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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Hyman Brickle & Son, Inc.

File: B-245646

Date: September 20, 1991

Samuel Brickle for the protester,
John Van Schaik, Esq., Office of the General Counsel, GAO,
participated in preparation of the decision.

DIGEST

A bid was properly rejected as nonresponsive where it offered a 30-day acceptance period instead of the required 120 days.

DECISION

Hyman Brickle & Son, Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. 1-31-PI-0017, issued by the United States Department of Justice, UNICOR Federal Prison Industries, Inc., for wool and nylon fabric.

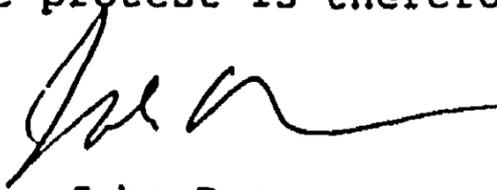
We dismiss the protest without requiring the submission of an agency report because it does not state a valid basis of protest. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1991).

Although the IFB required a minimum bid acceptance period of 120 calendar days, Brickle's bid specified only a 30-day acceptance period. Brickle states that its bid and those of three other bidders were rejected because they offered acceptance periods of less than the required 120 days. According to the protester, it offered only a 30-day acceptance period because an earlier canceled solicitation for the same requirement had required only a 30-day acceptance period, and it was unaware that the acceptance period in the current solicitation was 120 days. Brickle states that it believes that its prices were lowest and argues that its bid should not have been rejected because it has consistently provided UNICOR with the highest quality fiber at the best price.

A provision in a sealed bid solicitation requiring that the bid remain available for acceptance for a specified amount of time is a material requirement, and therefore must be complied

with at the time of bid opening for the bid to be responsive. Barnett Business Servs., Inc., B-244243, June 5, 1991, 91-1 CPD ¶ 538. While it is unfortunate that Brickle did not see the requirement in the solicitation, it was nevertheless clearly stated on page 8 of section K of the IFB. A non-conforming acceptance period in a bid is not a matter which can be corrected after bid opening. Id.

The protest is therefore dismissed.



John Brosnan
Assistant General Counsel