

DOCUMENT RESUME

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[Evaluation of Ambiguous Bid Price]. B-188967. May 26, 1977. 3 pp.

Decision re: Tennessee Lithographing Co.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: General Government: Other General Government (806).

Organization Concerned: Government Printing Office.

Authority: B-185890 (1976). B-184603 (1976).

The Government Printing Office requested an advance decision with respect to a bid for the printing and binding of books and pamphlets. The insertion of "25%" where the bidder was required to indicate that he was bidding either basic price plus a percentage, minus a percentage, or without change, created ambiguity which could not be resolved from the bid itself. The bidder should not be allowed to explain the meaning of the bid when he is in a position to prejudice the other bidders by clarifying his bid after bid opening. The contracting officer's evaluation of the bid as plus 25% was proper. (Author/SC)

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Paul Sherry
Pratt

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20540

FILE: B-188967

DATE: May 26, 1977

MATTER OF: Tennessee Lithographing Company

DIGEST:

Insertion of "25%" where bidder was required to indicate that he was bidding either basic price plus a percent, minus a percent or without change, created ambiguity which could not be resolved from the bid itself. Bidder should not be allowed to explain meaning of bid when he is in position to prejudice other bidders by clarifying bid after bid opening. Contracting officer's evaluation of bid as plus 25 percent was proper.

The Government Printing Office (GPO) has requested an advance decision with respect to a bid submitted by Tennessee Lithographing Company (Tennessee) in response to GPO Program 202-M.

Program 202-M, a solicitation for bids for the printing and binding of books and pamphlets during the 1-year period scheduled to commence on May 1, 1977, was issued to 59 firms on March 1, 1977. Bids were invited under two categories, A and B, with the former covering printing and binding orders of 2,000 or less and the latter covering these same requirements for orders of 2,001 or more. Numerous awards were contemplated under each of the two categories and in accordance therewith the solicitation advised that in placing orders GPO would offer each job to the low contractor first, the next low contractor second, and so on until a job was accepted.

The solicitation contained a predetermined base price which in conjunction with Section 3.4 of the solicitation, comprised the format for the submission of bids. Section 3.4 advised bidders:

"(a) For each category on which the bidder wishes to bid he shall enter on the applicable line below one of the following: Basic Prices minus a percent; or Basic Prices without change; or Basic Prices plus a percent. He may bid on either one or both categories.

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"(ii) The bidder quotes as follows:

- (1) Category A (2,000 copies or less) _____
- (2) Category B (2,001 copies or more) _____ "

At bid opening on April 1, 1977, 37 responses were received for Category A including Tennessee's submission of "25%" with no indication of whether it intended a plus or minus bid. It is noted that Tennessee entered "no discount" for Category B. The GPO evaluated the "25%" as a plus bid and after examining all Category A submissions advised Tennessee that it was in 26th position in the sequence of bidders. Thereafter, Tennessee, after being informed of GPO's determination, protested that its intent in entering "25%" for Category A was to offer a 25 percent discount.

Tennessee submitted an affidavit to GPO in support of its contention and also indicated that in filling out the instant solicitation it followed the format for the previous year. Additionally, Tennessee argued that its entry of "no discount" for Category B reinforced its contention that Category A was intended as a 25 percent discount. On April 21, 1977, GPO advised Tennessee that there was no continuation of pricing from the previous year to indicate an intended bid of "minus 25%" and that since there was no other evidence of intent the Category A bid would be considered as plus 25 percent. The following day Tennessee protested to the Public Printer who, by letter dated April 28, 1977, requested our advice as to whether Tennessee's bid could be corrected to minus 25 percent.

At the outset we note that in his April 28th letter to our Office the Public Printer has inquired as to whether Tennessee's bid may be corrected. In this connection the Public Printer has indicated that Tennessee intended to bid minus 25 percent but that correction may not be permitted as a determination could not be made from the face of the bid as to what the bidder actually intended.

We do not think correction of Tennessee's bid is appropriate in the circumstances of the instant case. While Tennessee may have intended to offer a 25 percent discount for Category A, a bidder's intention must be determined from the bid itself at 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

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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. We agree with GPO's finding that a determination could not be made from the face of the bid as to whether Tennessee intended to bid plus 25 percent or minus 25 percent by inserting "25%" for Category A. Since the "25%" indicated by Tennessee was subject to two reasonable interpretations GPO acted without prejudice to other bidders in evaluating Tennessee's bid as plus 25 percent. Rix Industries, supra. Moreover, we do not think Tennessee's "no discount" submission for Category B clarified the Category A ambiguity.

We do not believe that the amount bid by Tennessee in the previous year and under different management can be considered in evaluating Tennessee's bid for this year. Parenthetically, we note that the copies of Tennessee's bid for last year submitted by that firm and GPO differ. GPO's copy of Tennessee's 1976 bid, which resulted in a contract, shows the bid for Category A to be "minus 25%". Tennessee's copy of its bid for the previous year simply shows its Category A bid as "25%". Each copy is handwritten and there are a number of instances in which the details of the handwriting are not identical. From these circumstances, we surmise that the copy kept by Tennessee in its files was not a carbon copy of the bid it submitted, but an inaccurate transcription of that bid upon a blank form. In his request for relief, Tennessee's present owner states that "the copy for 1976-77 which was on file was used as a guide (notice that plus or minus was not shown) * * *." This would explain why Tennessee thought its present bid was consistent with last year's bid when in fact its bid for last year which was accepted by GPO stated a discount of "minus 25%".

For the reasons stated above, it is our view that Tennessee's bid was properly evaluated by GPO as plus 25 percent.

R. F. Kelly
Deputy Comptroller General
of the United States