

DECISION

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

FILE: B-209456**DATE:** May 16, 1983**MATTER OF:** Bedouin Foresters**DIGEST:**

Solicitation indicated that work was to begin in October 1982, 10 days after issuance of Notice to Proceed. Bid which contains condition which limits Government's right to issue effective Notice to Proceed because bidder states it cannot begin performance until October 31, 1982, is nonresponsive and was properly rejected.

Bedouin Foresters (Bedouin) protests the rejection of its bid as nonresponsive by the Department of Agriculture, Forest Service, Malheur National Forest, under invitation for bids (IFB) No. R6-4-82-83 to secure services for a stand examination on approximately 7,287 acres in the Long Creek Ranger District. Bedouin's bid was rejected for restricting the Government's right to issue a Notice to Proceed. The protest is denied.

The IFB indicates that work would begin in October 1982, no later than 10 calendar days after the effective date of a Notice to Proceed. (Since responsibility checks can vary in length of time and since weather conditions change from year to year, the Forest Service indicates that it is not able to predict a more precise start work date than "October 1982.") Bedouin's low bid contains the following statement: "This offer is contingent on a starting date no sooner than 10/31/82. Please talk to us regarding this before you make award to us." The Forest Service determined that this statement rendered the bid nonresponsive under Federal Procurement Regulations (FPR) § 1-2.404-2(a) (1964 ed., amend. 121), which provides: "Any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, or permissible alternatives thereto, shall be rejected as nonresponsive." (Emphasis added.) The Forest Service reasoned that Bedouin's bid unduly restricts the Forest Service to begin no earlier than October 31, 1982.

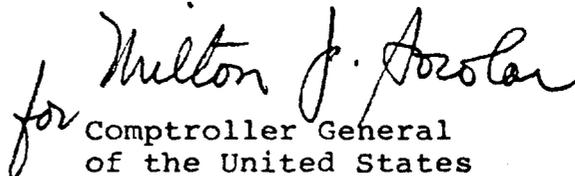
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The concept of the responsiveness of a bid concerns whether the bidder has unequivocally offered to provide the requested items or services in total conformance with the terms and specifications of the invitation, and a bid which takes exception to an essential requirement of the invitation, such as the specified delivery or performance requirements, is nonresponsive. FPR § 1-2.404-2(a), supra. Richard Bercutt, B-199819, October 28, 1980, 80-2 CPD 324.

In Richard Bercutt, we rejected as nonresponsive a bid which conditioned work to begin after August 21, 1980. We reasoned that by imposing the condition, Bercutt limited the Government's right to issue a Notice to Proceed as it saw fit and thereby limited the completion date of contract performance to suit his own particular needs. Bedouin contends that this case is distinguishable from Richard Bercutt because this solicitation states that work is to begin "October 1982." Richard Bercutt did not refer to a beginning date. Therefore, Bedouin claims its offer to commence work as of October 31, 1982, is responsive to the "October 1982 requirement."

This factual distinction is irrelevant because the IFB, in our view, did not give bidders the option of determining when in October they would begin work. It instead required that bidders be ready to begin work at any time within the month of October. By imposing the condition that work commence as of October 31, 1982, Bedouin limited the Government's right to issue an effective Notice to Proceed during the first 30 days of October and thereby limited the completion date of contract performance to suit Bedouin's own particular needs. Such a condition renders a bid nonresponsive. Richard Bercutt, supra; see Coronis Construction Company, et al., B-186733, August 19, 1976, 76-2 CPD 177; Kipp Construction Co., B-181588, January 16, 1975, 75-1 CPD 20.

Bedouin's protest is denied.

for 
Comptroller General
of the United States