

025659 Weisroff

DECISION



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

FILE: B-209761.2 **DATE:** May 24, 1983
MATTER OF: Aerial Service Corporation

DIGEST:

Bidder's failure to acknowledge a material amendment--substantially changing the basis for payment deductions for unsatisfactory service--requires the bid's rejection as nonresponsive.

Aerial Services Corporation (ASCO) protests the Air Force's rejection of its bid as nonresponsive under invitation for bids No. F02601-83-B0002. The IFB was for custodial services at Davis-Monthan Air Force Base, Arizona. The Air Force rejected ASCO's bid because ASCO failed to acknowledge the receipt of an amendment establishing, among other things, the basis for payment deductions for unsatisfactory service. ASCO contends that its failure to acknowledge the amendment should have been waived as a minor informality. We deny the protest.

The Air Force properly rejected ASCO's bid. A bidder's failure to acknowledge a material amendment generally renders the bid nonresponsive, and a nonresponsive bid cannot be accepted. See Rockford Acromatic Products Company, B-208437, August 17, 1982, 82-2 CPD 143. The reason for this rule is that the Government's acceptance of the bid would not legally obligate the bidder to meet the Government's needs as identified in the amended solicitation. Id.

The amendment in this case is material since it had more than a trivial effect on price, quantity, quality or delivery relative to the cost and scope of the services being procured. See Defense Acquisition Regulation § 2-405 (1976 ed.). The changes reflected by the amendment included substantial revisions to the invitation's "Performance Requirements Summary," which identified individual categories of required tasks for the purpose of quality inspections, and established deduction rates for unsatisfactory performance of those tasks. The amendment

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thus had a significant effect on the price and quality of the custodial services being procured. ASCO's failure to acknowledge the amendment therefore required the rejection of the bid, since absent acknowledgment the Air Force would not have the legal right to enforce the amendment's deduction provisions if ASCO's bid were accepted.

The protest is denied.

for *Milton J. Fowler*
Comptroller General
of the United States