

Protest

**DECISION**



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

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FILE: B-194154

DATE: April 6, 1979

MATTER OF: Delora Haidle

DIGEST: *[Protest of Bid Rejection As Nonresponsive]*

Where solicitation requires janitorial services for period of 11 months, bid of \$4200 "per 12 months" is reasonably subject to interpretation that bid is conditioned upon performance for 12-month period, and was properly rejected as nonresponsive. Bid which may be subject to two reasonable interpretations, under one of which it would be responsive and under the other nonresponsive, must be rejected as ambiguous.

Delora Haidle protests award of a contract under Invitation for Bids (IFB) No. R1-14-79-5, issued by Kootenai National Forest, Forest Service. The procurement involves janitorial services for a period of 11 months. On January 27, 1979, Ms. Haidle was advised that award of a contract in the amount of \$4100 was made to to another bidder.

Ms. Haidle explains that her bid of \$4200 was based on the IFB as originally issued, which required janitorial services for a period of 12 months. After she had submitted her bid, Ms. Haidle received the amendment changing the period of performance to 11 months. She claims that she then called the contracting officer to ask whether, when acknowledging the amendment, she should indicate on the returned copy her price for the shortened period of performance. As a result of the phone conversation, Ms. Haidle believed that she should not submit her price for 11 months with her acknowledgment of the amendment. Instead, with her acknowledgment she confirmed her price of \$4200 "per 12 months," and assumed that her price would be prorated for the 11 months required by the IFB. She contends that she intended her bid to be \$3850 for the 11 month period, and that she clearly communicated

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the \$3850 price to the contracting officer during their phone conversation. For the reasons stated below we believe that Ms. Haidle's bid was nonresponsive and was properly rejected.

The responsiveness of a bid depends on whether a bidder unequivocally offers to strictly conform to the essential terms and specifications of the IFB, and must be determined from the face of the bid itself at the time of bid opening. United McGill Corporation and Lieb-Jackson, Inc., B-190418, February 10, 1978, 78-1 CPD 119. Further, a bidder may not explain the meaning of its bid after bid opening, because to permit such action would be tantamount to granting an opportunity to submit a new bid. Fire & Technical Equipment Corp., B-192408, August 4, 1978, 78-2 CPD 91. Thus, a non-responsive bid may not be corrected and it does not matter whether the failure to comply with the requirements of the IFB was due to inadvertence, mistake, or otherwise. Id.

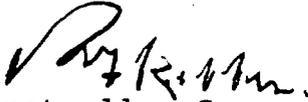
On its face, Ms. Haidle's bid of \$4200 "per 12 months" is not ambiguous, i.e., it was a bid for a 12-month contract. That bid is nonresponsive because it fails to conform to the requirement stated in the amended solicitation that janitorial services be provided for an 11-month period.

However, even assuming that because the bidder acknowledged receipt of the amendment shortening the performance period to 11 months her bid could be interpreted to mean the price for 11 months would be 11/12 of the amount bid, the bid still must be rejected. Where a bid is subject to two reasonable interpretations, under one of which it would be responsive and under the other nonresponsive, the bid must be rejected as ambiguous. Harco Inc., B-189045, August 24, 1977, 77-2 CPD 144. As indicated above, the bid could also be read as one offering only a 12-month performance period at a price of \$4200.

With regard to Ms. Haidle's allegation that she acted upon the oral advice of the contracting officer, we have frequently held that bidders rely on oral advice

at their own risk. E.g., NASCO Products Company, B-192116, November 27, 1978, 78-2 CPD 364. Further, Clause 3 of Standard Form 33-A, Solicitation Instruction and Conditions, specifically warns bidders that oral instructions given before the award of a contract will not be binding.

The protest is summarily denied.

  
Deputy Comptroller General  
of the United States