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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: M&G Services, Inc.

File: B-244531

Date: June 27, 1991

James L. Gillison, Sr. for the protester.
Katherine I. Riback, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Eid was properly rejected as nonresponsive due to the ambiguity created by two conflicting bid acceptance periods that appear in the bid. In these circumstances, the protester has no legal right to have the error corrected under the mistake in bid procedures.

DECISION

M&G Services, Inc. protests the rejection of its low bid as nonresponsive under invitation for bids (IFB) No. DADA15-91-B-0006, issued by the Department of the Army, Walter Reed Army Medical Center for asphalt repair. M&G contends that the Army improperly rejected its bid as nonresponsive for failure to comply with the minimum bid acceptance period required by the solicitation.

We dismiss the protest for the failure to submit legally sufficient grounds.

The IFB required a minimum bid acceptance period of 60 days. On the May 1, 1991, bid opening, M&G was the apparent low bidder. M&G's bid contained a Standard Form (SF) 1442 which specified a 90-day bid acceptance period, however the bidding schedule, also submitted with the bid, contained a 10-day bid acceptance period.

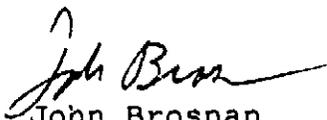
To be responsive, a bid must show on its face at the time of bid opening that it is an unqualified offer to comply with all the material requirements of the solicitation and that the bidder intends to be bound by the government's terms as set forth in the solicitation. Winsar Corp. of Louisiana, B-226507, June 11, 1987, 87-1 CPD ¶ 585. A bidder's intention must be determined at the time of bid opening from all the bid documents, which include any extraneous documents submitted

with the bid, since such materials are part of the bid for purposes of determining responsiveness. Id.

The minimum bid acceptance period called for in a solicitation is a material requirement with which the bid must strictly comply at bid opening in order to be considered responsive. The Ramirez Co. and Zenon Constr. Corp., B-233204, Jan. 27, 1989, 89-1 CPD ¶ 91. The conflicting bid acceptance periods contained in the SF 1442 and the bid schedule created an ambiguity in M&G's bid and therefore prevented it from constituting an unqualified offer to comply with the solicitation bid acceptance period. Id. Thus, we find that the Army properly concluded that the bid was nonresponsive.

Even if the shorter bid acceptance period was the result of an error on the part of the bidder, it cannot be corrected as, the mistake in bid procedures cannot be used to allow a bidder to correct a mistake that would make an otherwise nonresponsive bid responsive. See Federal Acquisition Regulation § 14.406-3; The Ramirez Co. and Zenon Constr. Corp., B-233204, supra.

The protest is dismissed because it does not establish legally sufficient grounds.



John Brosnan
Assistant General Counsel