

01309

DECISION



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

FILE: B-187539

DATE: November 17, 1976

MATTER OF: James W. Boyer Company

DIGEST:

Insertion of "no bid" next to schedule line item creates doubt as to intention of bidder to furnish item and renders bid nonresponsive.

James W. Boyer Company (Boyer) protests the rejection of its bid under solicitation No. R6-100-45 issued by the Forest Service, United States Department of Agriculture (Forest Service), for the construction of the Tree Cooler Storage Facility at Beaver Creek Seed Orchard, Siuslaw National Forest, Renton County, Oregon. Boyer complains that its low bid was improperly rejected because the contracting officer determined incorrectly that its bid was ambiguous and, therefore, nonresponsive.

The relevant portion of the bid submitted by Boyer was as follows:

"SCHEDULE OF ITEMS

"Before preparing your bid proposal, read instructions carefully. Insert an amount bid opposite each item.

<u>"ITEM NO.</u>	<u>DESCRIPTION</u>	<u>UNIT</u>	<u>AMOUNT BID</u>
"109(01)	Design, Furnishing, and Erection of Tree Cooler and Storage Building Including all facilities in accordance with Specifications and Drawings, except for Asphalt Pavement Surfacing.	LUMP SUM	\$215,686

Total Base Bid \$215,686

"DEDUCTIVE ITEM

"109(02)	Asphalt Pavement Surfacing	LUMP SUM	<u>\$No bid</u>
		TOTAL ALL ITEMS	<u>\$215,686</u>

"The Government reserves the right to award to the lowest acceptable bid for total of all items,

OR

"The lowest total acceptable bid excluding the deductive item. Award will not be made for less than the total base bid."

At bid opening on September 21, 1976, it was announced that Boyer was the apparent low bidder. The Forest Service decided to make award for all items including the deductive item. Upon further consideration of the bids in this light, the Forest Service determined that Boyer's was nonresponsive because the insertion of "no bid" opposite the deductive item rendered the bid ambiguous and therefore unacceptable for award:

"We believe that your insertion of an identical amount of \$215,686.00 as your bid for both the Total Base Bid and for the TOTAL ALL ITEMS, and your failure to insert an amount for the deductive item, rather than "No Bid" is not free ambiguity. Your use of "No Bid", rather than an amount, could be interpreted to mean you did not intend to furnish the deductive item, Asphalt Pavement Surfacing, and that your insertion of your Total Base Bid amount of \$215,686.00 in the space for TOTAL ALL ITEMS only indicates your bid for all items on which you were bidding. On the other hand, it could reasonably be interpreted that you intended to furnish all items, including the deductive item, for the amount of \$215,686.00. Thus, we are unable to find a clear indication in your bid as to what you intended."

Boyer argues that it submitted the lowest bid excluding the asphalt pavement surfacing and the lowest bid including the asphalt surfacing. Boyer maintains that it offered to do the job with or without the asphalt pavement surfacing for \$215,686.

B-187539

According to this view, acceptance of Boyer's bid would contractually bind that bidder to perform all the work at the lowest price offered.

We do not agree with Boyer that its insertion of the words "No bid" indicated that it would furnish the deductive item at no charge. We have recognized that a bidder's intention to furnish an item at no cost to the Government may be expressed in various ways, such as the insertion in the bid schedule of the symbol "0", 40 Comp. Gen. 321 (1960), or of dashes. Dyneteria, Inc., et al., 54 Comp. Gen. 345 (1974), 74-2 CPD 240; 48 Comp. Gen. 757 (1969). The term "No bid", however, normally is regarded as expressing a bidder's intention not to furnish an item rather than to furnish the item at no charge. See, e.g., Robert Gay Construction Company, B-184316, August 25, 1975, 75-2 CPD 124. Thus, we agree with the contracting officer that the Boyer bid was, at best, ambiguous in that the "No bid" inserted by Boyer for the deductive item could mean that Boyer did not intend to furnish the deductive item. See Ingersoll-Rand Company, B-183680, August 13, 1975, 75-2 CPD 107, where we held that the insertion of the words "DOES NOT APPLY" next to certain line items rendered the bid ambiguous, despite the bidder's assertion that it meant "no charge."

Where a bid is subject to two interpretations, and there is a substantial question as to whether the bidder, upon award, could be required to perform all of the work called for, the bid must be rejected. 51 Comp. Gen. 543 (1972). While Boyer may have intended to perform the asphalt pavement surfacing at no charge, a bidder's intention must be determined from the bid itself at the time of bid opening, Joseph Pollack Corporation, B-185890, June 29, 1976, 76-1 CPD 418, and cases cited therein, since to permit a bidder to explain the meaning of its bid after bid opening would serve to undermine the integrity of the bidding system and cause overall harm to the system of competitive bidding despite the immediate advantage gained by a lower price in the particular procurement. Rix Industries, B-184603, March 31, 1976, 76-1 CPD 210; Ingersoll-Rand Company, supra.

For the reasons stated above, it is our view that the Boyer bid was properly rejected as nonresponsive. The protest, therefore, is denied.

Deputy


Comptroller General
of the United States