

DECISION



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

FILE: B-216963

DATE: November 13, 1984

MATTER OF: Molony & Rubien Construction Co.

DIGEST:

Failure to acknowledge a material amendment which contained a change in specifications in a solicitation renders a bid nonresponsive.

Molony & Rubien Construction Co. (Molony) protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. N62472-84-B-1794 issued by the Department of the Navy for the relocation of the propulsion laboratory building at the Naval Underwater Systems Center, Newport, Rhode Island. The Navy rejected the bid because Molony failed to acknowledge an amendment modifying the construction drawings.

Amendment 0001 to the solicitation contained notes to five drawings, including a note to the Roof Plan of the building which provided: "Entire existing roofing system shall be removed to concrete deck." Molony argues that the amendment was relatively minor and of minimal value, and recites its history of satisfactory past performance. The agency considered the amendment to the drawing specifications, particularly the requirement to remove the existing roofing system to the concrete deck, to be a material alteration to the solicitation.

It is well settled that a bidder's failure to acknowledge a material amendment to an IFB generally renders a bid nonresponsive. Air Services Co., B-204532, Sept. 22, 1981, 81-2 CPD ¶ 240. An amendment is material if it has more than a trivial or negligible effect of price, quantity, quality or delivery of the item or services bid upon. 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. Aerial Service Corp., B-209761.2, May 24, 1983, 83-1 CPD ¶ 559.

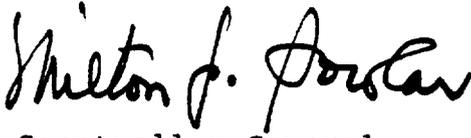
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In light of the note to the Roof Plan mandating the removal of the entire existing roofing system to the concrete deck, we cannot agree with the protester that the amendment was not material. While we are unable to determine from the record the probable impact on price of the amendment, it is clear that without the amendment the contractor could not be legally bound to remove the roof to the concrete deck. This would have a significant effect on the contractual services the agency requires, and the amendment therefore must be viewed as material. Huffman Engineers, Inc., B-212281, Nov. 18, 1983, 83-2 CPD ¶ 587.

Under the circumstances, Molony's bid was properly rejected as nonresponsive.

The protest is summarily denied.

for 
Comptroller General
of the United States