

Hordell  
P.L.I

**DECISION**



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

04695

FILE: B-189869

DATE: December 22, 1977

MATTER OF: Yonker, Inc.

**DIGEST:**

Low bidder who submitted bid which listed prices for all items except one, where dashes were inserted, has submitted responsive bid since the dashes were unambiguous affirmative act which evidenced bidder's awareness of requirement to include all items in bid and intent to obligate itself to perform the work described by item at no cost to Government.

Yonker, Inc. (Yonker), protests the award of a contract to Piling, Inc. (Piling), pursuant to invitation for bids No. DACW64-77-B-0075 for levees in Freeport and Vicinity, Texas, issued by the United States Army Corps of Engineers (Corps), Galveston District. Specifically, Yonker contends that Piling's bid is disqualified since Piling failed to complete the bidding schedule in accordance with the Instructions to Bidders (Standard Form 22) by not submitting a price for item 15 (watering) in the schedule. Additionally, Yonker argues that by inserting dashes, for that item, Piling had the option to claim it did not intend to be bound to furnish the item, or to argue that it meant to furnish it at no charge, or that it made a mistake and intended to charge for it.

The solicitation contained a single bidding schedule (Schedule No. ) which contained 17 separate items, with space available for the bidders to list the unit and estimated total price next to each item. Piling's bid listed the unit and estimated total price next to all of the items except item 15 where dashes were placed under each column as follows:

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Estimated Total</u>
15	Watering	140	Gal.	\$----	\$----

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The bidding schedule on page BS-3, section 2, instructed the bidders regarding the completion of Schedule No. 1 as follows:

"Bidder must bid on no less than a complete schedule and must quote on all items of the schedule(s) for which a bid is submitted. Failure to do so will disqualify the bid."

Additionally, Standard Form 22 at section 5(b), included in the bid package, read in pertinent part:

"\* \* \* Where the bid form explicitly requires that the bidder bid on all items, failure to do so will disqualify the bid. \* \* \*"

The issue therefore is whether Piling's bid is responsive to the invitation. More specifically, does the bid comply with the requirement, stated above, that a "quote" must be made on all items of the schedule, thus obligating Piling to furnish all of the work described in Schedule No. 1.

Piling submitted a bid which listed prices for all of the 17 items except one for which it entered dash lines. The bid totaled \$1,175,232 and next to this total, on the bid schedule, was the phrase "Total Schedule No. 1," with, we note, no stated exceptions or limitations. In our view, the only reasonable conclusion to be drawn from Piling's bid is that Piling decided to furnish item 15 at no cost to the Government and Piling was aware that each item, listed under the schedule, required an insertion next to it in order to comply with section No. 2, above, and, therefore, it inserted dashes next to item 15. We believe that the thrust of section No. 2 is to make certain that the bidders bid on a complete schedule, omitting none of the listed items from the bid.

Section No. 2 does not require that a specific price be placed next to each item; nor does it preclude the use of an acceptable symbol with the unambiguous connotation of no charge or cost. However, it does require that a bid on its face indicate that all the

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listed items in the schedule are included. This can be accomplished by the insertion of a price, symbol or phrase (an unambiguous affirmative act) next to each item which would evidence the bidder's intent to obligate itself to perform the work described by each item. Anything less would render the bid nonresponsive, since the bid as submitted would be an offer to perform, with exceptions, that which is called for in the invitation and, therefore, upon acceptance would not bind the contractor to perform in accordance with all the terms and conditions thereof. See 49 Comp. Gen. 553, 556 (1970).

Our Office has also 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 "O", 40 Comp. Gen. 321 (1960), or of dashes, Dyneteria, Inc., et al., 54 Comp. Gen. 345 (1974), 74-2 CPD 240. In 48 Comp. Gen. 757 (1969), at page 762, we set forth guidelines for evaluating whether a bidder intends to furnish an item at no charge:

\* \* \* First, the bidder was aware of the necessity to insert something next to the item; in other words, the bidder had not overlooked the item. Second, after considering the matter, the bidder decided not to insert a price for the item. The affirmative corollary is that the bidder obligated itself to furnish the data without cost to the Government. Therefore, while there is no explicit indication that the data was to be supplied at no cost, the bidder's intent to do so was clear and the failure to state this intent in a more positive fashion did not render the bid nonresponsive. \* \* \*

Based on the foregoing, we find that Piling's bid was responsive, obligating it to perform all the work described in Schedule No. 1. Consequently, there is

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no basis for disturbing the award made by the Corps and  
the protest is, therefore, denied.

*R. G. Kelly*  
Deputy Comptroller General  
of the United States