aforesaid, the IFB contained a requirement that bidders list their proposed subcontractors with the subcontract prices. On its bid where the list was to be furnished, Nickerson placed an "X" through the form. When contacted by the contracting officer following bid opening, Nickerson advised that it was an oversight that this information was not furnished and verbally advised the contracting officer of its subcontractors and confirmed it in writing.

We have been advised by the procuring activity that it considers Nickerson's bid nonresponsive and we agree. The subcontractor listing requirement is intended to preclude post-award "bid shopping," i.e., the seeking after award by a prime contractor of lower price subcontractors than those originally considered in the formulation of its bid price. It is, therefore, a material requirement pertaining to

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bid responsiveness. 54 Comp. Gen. 159 (1974). Accordingly, the failure of Nickerson to furnish the required information rendered its bid nonresponsive and as bid responsiveness is determined from the bid itself as submitted, the post-bid-opening submission of the names of the subcontractors does not cure the defect. Piland Construction Company, Inc., B-183077, April 25, 1975, 75-1 CPD 262.

For the foregoing reasons, the protest of Thomas is sustained.

A handwritten signature in dark ink, appearing to read "R. F. K...", is written above the typed name.
Deputy Comptroller General
of the United States