



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Arizona Trane Service Co.
File: B-233479
Date: November 22, 1988

DIGEST

Where an invitation for bids requires that bid prices include all applicable taxes, a bid which includes the phrase "plus applicable taxes" is nonresponsive even though the federal government may be exempt from certain state taxes.

DECISION

Arizona Trane Service Co. protests the rejection of its low bid as nonresponsive under an invitation for bids (IFB) issued by the Veterans Administration (VA). Trane's bid was found to be nonresponsive because it included the phrase "plus applicable taxes" in its bid price. Trane claims that federal agencies are tax exempt in Arizona, and since taxes equals zero dollars in this situation, it was not a material defect for Trane to fail to include any taxes in its bid price.

We dismiss the protest.

The solicitation included Federal Acquisition Regulation (FAR) § 52.229-3(b) which states that "the contract price includes all applicable federal, state and local taxes and duties."

Unless otherwise specified in the IFB, the inclusion of the standard tax clause constitutes notice to all bidders that bids will be evaluated on a tax-included basis. The George Sollitt Construction Co., B-190743, Sept. 25, 1978, 78-2 CPD ¶ 224. The submission of a bid on a tax-excluded basis is viewed as evidence of the bidder's belief, absent definite information to the contrary, that taxes may be assessed, and of its unwillingness to assume payment of such taxes at its bid price. NASCO Products Co., B-192116, Nov. 27, 1978, 78-2 CPD ¶ 364. Nevertheless, the bid still may be considered if the class and amount of applicable taxes are specified elsewhere in the bid because such information

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permits all bids to be evaluated on an equal basis. J&W Welding and Fabrication, B-209430, Jan. 25, 1983, 83-1 CPD ¶ 92. Absent such information the bid cannot be evaluated on an equal basis with other bids, and must be considered nonresponsive. Trail Equipment Co., B-206975, Apr. 20, 1982, 82-1 CPD ¶ 366. The phrase "plus applicable taxes", includes a plethora of taxes that may not be included in the bid price, and since other federal, state or local taxes (besides presumably Arizona state sales tax) may be applicable, such as social security tax or workmen's compensation tax, the bid is ambiguous as to what taxes Trane intended to exclude from the bid price. Such a bid is clearly nonresponsive and must be rejected. See The Bruce Corp., B-231171, June 24, 1988, 88-1 CPD ¶ 610.

Trane also argues that the government will save money by accepting its low bid. While rejection of Trane's bid may result in additional cost to the government on this contract, this Office has consistently held that a non-responsive bid may not be accepted even though it would result in savings to the government, since acceptance of such a bid would compromise the integrity of the competitive bidding system. Industrial Structures, Inc., 64 Comp. Gen. 768 (1985), 85-2 CPD ¶ 165.

The protest is dismissed.



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