



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cree Construction Company, Inc.--Request for Reconsideration
File: B-227898.3
Date: October 26, 1987

DIGEST

Request for reconsideration that does not show that the prior decision contained any factual or legal errors is denied.

DECISION

Cree Construction Company, Inc., requests that we reconsider our decision in The Haskins Co., B-227898, Sept. 21, 1987, 87-2 C.P.D. ¶ ___, in which we found that the Navy improperly rejected Haskins' bid as nonresponsive to invitation for bids (IFB) No. N62474-85-B-5325.

We deny the request.

The IFB solicited separate bid prices for base bid item 1 and two additive items, 1A and 1B, and advised that a bid which did not include a price for all items might result in the bid being rejected as nonresponsive. The IFB also provided drawings that detailed the work to be performed. Amendment 0003 instructed bidders to change references on the drawings to "ADD Bid Item 1A" and "ADD Bid Item 1B" by deleting "1A" and "1B" so that all read "ADD Bid Item."

Haskins submitted the apparent low bid. Haskins, however, had modified its bid form so there were only two items, the base bid item and an "Additive Bid Item." The Navy rejected Haskins' bid as nonresponsive because the bid did not include separate prices for additive items 1A and 1B. The Navy subsequently awarded a contract to Cree, the second low bidder, for the base item and additive item 1A.

In sustaining Haskins' protest, we noted that where a solicitation includes a base bid and various additive items, bids must be evaluated on the basis of the work actually awarded. Therefore, even where an IFB states that the failure to bid on every item in the base bid and the additives will cause rejection of the bid, a bid that does

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not include prices for some items should be rejected only if evaluation and award include the items not bid. Stroh Corp., B-209470, Feb. 8, 1983, 83-1 C.P.D. ¶ 143. We found that since the Navy had enough money to award a contract for the base bid item and additive bid item 1A, under the above rule Haskins' bid could be eliminated only if its bid for the "Additive Bid Item" was interpreted as a bid solely for additive item 1B. We viewed such an interpretation untenable, however, in light of the solicitation provision that additives would be evaluated in the order of priority listed. We also noted that the Navy itself initially had interpreted Haskins' bid as a bid for item 1A but not 1B.

In its request for reconsideration, Cree first argues that Haskins' protest involved a defect apparent from the face of the solicitation--the meaning of amendment 0003--and thus was untimely because it was not filed until after bid opening. We disagree. The issue raised by Haskins' protest was whether, irrespective of the meaning of amendment 0003, the firm's bid properly was rejected as nonresponsive. The protest, filed within 10 working days after the rejection, thus was timely. See 4 C.F.R § 21.2(a)(2) (1987).

Cree also complains that our decision effectively endorsed Haskins' view that amendment 0003 permitted bidders to combine both bid items, and contests our conclusion that Haskins' bid cannot reasonably be a bid for other than at least item 1A. Our holding, however, was that no matter what bidders were supposed to do in response to amendment 0003, Haskins' bid obviously reflected a price for additive item 1A, and the firm thus was entitled to award as the low bidder. Cree's points on reconsideration essentially are reiterations of the arguments raised during the initial protest, and basically only reflect Cree's disagreement with our conclusion. As such, they do not serve as a proper basis for our Office to reconsider our holding. See 4 C.F.R. § 21.12; DALFI, Inc.--Reconsideration, B-224248.2, Feb. 19, 1987, 87-1 C.P.D. ¶ 186.

The request for reconsideration is denied.



James F. Hinchman
General Counsel