

Proc. II

DECISION



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

9712

FILE: B-193193

DATE: April 3, 1979

MATTER OF: Goodway Graphics of Virginia, Inc.

DLG 01409

DIGEST:

[Bid which omitted price for ¹ ~~one~~ of ⁴⁰ ~~forty~~ items was properly found to be nonresponsive where solicitation required bidder to bid on all items listed, because omission affected bidder's basic obligation to deliver supplies being procured.

Goodway Graphics, of Virginia, Inc. (Goodway) protests the rejection of its bid as nonresponsive under a U.S. Government Printing Office (GPO) solicitation for Program 298-S, an annual requirements-type contract for printing and binding. We find the Goodway bid to be nonresponsive to the solicitation's express requirement that each bidder bid on all items listed.

The facts are as follows:

The solicitation required bidders to insert prices in each blank on the schedule of prices in the solicitation and warned that failure to do so might result in the rejection of the bid as nonresponsive. The prices requested were for various operations which might be required for the manufacture of any given publication during the contract term, i.e., not all operations are necessarily required for all publications. The solicitation provided that the basis of award would be lowest total aggregate cost resulting from the application of the prices bid to the GPO's estimate of its four month requirements. GPO reports that the bids were abstracted as follows:

	BASIS OF AWARD	
	[4 months]	[1 year]
Goodway	\$47,051.10	[\$141,153.30]
Braceland Brothers, Inc.	56,444.33	[169,332.99]
Federal Lithograph Co.	59,889.12	[179,667.36]

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Goodway failed to quote one of the forty prices required by the schedule. The omitted price was for item IV(f) (strip-ins) which carried an evaluation weight of 16, indicative of a Government estimate for 48 strip-ins over the one year term of the contract. The record shows that Goodway's current GPO contract price for strip-ins is \$1.00. Thus, assuming that the bid for item IV(f) was intended to be \$1.00 the total cost of meeting GPO's estimated yearly requirement for this item would be \$48.00.

The contracting officer found the requirement for strip-ins to be significant and necessary for the completion of the contract and on that ground determined that the omission could not be waived as a minor informality or irregularity within the meaning of Federal Procurement Regulations § 1-2.405 (1964 ed.).

Where, as here, the IFB contains an explicit requirement that bidders insert prices for all items and warns that failure to do so could result in the bid's rejection, we have generally taken the position that the bid is to be rejected as nonresponsive. Garamond Pridemark Press, B-182664, February 21, 1975, 75-1 CPD 106; Dependable Janitorial Service and Supply, B-190231, January 3, 1978, 78-1 CPD 1.

"The rationale for these decisions is that where a bidder failed to submit a price for an item, he generally cannot be said to be obligated to perform that service as part of the other services for which prices were submitted. B-170680, October 6, 1970. * * *"
52 Comp. Gen. 604 (1973).

Thus a deficiency which goes to the substance of the bid by affecting the price of the item offered, is a major deviation which may not be waived. Abbott Power Corporation, B-186659, August 26, 1976, 76-2 CPD 193.

We have, however, recognized a limited exception to these rules:

"Basically, even though a bidder fails to submit a price for an item in a bid, that omission can be corrected if the bid, as submitted, indicates not only the probability of error but also the exact nature of the error and the amount intended. B-151332, June 27, 1963. The rationale for this exception is that where the consistency of the pricing pattern in the bidding documents establishes both the existence of the error and the bid actually intended, to hold that the bid is nonresponsive would be to convert what appears to be an obvious clerical error or omission to a matter of nonresponsiveness. B-157429, August 19, 1965.

"The decisions which have turned on this concept and which have allowed correction of omissions have generally involved bidding schedules soliciting bids on similar items. These decisions are based on the proposition that the bidder indicates his intent to bid a certain price for an item otherwise not bid upon by bidding the same amount for the same material in other parts of his bid." 52 Comp. Gen. at 606-8.

Goodway has argued that it falls within the scope of the limited exception set out above. However, we find Goodway's argument unconvincing because it is premised on our taking "judicial notice" of Goodway's pattern of bidding for other contracts. To meet the requirements of this exception a bid must on its face disclose the bidding pattern with regard to similar items, which is not the case here. 52 Comp. Gen., supra. For example, the schedule of prices (and Goodway's bid) is as follows:

"IV. NEGATIVES. - The prices quoted shall be all-inclusive for producing negatives in accordance with the terms of these specifications; and shall include the cost of all required materials and services as applicable. No charges will be allowed for films furnished by the Government.

Base Negatives: * * *

	<u>Per Negative</u>
(a) Page-size unit.....	\$ <u>1.00</u>

Illustration Negatives: * * *

(b) Line.....per illustration negative.....	\$ <u>1.50</u>
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(c) Square-finish halftone.....per illustration negative.....	<u>2.00</u>
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(d) Combination line halftone.....per illustration negative.....	\$ <u>5.00</u>
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Additional Charges:

(f) Strip-ins (including film).....each strip-in....[omitted price]

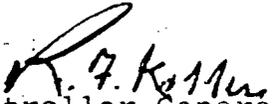
Charge under line (f) provides for making a negative (other than illustration) of folio line, signature line, imprint, or minor correction and stripping into position. Only one charge will be allowed for each strip-in regardless of the number of sides stripped together."

Negatives are used in the offset printing process to manufacture "printing plates" from which the final product is printed. Under the strip-in requirement the contractor would be required to prepare the necessary film (negative), cut the section out of the original negative where the additional or corrected material is to be inserted and insert the new or corrected material into the proper position. The modified or "stripped-in" negative would then be used to prepare the desired printing plate. Thus the strip-in requirement cannot be viewed as a "similar item" when compared to the other items in section IV of the invitation which are for the preparation of negatives alone. Therefore, we find the schedule of prices fails to support the contention that a pattern of bidding exists.

Aside from the foregoing, our decisions preclude the waiver of even trivial errors in cases dealing with omitted bid prices. Thus, GPO's determination not to waive the omission is consistent with our holding in Garamond, supra, a case dealing with the omission of a required price. There we found that the bidder's omission was a proper basis for rejection of the entire bid where the solicitation evidenced an intent to fill all solicitation requirements from a single source. We held that the omission both negated the basic obligation to furnish the particular supplies and ran counter to the Government's avowed intent to obtain its total requirement from one source. This was characterized as being a defect of more than a trivial or negligible nature without regard for the magnitude of the omission or its dollar impact on the overall procurement.

Goodway has also attempted to distinguish this case from others on the ground that the strip-in process is an integral part of the contractor's overall performance, the notion being that in order to deliver the finished product the strip-in process must be completed by the contractor whether or not a separate charge is made for the function. However, we have recently held that where services are listed as a separate item calling for a separate price a contractor can argue that it is not bound to perform the unbid item. General Engineering and Machine Works, Inc., B-190379, January 5, 1978, 78-1 CPD 9. Moreover, Goodway's bid, like General's bid, failed to indicate that it was Goodway's intent to bid "no charge." In our view, Goodway's failure to include a price for strip-ins may not be waived as a minor informality.

The protest is denied.


Deputy Comptroller General
of the United States