

DECISION

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

FILE: B-216725

DATE: December 27, 1984

MATTER OF: Epcon Industrial Systems, Inc.

DIGEST:

1. Where bidder includes in its bid statement that "crane rental charges for setting the units in place shall be extra," bid was properly rejected as nonresponsive for failure to offer firm, fixed price.
2. Protester's blanket statements of conformity with IFB requirements cannot cure defect created by failure to offer firm, fixed price, since even assuming full compliance with the IFB, total bid price for performance cannot be firmly established as required in advertised procurements.

Epcon Industrial Systems, Inc. (Epcon), protests the rejection of its bid as nonresponsive to invitation for bids (IFB) No. DAAG47-84-B-0136, issued by the Department of the Army. The Army rejected Epcon's bid because it was determined that Epcon had qualified its bid by inserting a pricing variable. We agree with the Army and deny Epcon's protest.

The IFB was for the acquisition and installation of several pieces of equipment for a Chemical Resistance Coating Painting System. In its bid totaling \$521,250, Epcon included the following statements: "crane rental charges for setting the units in place shall be extra" and "concrete pads, building and anchor bolt locations shall be the responsibility of the customer." The Army concluded that these statements qualified Epcon's bid and that the firm did not bid a firm, fixed price as required in advertised procurements. Accordingly, Epcon's bid was rejected as nonresponsive, and award was made to the second low bidder at \$525,225.

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Epcon argues that the statements were included only as part of the firm's standard installation notes and should be considered minor technicalities. In addition, Epcon contends that statements in its bid and cover letter, that its bid fully conforms to the requirements of the IFB, demonstrate that no additional charges were contemplated.

The question of the responsiveness of a bid concerns whether a bidder has unequivocally offered to provide the requested items and specification requirements at a firm, fixed price. Grosfeld Enterprises, B-208654, Jan. 31, 1983, 83-1 C.P.D. ¶ 106. A bid that limits the firm's contractual obligations or does not offer to perform at a firm, fixed price must be rejected. Zero Manufacturing Co., B-210123.2, Apr. 15, 1983, 83-1 C.P.D. ¶ 416. Here, Epcon's statement in its bid that crane rental charges would be extra clearly qualified the bid price that was submitted. Although Epcon argues that a crane was not even needed for this job, the Army indicates that the installation procedures were within the contractor's discretion and that the units being purchased were sufficiently large that a bidder could utilize a crane to erect or install the units. A bidder's intention must be determined from all the bid documents at the time of bid opening and where the total bid price cannot be determined from bid evaluation, the bid must be rejected as nonresponsive. Data Controls/ North Inc., B-205726, June 21, 1982, 82-1 C.P.D. ¶ 610.

Finally, we note that Epcon's blanket statements that the firm intended to fully conform with the IFB requirements cannot cure the defect created by its failure to offer a firm, fixed price for contract performance. Even assuming that Epcon took no exception to the specifications set forth in the IFB, its total bid price could not be firmly established and the Army was justified in rejecting Epcon's bid on this basis alone.

Protest denied.

for 
Comptroller General
of the United States