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DECISION



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

FILE: B-202675

DATE: May 19, 1981

MATTER OF: Hooper Construction Company, Inc.

[Protest of Bid Rejection as Nonresponsive]

DIGEST:

Bid which is not accompanied by bid guarantee and which does not offer prices for additive items as required by IFB was properly rejected as nonresponsive.

Hooper Construction Company, Inc. protests the Department of Transportation's (DOT) award of a contract to ACMAT Corporation under invitation for bids (IFB) No. DOT-FR-TLACT1F. The IFB solicited bids for the renovation and rehabilitation of the Newark Pennsylvania (railroad) Station. Hooper asserts that it was the low bidder and was therefore entitled to the contract award. We find no merit to the protest.

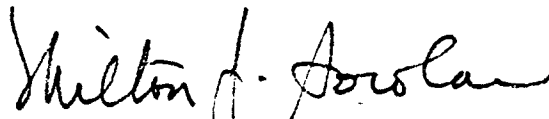
The IFB required bidders to submit a bid guarantee with their bids and to offer prices for the specified base item and six additives items; it also stated that award would be made to one bidder only. Although Hooper was the low bidder on the base item, we understand it failed to submit a bid guarantee with its bid or to offer prices for the additive items. DOT, therefore rejected Hooper's bid as nonresponsive and made award to ACMAT for the base item plus certain additives.

Because a bid guarantee requirement is a material part of the IFB, Harvey Bell, B-199779, October 16, 1980, 80-2 CPD 288, the Federal Procurement Regulations (FPR), at § 1-10.103-14 (1964 ed.), require (except in certain circumstances not applicable here) that a procuring activity reject a bid as nonresponsive that is not accompanied by the bid guarantee. Thus, the lack of the bid guarantee alone provides an adequate basis for the rejection of Hooper's bid.

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In addition, Hooper's bid was also rejected as nonresponsive for failure to offer prices for the additive items. In this regard, the IFB notified bidders that award would be made to the responsive, responsible bidder offering the low aggregate amount for the base item plus the additive items listed in the bidding schedule for which funds were available prior to award. The IFB also advised that, "Bidders who do not submit bids on the base bid item and all additive items shall be non-responsive." Thus, a bidder not bidding on the additive items specified in the solicitation ran the risk that its bid will be eliminated from consideration if the award were to include additive items for which no bid was made. Mitchell Brothers General Contractors, B-192428, August 31, 1978, 78-2 CPD 163. In this case, DOT's evaluation of ACMAT's bid in relation to funds available prior to award dictated the award of the base item plus four additive items. Hooper's bid was therefore properly rejected as nonresponsive for this reason also.

The protest is summarily denied since it is clear from the submission that it lacks legal merit.


Acting Comptroller General
of the United States