



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Expert Electric, Inc.

File: B-228569

Date: November 6, 1987

DIGEST

1. A bid bond that omits the solicitation number and contains no other indicia of the solicitation under which the surety agrees to be bound, aside from the correct bid opening date, is materially defective and requires rejection of the bid.
2. Bidder's insertion of "15" in a space to specify the number of calendar days in the offered bid acceptance period renders the bid nonresponsive where the invitation required a minimum acceptance period of 60 days, notwithstanding that the protester's alleged intention was to offer 15 days in addition to the minimum period.

DECISION

Expert Electric, Inc. protests the rejection of its bid under invitation for bids (IFB) No. N62472-86-B-0442, issued by the Department of the Navy for electrical repair and construction services. The Navy rejected the bid as nonresponsive because Expert Electric's bid bond, required by the IFB, failed to identify the solicitation number or provide an adequate description of the work covered by the bond. In addition, where the IFB required a minimum acceptance period of 60 calendar days and provided a space to offer a longer acceptance period, Expert Electric inserted "15" calendar days. We dismiss the protest.

The protester contends that since its bid bond was submitted with the bid and referenced the contracting agency, there was no doubt that the bond was intended to cover this IFB. Regarding the bid acceptance period, Expert Electric states that it intended to offer not a 15-day acceptance period, but 15 days in addition to the 60-day minimum acceptance period stipulated in the IFB. Given that the IFB expressly provided that any bid offering less than the required minimum acceptance period would be rejected, Expert Electric argues it was unreasonable to interpret the bid as offering only a 15-day acceptance period.

Expert Electric's arguments fail to state valid bases of protest. The solicitation number referenced in a bid bond is a material element of the bond directly affecting its acceptability; a bid bond that lacks any other accurate indicia of the invitation under which the surety agreed to be bound, aside from the correct bid opening date, is materially defective and requires rejection of the bid. Fitzgerald & Co., Inc.--Request for Reconsideration, B-223594.2, Nov. 3, 1986, 86-2 CPD ¶ 510, aff'g Kinetic Builders, Inc., B-223594, Sept. 24, 1986, 86-2 CPD ¶ 342. The issue is whether the surety has sufficiently manifested its intention to be bound under the IFB so that the bond will be enforceable by the government. The fact that the protester may have intended the bond to cover the subject IFB, absent the necessary indication on the face of the bond, is not sufficient to make the bond enforceable.

Further, regarding Expert Electric's argument that its bid should be interpreted as offering an acceptance period of 15 days in addition to the minimum acceptance period, we previously have rejected virtually an identical argument. See Master Security, Inc., B-225719, et al., Feb. 26, 1987, 87-1 CPD ¶ 226. In this case, item 13D of the IFB's cover sheet^{1/} stipulated that bids providing an acceptance period of less than 60 days would be rejected, while item 17 provided as follows:

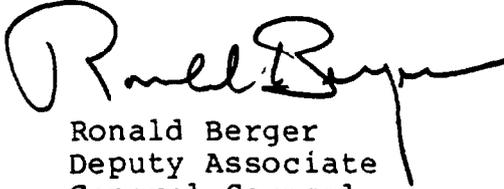
"The offeror agrees to perform the work required . . . if this offer is accepted by the Government in writing within ___ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum stated in 13D. Failure to insert any number means the offeror accepts the minimum in item 13D.)"

The language of item 17 clearly conveys that an inserted number will represent the acceptance period, not a period in addition to the minimum acceptance period stated in the IFB. Regardless of Expert Electric's actual intention, the firm concedes that it indicated 15 days in a space for the acceptance period. Therefore, the bid on its face took exception to the minimum bid acceptance period, a material term of the IFB. Since a bidder's offered compliance with the material terms of an IFB must be determined from the face of the bid as of bid opening, and may not be changed or corrected on the basis of explanations offered by the bidder

^{1/} Standard Form 1442, "Solicitation, Offer, and Award (Construction, Alteration, or Repair)," Federal Acquisition Regulation, 48 C.F.R. § 53.301-1442 (1986).

after bid opening, the Navy properly rejected Expert Electric's bid. See id.

The protest is dismissed. See 4 C.F.R. § 21.3(f) (1987).

A handwritten signature in black ink, appearing to read "Ronald Berger". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke at the end.

Ronald Berger
Deputy Associate
General Counsel