

Ms Melody



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Northwestern Carbon

File: B-262147

Date: July 27, 1995

DECISION

Northwestern Carbon protests the Department of the Navy's rejection of its bid for specifying a shorter bid acceptance period than that required under invitation for bids (IFB) No. N62474-94-B-5548.

We dismiss the protest.

The solicitation at block 12 states:

"NOTE: Item 12 does not apply if the solicitation includes the provisions at [Federal Acquisition Regulation (FAR) §] 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with above, the undersigned agrees, if this offer is accepted within ___ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above. . . ."

Section K.8 of the solicitation also contained FAR § 52.214-16, which required a minimum bid acceptance period of 90 calendar days and provided a space for the bidder to enter a longer acceptance period. Northwestern inserted "90" calendar days in the space in section K.8; Northwestern also inserted "60" calendar days in block 12. The agency rejected Northwestern's bid because it specified a bid acceptance period of less than the required 90-day bid acceptance period. Northwestern argues that rejection was improper because block 12 is not applicable where the solicitation includes the FAR § 52.214-16 clause and that since the section containing FAR § 52.214.16 is controlling over the entry in block 12, there is no ambiguity.

The protester makes much of block 12's "does not apply" language, and of the provisions in the FAR § 51.214-16 clause stating that it "supersedes language pertaining to the acceptance period that may appear elsewhere in the solicitation." The "does not apply" language in block 12 informs bidders that they may specify an acceptance period of their own choosing only if there is no required minimum

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acceptance period in the FAR § 52.214-16 clause. It does not mean that bidders are free to specify a bid acceptance period in block 12 and then assert that it is of no consequence. On the contrary, where two distinct and separate bid acceptance periods are contained in a bid, one of which is shorter than a required minimum acceptance period, the bid is ambiguous and is therefore nonresponsive. See Siems Rental & Sales Co., Inc., B-257773, July 29, 1994, 95-1 CPD ¶ 51; John P. Ingram, Jr. & Assocs., Inc., B-250548, Feb. 9, 1993, 93-1 CPD ¶ 117.

The protest is dismissed.


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