

DECISION



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

FILE: B-218307

DATE: March 22, 1985

MATTER OF: Legeay, Inc.

DIGEST:

A bid that offers an acceptance period which is less than that required in the solicitation is nonresponsive and must be rejected. The fact that the protester alleges mistake is irrelevant, because a nonresponsive bid cannot be corrected.

Legeay, Inc. protests the rejection of its bid as nonresponsive under Army Corps of Engineers solicitation No. DACW-27-85-B-0028. We dismiss the protest.

The solicitation required that all bids reflect a 60-day bid acceptance period and stated that a bid providing less than that period would be rejected as nonresponsive. Legeay's bid offered a bid acceptance period of 10 days. Legeay asserts that the insertion of a 10-day acceptance period was a mistake and asks either to change the number 10 to 60 or that the mistake be overlooked.

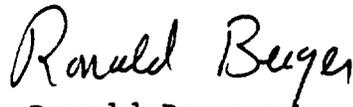
A bid must be responsive to a solicitation by showing on its face at bid opening that it is an unqualified offer to comply with all material requirements of the solicitation and that the offeror intends to be bound on the government's terms as set forth in the solicitation. Thus, if a bid fails to respond to all material elements of the solicitation, it is nonresponsive. See Peabody Myers Corp., B-213176, Mar. 13, 1984, 84-1 CPD ¶ 295. The minimum bid acceptance period required in a solicitation is material, and a bidder's failure to specify the minimum bid acceptance period in its bid will render the bid nonresponsive. Gerentine-Cutrone Sand and Gravel, Inc., B-217249, Dec. 17, 1984, 84-2 CPD ¶ 679.

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To hold otherwise would give the bidder that limited its acceptance period the unfair advantage over its competitors of having the option to refuse award after the expiration of its indicated bid acceptance period, should it then decide that it no longer wants the award because of unanticipated cost increases, or to extend its bid acceptance period after competing bids have been exposed. All bidders must share the same business risks of leaving their bids open for acceptance by the government for the same amount of time.

A bid which is nonresponsive on its face may not be changed, corrected, or explained by the bidder after bid opening. Since Legeay's bid here is nonresponsive, the fact that it explains after bid opening that its indicated acceptance period was a mistake is irrelevant. Amendola Construction Company, Inc., B-214258, Feb. 28, 1984, 84-1 CPD ¶ 255.

The protest is dismissed.



Ronald Berger
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General Counsel