

17237

Geldner



DECISION

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

[Protest of Bid Rejection as Ambiguous]

FILE: B-200546

DATE: March 5, 1981

MATTER OF: Bill Strong Enterprises, Inc.

DIGEST:

Where bid is reasonably subject to more than one interpretation, only one of which makes bid low, bidder may not explain bid's meaning when it thereby would be in a position to prejudice other bidders.

Bill Strong Enterprises, Inc. (Strong), protests the rejection of its bid under invitation for bids (IFB) No. F41613-80-B-0024, issued by Carswell Air Force Base (Air Force) for repair of bathrooms. The Air Force rejected the bid as ambiguous as to the bid price and the work covered.

Based on the discussion which follows, we believe Strong's bid was ambiguous with regard to price and thus could not be considered for award.

Strong's original bid form was submitted on August 22, 1980, as follows:

"SCHEDULE OF ITEMS

- 1. BASIC BID: Furnish all material and labor necessary to accomplish repair of bathrooms in accordance with technical provisions and drawings as specified in TPLA-03(a)(1)

1 JB \$200,000.00

ADDITIVES:

- 2. Basic Bid (Item 1) plus work in TPLA-03 (a)(2)

1 JB \$215,000.00
- 3. (Item 2) plus work in TPLA-03 (a)(3)

1 JB \$235,000.00

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4. Item 3 plus work in TPLA-03
(a)(4) 1 JB \$255,000.00

ALTERNATES:

5. Basic Bid plus work in TPLA-03
(a)(3), TPLA-03(a)(4), and
TPLA-03(a)(5) 1 JB \$265,000.00
6. Item 5 with items as specified
in TPLA-03(a)(6) 1 JB \$275,000.00"

Following the issuance of the IFB, the contracting officer was advised by Air Force Headquarters that additive/deductive items were not authorized, and amendment No. 2 was issued deleting the schedule of items and combining items 1 through 4 in a lump-sum bid. Items 5 and 6 were deleted entirely.

Prior to bid opening, the following telegram was received by the Air Force from Strong requesting the Air Force to:

"DEDUCT \$49,046.00 FROM MY PREVIOUSLY
SUBMITTED WRITTEN BASIC BID ITEM
FOR WORK DETAILED IN AMENDMENT TWO.
AMENDMENT TWO IS ACKNOWLEDGED."

The Air Force states that since amendment No. 2 deleted the schedule of items and combined items 1 through 4 in a lump-sum bid, the deduction of \$49,046 was taken from the original bid item 4 which covered the work in items 1 through 4 at the stated price of \$255,000. The Air Force interpreted Strong's telegram to mean the deduction should be made from bid item 4, since the message stated "for work detailed in Amendment two" which was comparable to a lump-sum bid for the original bid items 1 through 4. Thus, Strong's lump-sum bid of \$205,954 made Strong the fourth lowest bidder.

Strong argues that the deduction should have been made from item 1, the basic bid under the solicitation as originally issued, which would have resulted in a bid of \$150,954 (basic bid of \$200,000 less the deduction of \$49,046). If Strong's position is correct, it would have been the lowest bidder.

We believe that Strong's bid is at best ambiguous with regard to price. We cannot say that the "plain language" of the bid favors one interpretation over the other.

In our view, it was reasonable for the Air Force to assume that "deduction from basic bid item * * * for work detailed in Amendment two" referred to Strong's bid price on item 4 which covered work comparable to the scope of work of amendment No. 2. Strong used the term "basic bid item"; however, none of the listed categories on the original schedule of items conforms with this term. If Strong meant that the Air Force should deduct from "1. Basic Bid," its intent is not necessarily clear, since the "basic bid" did not cover all work detailed in amendment No. 2.

On the other hand, we believe that one could reasonably argue that Strong's reference to "my previously submitted * * * basic bid item" meant the basic bid under the schedule of items in the original bid without regard to the scope of work under the basic bid item. Since amendment No. 2 deleted the schedule of items, it is arguable that Strong's incorporation of this bid form in its telegram was limited to use of the submitted price under the basic bid and that its acknowledgment of amendment No. 2 indicated its intent to perform all the work required by that amendment.

We have held that where a bid is reasonably subject to more than one interpretation, only one of which makes the bid low, the bidder may not explain the bid's meaning after bid opening when it thereby would be in a position to prejudice other bidders. We are more concerned with the overall harm to the system of competitive bidding which outweighs any possible immediate advantage gained by accepting the lower price in the particular procurement. 50 Comp. Gen. 302 (1970); Ed A. Wilson, Inc., B-188260, B-188322, August 2, 1977, 77-2 CPD 68; Inflated Products Co., Inc., and Brunswick Corporation, B-185058, August 9, 1976, 76-2 CPD 135; Rix Industries, B-184603, March 31, 1976, 76-1 CPD 210. Thus, in our view, the Air Force's rejection of Strong's bid as ambiguous was proper.

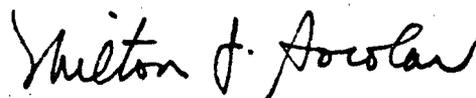
With regard to Strong's allegation that it acted on the basis of an oral understanding with the Air Force

B-200546

4

concerning the way its bid would be interpreted, we have stated that bidders rely on oral advice of a contracting officer at their own risk. Delores Haidle, B-194154, April 6, 1979, 79-1 CPD 213.

The protest is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States